

BEFORE THE MEGHALAYA HUMAN RIGHTS COMMISSION
AT SHILLONG
MHRC CASE NO. 28,29,30/2024

PRESENT

JUSTICE T. VAIPHEI
HON'BLE CHAIRPERSON

SMTI B. GIRI
HON'BLE MEMBER

SHRI H. NONGPLUH
HON'BLE MEMBER

ORDER OF THE COMMISSION

DATED 25.07.2025

1. On 11.06.2024, a complaint was filed by Mr Enlang Sawian alleging that on the 09th June, 2024 around 12.30 AM a group of heavily armed police personnel of the Special Operation Team led by Mr Rituraj Ravi who appeared to be inebriated state came to the place where Mrs Bindas Syiem was holding hunger strike. That they came without female police officer or Executive magistrate to forcefully remove Mrs Bindas Syiem citing the reason that they are taking her for medical checkup without getting her consent. The people present on the spot protested and prevented the police team from taking away Mrs Bindas Syiem. The complainant alleged violation of established protocol by the male police officers at night hours against Mrs Bindas Syiem.

The Commission took cognizance of the complaint, Case which was registered as MHRC Case No 28/2024 and Notice was issued to the Director General of Police, Meghalaya to have the matter enquired into and submit detailed report and further Mr Rituraj Ravi, Superintendent of Police, East Khasi Hills District was directed to appear in person before the Commission on the 20th June, 2024.

2. On 13.6.2024, two complaints were filed one by the President and Vice President of Hynniewtrep Integrated Territorial Organization requesting action against the Superintendent of Police, East Khasi Hills District for allegedly trying to forcefully remove Smt Bindas Syiem from the Secretariat Building who was undergoing hunger strike against the delay in repair of Nongpoh-Umden road. Another complaint was jointly filed by Mrs Purity Phawa and Marylis Mawrie.

These two complaints were taken cognizance by the Commission and registered as MHRC Case No 29/2024 and MHRC No 30/2024 respectively. As these two complaints relate to the same subject matter as to MHRC Case No 28/2024, an order was rendered that these two instant cases will be taken analogously with MHRC Case No. 28/2024.

3. On 20.6.2024, when this matter came up, Mr Rituraj Ravi, former Superintendent of Police, East Khasi Hills District appeared personally before the Commission and Enquiry report submitted by the Dy. Inspector General (Eastern Range) was furnished to the three complainants who were also present, the complainants were directed to produce the aggrieved person, Mrs Bindas Syiem on 05.7.2024. On 05.7.2024, Mrs Purity Phawa complainant in MHRC case No. 30/2024 appears with Mrs Bindas Syiem, the aggrieved person and on 18.7.2024 the aggrieved person Mrs Bindas Syiem expressed that she is interested to pursue with the case, and the Commission directed the aggrieved person to file Evidence by way of affidavit with copy to the respondent.

4. The proceedings of the case commenced and deposition by way of Affidavit was filed by the Witnesses for the complainant and they are:-

- (1) Mrs Bindas Syiem the aggrieved person,
- (2) Mr Kyrmenlang Uriah
- (3) Mrs Purity Phawa complainant,

Mr B.N. Khongwar, learned Advocate represented the aggrieved person. The charged officer Mr Rituraj Ravi had expressed and submitted that he will personally cross examine the witnesses.

Mr Enlang Sawian complainant in MHRC Case No. 28/2024 Mr Donbok Dkhar and Mr Shaniah Nongrum, complainants in MHRC case No 29/2024 have not appeared before the Commission inspite of the copy of the orders passed by the Commission on every date of Hearing was communicated to them. The complainants of these two aforementioned cases have neither taken any steps in the case nor come forward as witnesses for the aggrieved person.

Testimony:

5. Mrs Bindas Syiem examined as CW1 and in her affidavit mentioned about sequence of events leading to her hunger strike from 06.6.2024 onwards that on 08.6.2024 in the morning a medical officer along with a women police approached the place where she was undergoing hunger strike and asked her to come to Hospital for medical check-up as her tongue had run dry. She refused to go along. In the evening of 08.6.2024, the medical team and police again came and forcefully wanted to take her for medical examination but she refused. The Doctor and police verbally warned her that if something were to happen to her they will not take responsibility. She further stated at around midnight she was woken up by a commotion around the tent where she was holding hunger strike and saw her daughter holding a mobile phone recording something. She was sleeping in a folding bed inside the tent. She saw some people

pointing fingers and argument going on near the tent and she saw the Superintendent of Police, East Khasi Hills entering the tent when the others and women group opposed him from entering the tent and stood holding hands in front of her barricading but despite the protest he entered the tent and wanted to take her forcefully to the ambulance which was kept near the tent open. She stated that from the smell of alcohol she could make out that the Superintendent of Police was intoxicated and he spoke like a drunken person and told that they have order to take her to hospital. She asked the Superintendent of police to show the order but was not shown. She refused to be taken and after some time the Superintendent of Police and other police on duty left but her supporters stayed the whole night near the tent.

As CW1 deposed in Khasi and cross examination was conducted by the respondent and then translated by Mr B.N. Khongwar learned Advocate. The Cross examination of the aggrieved person Mrs Bindas Syiem was conducted in the question and answer form and the same is reproduced herein below;

Question: Do you know that the place where you sat for the hunger strike is a public place for which permission was not granted to you?

Answer: I agree that it is a public place and that I was not granted permission when I applied for it to sit there for my hunger strike.

Question: Do you know that the place where you sat for hunger strike is next to the State Civil Secretariat?

Answer: Yes I know.

Question: The crowd which came that day, were they called by you or they came by themselves.

Answer: They came by themselves I have not called anyone.

Question: Were you able to control the crowd?

Answer: Yes I am able to control them if there is any trouble created by them.

Question: Can you give an estimate number of people present on that day on that spot?

Answer: No, I cannot give the estimate number of people as because even in the space where I was sitting it was fully crowded and congested and there were lots of other people outside.

Question: If you were not the one who had called the crowd on that day, how can you say then that you will be able to control the crowd?

Answer: Those people who came on that day came to support me out of love and affection that's why I will be able to control the crowd.

Question: Was any physical force used on you on that day by any police personnel or by me?

Answer: There was no physical force used by the other police personnel on the other days except on the day you came along with your other police personnel and tried to physically remove me from the bed where I was laying.

Question: Did I or any of the Police Personnel physically touch you in any way on that day?

Answer: No you did not touch me physically as there were other people sitting with me on the bed but you have touch the mosquito net covering my bed and this can also be seen in the video clip.

Question: I remind you that you are under oath today and my question is did you not see the female police personnel in the video clip of that day?

Answer: No I did not see any female police personnel in the video clip.

Question: On that day did I use any indecent, immoral, improper or un parliamentary words or language against you?

Answer: No, you did not use any such words or language against me except you were trying to physically remove me from the bed I was laying.

Question: When you have stated that, neither I nor any one of the police personnel had physically touched you, what made you feel that I have tried to forcefully physically remove you from there.

Answer: On that day I have refused to be taken to the hospital so why should you try to forcefully remove me physically from there to take me to the hospital.

Question: In your opinion what rights of yours have I or other police personnel have infringed on

Answer: In my opinion I felt that my right have been infringed as because on that day you came in the midnight to that place bringing an ambulance with you, I did not see any doctor or nurses so why should the police man come so late at night only with the ambulance.

Question: Do you know that law and order is the duty and responsibility of the Police. And that with regard to maintaining law and order there is no time limit prescribed for the Police to act to maintain law and order.

Answer: I know that it is your duty to maintain the law and order. On that day I have not committed any crime or offence I was just expressing my rights to protest so why should the police come in the middle of the night to maintain law and order for a crime I have not committed.

Cross examination by the Superintendent of Police Shri Rituraj Ravi concluded.

Question by the Commission: In your earlier statement, you have mentioned that no one but the respondent used any force against you or by any policeman? However, later on you sated that except the respondent tried to physically remove you from your bed. Can you explain this discrepancy in your statement?

Answer: On that day the Superintendent of Police came to the room where I was laying even though he was stopped by others and he came right up to the bed where I was laying otherwise he would have been able to remove me from there physically if not for the presence of others. When also stated that only male police personnels were present on that day.

6. CW 2 Shri Kyrmenlang Uriah in his affidavit stated that he is a media person of Shillong Mail. On 08.6.2024, around 10.45 pm he was informed through phone call that one Markus Marten who visited Smt Bindas Syiem who is undergoing hunger strike wanted to give his statement to media to show his support. He also received many calls that the officer in-charge Sadar police station came to the place where hunger strike was going on. Thus, he proceeded to the place with his camera man on reaching the spot he asked Smt Bindas Syiem if she is willing to go for medical examination and she is not willing. Around 20 minutes after he arrived at the place the Superintendent of Police along with SOT personnel arrived. The Superintendent of Police got down from his vehicle and proceeded to the place of hunger strike. The women who accompanied Smt Bindas Syiem started to oppose against taking her to medical check-up but he paid no heed. He asked the Superintendent of Police for document/certificate authorised by the Medical doctor certifying that Smt Bindas Syiem has to go for medical check-up. There were no lady officers except male constable.

In his cross examination, the witness stated that there were women police personnel outside the venue but inside the tent where kong Bindas Syiem was lying there was no female police personnel accompanying the respondent. That he did not hear the respondent or any police personnel using any indecent, immoral, improper or unparliamentary words or gestures on that night. The witness CW2 also stated in his cross examination that the respondent said a few words and lifted the mosquito net and said that kong Bindas has to go for medical checkup. To the question put by the Commission "Did you see Kong Bindas forcibly remove from her bed? The witness replied-No, because he prevented him from doing so. The process took about half an hour of arguing between him and the Superintendent of Police.

7. CW3 Smt Purity Phawa, the complainant in her affidavit stated that on 08.6.2024 around 6.00 pm she visited Smt Bindas Syiem at the place where she was sitting on hunger strike. She intended to go home by 10 pm but Smt Bindas Syiem asked her to stay longer as she was feeling lonely. At around 11.30 pm the Superintendent of police, Shri Rituraj Ravi came to the place of hunger strike along with one SOT who was wearing black uniform. Initially she did not recognize the Superintendent of Police, that was Bah Kyrmenlang (CW2) who told her about the identity of the Superintendent of Police. She further stated that they talked to the Superintendent of Police who identified himself and informed that he has come to take Smt Bindas Syiem for medical check-up. They asked the Superintendent of Police as to how he has come without being accompanied by women police. That she was concern for Smt Bindas Syiem who was resting in the tent and she enquired from Smt Bindas Syiem if she would like to go for medical check-up which she refused. CW3 goes on to say that the Superintendent of Police was intoxicated and was reeking of alcohol. That thereafter the Superintendent of Police came directly and pulled up the mosquito net with his two hands and his right hand was reaching towards Smt Bindas Syiem and at that moment she said "Don't touch, Don't touch". That the companion of SP who wore black and white scarf was also reeking with alcohol gesture with his hand saying "okay, okay" and also patted the SP's shoulder when he wanted to forcefully take Smt Bindas Syiem for medical check-up. Thereafter the Superintendent of Police and Bah Kyrmen talked and he tried to enter again but the women group stood in front of the bed of Smt Bindas Syiem and opposing him from entering and in due course, Bah Kyrmen and others talked to SP who left at around 12.10 AM on 09.6.2024.

CW3 on being cross examined stated that she did not hear the respondent or any police personnel used indecent, immoral, improper or un-parliamentary words or gesture on the night. And CW3 further stated that respondent did not touch the body of Kong Bindas.

8. On conclusion of the cross examination of CW3, learned Advocate for the aggrieved person submits that no further witness will be examined and so also the respondent that has no evidence to tender from his side and parties are directed to submit respective written arguments which were submitted on 07.11.2024 and the matter was listed on 30.1.2025, on which date the respondent wants some more time to present his case and the same was adjourned to 18.2.2025.
9. On 18.02.2025, the Respondent was present, so also the learned Advocate for the aggrieved party. The respondent appointed Mr Nitin Khera, learned Advocate to represent him and learned Advocate seek to adduce evidence on behalf of the respondent. The prayer was sternly objected by the counsel for the complainant contending that respondent was given ample opportunity to produce evidence prior to filing for arguments. On giving thoughtful consideration to the prayer of the learned Counsel for the complainant, an order was rendered accordingly for the ends of justice and respondent was allowed to adduce evidence and further directed respondent to pay cost of Rs. 2000/- to the complainant.
10. Respondent examined four witnesses including himself and they are:
1. Mr Rituraj Ravi, IPS (respondent),
 2. Inspector Simsang A. Sangma,
 3. Miss Evanjoplin Dkhar, Journalist,
 4. WPSI Joyful Kurbah.
11. In his examination in chief by affidavit, the respondent Rituraj Ravi stated at the very outset that his duty is to maintain law and order and ensure that public safety was upheld and to address any potential disruptions that might arise due to such unapproved, unauthorized camp of hunger strike/agitation. He further stated that on 09.6.2024 when the hunger strike was going on for the third day at approximately 8 pm and 8.30 pm he received information from a well-placed source about the growing crowd in the place of unauthorized camp of hunger strike and the crowd had grown significantly and becoming restive which has posed significant concern about potential law and order problem. That when the information was coming in he stated that he was at his residence. He further added that considering the sensitive nature of the situation he decided to take immediate action, he contacted Sadar police station and called Inspector Simseng A. Sangma of Special Party who had received specialized training in crowd controlled told him to proceed to the site of their hunger strike at the same time he left his residence along with his Personal Security Officer (PSO) to proceed to the location of hunger strike.

On reaching the spot he spoke to Inspector Simseng A Sangma to assess the situation and he made his way to the location of the unauthorized camp of hunger strike/agitation which was approximately 80 feet away from the road. He further added that his purpose of going inside is to ensure the safety of the person holding hunger strike. He made his way towards her and interacted with the crowd urging them to disperse, clear the way and maintain calm. That when he reached the spot, he found Smti Bindas Syiem lying inside the tent surrounded by several individuals both male and female. He described that the tent was not a closed vessel. It had cover on top with open front that was covered by a net. That he asked Smti Bindas Syiem to step outside the tent but she refused. He also realized the chaotic situation with a lot of commotion both behind him and around the tent. He decided to enter the tent where several individuals both male and female were present and spoke to Smt Bindas Syiem and asked her about her health and wellbeing and received positive response then he moved out. That after monitoring the situation for a period of time he left for his residence. He added that during the entire duration of his presence at the spot no physical force was used and no indecent, immoral or improper words or gestures were uttered or made by either him or any of his officers.

The Respondent was cross-examined and in his cross examination, the respondent stated that he is quite aware of the manual, police act and Rules and also of the standard operating procedure for dealing with public procession, assemblies, demonstration and strikes. That no criminal force was used by any member of the public on that night. Respondent admitted that he used to consume alcohol during leisure at his residence but do not consume alcohol while on duty. He denied the suggestion that no female police were deputed at the place of incident. The witness was shown the entire contents of his affidavit mark as Exhibit "X" to show whether the witness ever mentioned therein that he was accompanied by a female police officer or deputed any female police personnel to deal with or communicated with the complainant. The witness admitted that such statement have not been mentioned at Exhibit "X". Respondent goes on to say that he did not lift the net covering the bed of the complainant but touched it and he is not aware of any existing rule requiring him as a police officer not to touch the mosquito net covering the complainant. He disagrees with the suggestion that as per clause 99 (6) of Assam Police Manual applicable to Meghalaya that he is bound to wear uniform while on duty. He denied that he violated the fundamental rights and personal right of the complainant and stated that he was not aware whether there was a video recording done by media/social media of the events that took place on that particular night. The witness was re-examined and stated that he had no particular reason vis-a-vis his affidavit for not mentioning anything about deputing a female officer or that he was accompanied by a female police officer on that particular night.

12. Inspector Simseng A. Sangma (OPW-2) in his examination in chief by affidavit stated that he proceeded to the spot where the hunger strike was taking place on the direction of the Superintendent of Police on the night of 09.6.2024 approximately between 10 and 11 pm to assess the ground situation and to monitor the security arrangements at the spot. He stated that there was adequate deployment of women police personnel and on reaching the spot he found women police team led by WPSI Joyful Kurbah. He further categorically stated that neither he nor any of the police present at the location were under the influence of alcohol or any intoxicating substance. That Shri Rituraj Ravi the then SP arrived at the location and the witness briefed him on the ground realities. That he proceeded with the respondent together to the enclosure where Smti Bindas Syiem was agitating primarily to check on her and to ensure that no untoward incident happened to her. That on reaching the spot the respondent being the senior most police officer on the spot interacted with Smti Bindas Syiem after a brief interaction he came out followed by the witness and other police personnels. Then after briefing the police personnels on duty respondent left the spot. The witness goes on to say that the allegation in the complaint against Rituraj Ravi are baseless, speculative and motivated to malign the character and reputation of Shri Rituraj Ravi.

On being cross- examined, the witness stated that he was posted as in-charge of ANTF and Special Operation Team on 09.6.2024 and is well acquainted with the provisions of Assam Police Manual which is applicable to the State of Meghalaya and police officials are bound by the procedures and guidelines of the Assam Police Manual. According to the knowledge of the witness there was no formal complaint coming from the public about the gathering causing threat and public disturbance. He agreed that only female police personnel should deal with cases involving women at night. He denied the suggestion that on the night of the incident women police officer and women police personnel were not present in the gathering. He also stated that he did not recall any incident when the respondent personally touched and lifted the net covering the complainant. He denied that when the respondent arrived at the place he was inebriated condition.

13. OPW3, Smt Evanjoplin Dkhar, in her Examination in Chief by an Affidavit stated that she is a journalist by profession. That on 09.6.2024, she was present in the Additional Secretariat parking lot in her professional capacity as a journalist covering the hunger strike by Smt Bindas Syiem. That the location is a public place and was accessible to media personnel and the general public. That she witnessed the arrival of senior police officials at her location including Mr Rituraj Ravi, who appeared to assess the situation and interacted with Smt Bindas Syiem briefly. That from her vantage point, there was no visible sign of aggression or use of inappropriate behavior by any police personnel.

In her Cross Examination, she stated that she works for the Meghalaya Guardian daily newspaper. She stated the time for submission of report is 10.30 pm extended to 10.45 pm. She stated that she was present at the site of protest during the night of the incident and added that the incident occurred on the night of 09.6.2024. She stated that she was there about 45 minutes. She agrees that it is true that she could not see what was going on inside the Pandal on the day of incident. She was shown Para 2 of her Affidavit where it is mentioned that the date of incident was 09.06.2024.

14. WPSI, Joyful Kurbah (OPW4) in her examination in-chief by affidavit stated that on the day of the incident she was serving as WPSI Sadar Police Station and was assigned duty at Additional Secretariat Parking Lot in connection with the hunger strike conducted by Smti Bindas Syiem. She was detailed for duty for the dual purpose of maintaining law and order and throughout their deployment at the protest location, the women's police team, including her, adopted a posture of passive vigilance and non-interference. That at a later point during the night, the then Superintendent of Police, East Khasi Hills, Shri Rituraj Ravi, IPS arrived at the site of the protest to assess and review the on-ground situation. That the Superintendent of Police, East Khasi Hills, Shri Rituraj Ravi, IPS engaged in a brief and respectful interaction with the protester, Smti Bindas Syiem. That no incident of misconduct, misbehavior or inappropriate conduct on the part of Shri Rituraj Ravi, IPS took place in her presence. That she remained deployed at the protest site until she were formally relieved from her duty post.

In her cross examination, OPW4 stated that she accompanied the respondent to the tent where the complainant was there. She did not remember the respondent touching or lifting the mosquito net covering the complainant at the place of occurrence. She was instructed by some police senior officer to interact and communicate with the complainant to ask her whether she would like to undergo medical examination or not. When the complainant replied in the negative they could not insist. She is not in a position to say whether the respondent at the time of the incident was in a state of intoxication or not. She admits that she come to depose before the Commission today to help the respondent. The mistake about the year of occurrence 2023 is attributed to her.

15. On closing of the evidence, parties filed written argument and oral submissions were also submitted.

Learned Advocate Mr. B.N. Khongwar for the aggrieved party Mrs Bindas Syiem after taking through the facts of the case contended that the evidence on record is

overwhelming against the opposite party and the evidence of the aggrieved person and the two other witnesses proved that the OP on the date of the incident was intoxicated and reeking of alcohol. It is further submitted that the evidence established that the respondent entered the tent and wanted to forcibly take the aggrieved person to medical check-up and the door of the ambulance was kept open. But could not due to the opposition by few women present at the spot including CW2. That there was no magistrate.

Learned Advocate has also placed reliance on the judgment of the Hon'ble Supreme Court in the case of D.K. Basu Vs State of West Bengal reported in (1997) 1 Sec which laid down the requirement to be followed in all cases of arrest and also quoted Proviso of Section 46(1)CrPC/44 (1) BNSS and Section 46 (4) CrPC 44(5) BNSS which relates to prevention of touching a female under arrest by a male police officer, and prevention of arrest of a woman after sunset and before sunrise.

Learned Counsel emphasized that the evidence of the aggrieved person and her witnesses proved the fact about the highhandedness of the respondent while carrying out his duty without wearing any proper uniform and his act of attempting to take away the aggrieved person from the site where she was expressing her right, her voice and her opinion, is a clear violation of basic fundamental human rights and dignity of the aggrieved person as a woman and that respondent be prosecuted.

16. In contra, Learned Advocate Mr Nitin Khera for the respondent taking the Commission through the facts of the case and the evidence on record contended that the testimony of the aggrieved person and the complainant lacks consistency and evidently support by any other evidence and ought to be disregarded in its entirety. That the witnesses wholly contradict their own deposition and are full of inconsistencies. That the allegation that the respondent tried to forcefully remove the aggrieved person on the day of the alleged incident stands refuted by the own testimony of the aggrieved person and the witness. That the respondent being the Superintendent of Police of the district; was well within his official duty to visit the site of the unauthorized hunger strike/agitation or that any responsible officer in his position would have undertaken and that respondent was merely performing his duty so as to prevent any escalation of law and order problem. It is further submitted that there is no violation of human rights as alleged by the aggrieved person and the complainant. That the evidence on record are inconsistent, unsubstantiated and lack of credibility and as even the video recording of the incident claim by the complainant was not produced, as such ought to be dismissed.

17. The main issues to decide before us are :

- (1) Whether the Superintendent of Police on the night of 09.06.2025 was in an inebriated state when he met the aggrieved person Mrs Bindas Syiem tried to forcibly remove Mrs Bindas Syiem from the Additional Secretariat Parking lot?
- (2) Whether there is a violation of human rights in the instant case.

18. In the instant case, the complainants are Smt Purity Phawa and Smt Marylis Mawrie. Aggrieved person is Smt Bindas Syiem who is examined as CW1 while other witness Mr Kyrmenlang Uriah was examined as CW2, and the complainant Smt P. Phawa was examined as CW3. The other co-complainant Smt Merylis Mawrie did not tender any evidence.

19. In the instant case it is established that Smt Bindas Syiem was undergoing hunger strike at a public place namely the Additional Secretariat Parking Lot on the date of the incident i.e. the night of 09.6.2024. She was protesting against the pathetic and dilapidated condition of the Nongpoh-Umden Sonapur road. She started the protest on 06.6.2024 in front of the Main Secretariat Building standing at the main gate with a placard. The police personnel on duty chased her and did not allow her to sit in protest at the gate of Main Secretariat as she did not have permission. She was told to go to Additional Secretariat parking lot. She shifted to the Additional Secretariat parking lot and was followed by magistrate and media persons. Her supporters erected a tent in the parking lot and she continued the hunger strike in the place. She did not have any permission to sit for hunger strike. However, there was no complaint from her side regarding violation of human rights till the night of 09.6.2024 when the incident happened. At around 11 pm the Superintendent of Police, East Khasi Hills came to the venue and proceeded to the place where the aggrieved person was.

20. CW2 in para 12, of his deposition by way of affidavit had stated that the Superintendent of Police was seen standing next to the bed and managed to pull the mosquito net, but did not personally see due to the crowd. CW3 in para 16 of her affidavit has stated the respondent came directly and pulled up the mosquito net with his two hands and his right hand was reaching towards Kong Bindas Syiem and that very moment CW3 told the respondent Don't touch, Don't touch. In cross examination witness CW2 stated that the respondent did not forcibly remove the aggrieved person from her bed, as he was prevented from doing so, while CW3 stated an emphatic "NO" to the direct question of the respondent as to did he touch the body of Kong Bindas Syiem that night.

Coming to the evidence of the aggrieved party CW1, it is seen that in her affidavit, aggrieved person has described the sequence of events and in para 18 of the affidavit has stated:

18 "That at around midnight the exact time she cannot say she woken up by a commotion around the tent and also saw her daughter holding a mobile phone recording something. She was sleeping in a folding bed inside the tent. She saw some people pointing fingers and argument going on near the tent and she saw the Superintendent of Police, East Khasi Hills entering the tent when the others and women group opposed him from entering the tent and stood holding hands in front of her barricading but despite the protest he entered the tent and wanted to take her forcefully to the ambulance which was kept near the tent open. She stated that from the smell of alcohol she could make out that the Superintendent of Police was intoxicated and he spoke like a drunkard person and told that they have order to take her to hospital. She asked the Superintendent of police for the order but he did not show".

In her cross examination, the aggrieved person first stated that no physical force was used by police personnel except on the day the respondent came and tried to physically remove her from the bed, she then stated that respondent did not force her physically, but have touched the mosquito net covering her bed and that this can also be seen in the video clip.

21. Respondent in his affidavit stated that his purpose of going inside is to ensure the safety of the aggrieved person and he found her lying inside the tent surrounded by several individuals both male and female. That he asked aggrieved person to step outside the tent but she refused and seeing the chaotic situation with a lot of commotion around the tent he decided to enter the tent where several individuals were present and spoke to the aggrieved person and on asking about her health and well being, and on receiving a positive response he moved out.

In cross examination respondent stated that he did not lift the mosquito net covering the bed but only touched it.

22. Aggrieved person CW1 has in her deposition stated that from the smell of alcohol, she could make out that the Superintendent of police was intoxicated and he spoke like a drunkard person. CW2 stated that when the SP entered the tent where aggrieved person was lying some ladies (longkmie) who were inside the tent who supported Smt Bindas Syiem complaint of the smell of alcohol. CW3 the complainant deposed that the SP was intoxicated and reeking of alcohol.

The respondent in his cross examination deposed that it is true that he sometime consume alcohol at leisure at his residence but not while he was on duty.

23. Thus the issue that the Superintendent of police was intoxicated cannot be conclusively proved. There were no medical evidences. The allegation was based on the statement of

witnesses which they perceived by the alleged smell of alcohol and the way the Respondent was speaking. The smell of alcohol was not associated with any negative behavior such as use of foul language and unnecessary use of physical force etc.

24. Issue No 2 on whether there is a violation of human rights in the instant case.

In order to examine whether the human rights of the aggrieved person was violated, on the night of 09.6.2024, we need to look into the definition of human rights as per the provision of the Protection of Human Rights Act, 1993 Section 2 (1) (d) which read as follows "Human Rights mean the right relating to the life, liberty, equality and dignity of the individual guaranteed by the Constitution of India or embodied in the international convention and enforceable by Courts in India".

Against this background was examined the evidence on record. CW2 Shri Kyrmen Uriah and CW3 Smt P. Phawa in their depositions have stated that the actions of the Superintendent is in violation of the constitutional and basic human rights of Kong Bindas Syiem as a female person and he must be punished as per the provision of law. In cross examination by the respondent, CW1 was asked the question "Did you hear me or any police personnel using any indecent, immoral, improper or unparliamentary words or gestures on that night? CW3 answered "No, I did not".

25. Aggrieved person CW1 in her entire deposition has nowhere stated that her rights have been violated. It was only in her cross examination CW1 when asked this question "In your opinion what rights of yours have I or other police personnel have infringed on. CW1 has given her answer "In my opinion I felt that my right have been infringed as because on that day you came in the midnight to that place bringing by an ambulance with you. I did not see any Doctor or nurses so why should the police man come late at night only with the ambulance".

26. On consideration of the evidence on record it is seen that the testimonies of the witnesses CW1,2 and CW3 is not in harmony on the core incident. Though due weightage must be attached to the evidence on the aggrieved person, however, the same should be consistent and reliable.

27. The other persons present with the aggrieved person on the night of the incident were not produced for evidence and the other complainants as aforementioned also did not come forward to proceed with the case or tender evidence in support of the aggrieved person and remained absent. The video clip of the incident was also not produced, had the same been produced the actual truth of the matter would have emerged.

28. On going through the entire evidence on record it is seen that the testimony of the witnesses CW1, CW2 and CW3 is not in harmony on the core incident. Though due

weightage must be attached to the evidence of an aggrieved person, however the same should be consistent and reliable.

The testimonies of CW1, CW2 and CW3 do not form the credible narrative to substantiate the allegations.


29. Learned Advocate for the aggrieved person has placed reliance on the apex Court judgment in D.K. Basu's Case (Supra) and also referred to the Provisions of Section 46(1) CrPC/44(1) BNSS and Section 46 (4) CrPC/44(5) BNSS which has no relevance in the instant proceedings as no arrest was made.

Thus, as no case of violation of human rights is made out against the Respondent Mr Rituraj Ravi and the case is closed.

30. However, during the course of hearing of the case, the Commission got the impression that the whole incident/ commotion could have been avoided had the Superintendent of police been accompanied by the Magistrate/Medical officer. Therefore, the DGP may like to examine the entire incident and issue necessary directions/ instructions as deemed fit for future guidance of officers in dealing with such situations.


MEMBER


MEMBER


CHAIRPERSON