

## Sri Bishwajit Gope @ Ghosh Vs The State of Tripura and Others

**Court:** Gauhati High Court (Agartala Bench)

**Date of Decision:** June 6, 2011

**Hon'ble Judges:** Madan B. Lokur, C.J

**Bench:** Single Bench

**Advocate:** K.N. Bhattacharjee, for the Appellant; S. Chakraborty, for the Respondent

### Judgement

Madan B. Lokur, C.J.

An incident appears to have taken place at Moharchhara market under Teliamura P.S on 3.8.2000. As a result of

that incident, some firing had been resorted to by the police in which the Petitioner was injured in his right leg and subsequently, that leg was

amputated.

2. Under these circumstances, the Petitioner preferred this writ petition claiming compensation for the permanent injury caused to him.

3. When this matter earlier came up before the learned Single Judge, a final order was passed on 10.7.2001 directing, inter alia, that the Petitioner

be paid a sum of Rs. 1,50,000/- being costs and expenses incurred for his treatment and a token amount of compensation of Rs. 1,00,000/- for

the permanent injury. It was also directed that the Petitioner be given a job by way of rehabilitation at a place near his residence.

4. Feeling aggrieved by the judgment and order passed by the learned Single Judge, the State preferred an appeal being W.A. No. 94 of 2001. I

am told by learned Counsel for the parties that the writ appeal was disposed of with a direction to the District & Sessions Judge, West Tripura,

Agartala to conduct an enquiry since the Division Bench was of the view that no fact finding inquiry was conducted before awarding compensation.

5. The District & Sessions Judge, West Tripura, Agartala thereafter conducted a fact finding enquiry in which he examined more than 30 (thirty)

witnesses. Ultimately he submitted his report along with a covering letter dated 9.1.2008.

6. In the enquiry report, it is stated that even though an incident had taken place in which about 300/400 villagers surrounded the police personnel

and threw brick bats, the State Govt. is accountable and responsible for the incident and the unjustified firing in violation of law and thereby causing

injuries to the Petitioner.

7. Objections to the report of the District and Sessions Judge, West Tripura, Agartala have been filed by the Respondents by way of an affidavit

by the Deputy Secretary to the Government of Tripura in the Home Department.

8. Learned Counsel for the Respondents referred to the objections raised and submitted that it is not that the firing was unprovoked. Learned

Counsel says that the firing by police personnel was in retaliation to the firing initiated by the mob which had surrounded the police. This is the only

objection urged before me.

9. Learned Counsel for the Petitioner has drawn my attention to the enquiry report, particularly, the statement of P.W. 39, SI, Samiran

Chakraborty, who had investigated the incident. In his statement, SI Samiran Chakraborty specifically stated that during investigations, it was not

revealed that any villager was armed with any fire arm when the said incident took place at Moharchhera market.

10. In this context, it is also noted in the enquiry report that neither the police nor the CRPF gave any explanation as to why preliminary steps such

as a lathi charge or use of tear gas were not taken before opening fire in the market area.

11. It appears that the objection has been urged by the learned Counsel only for the sake of raising an objection and not to seriously contest the

report of the District & Sessions Judge.

12. That being the position, I accept the report of the District & Sessions Judge, West Tripura, Agartala and accept his conclusion that an injury

was unjustifiably caused to the Petitioner which resulted in the amputation of his leg.

13. Under the circumstances, I am of the view that the compensation awarded by the learned Single Judge in his order dated 10.7.2001 is quite

adequate. There is an elaborate discussion on the subject by the learned Single Judge and it is not necessary to repeat it.

14. As far as giving the Petitioner a suitable job by way of rehabilitation is concerned, learned Counsel for the Petitioner submits that the Petitioner

has already got a job on his own merit and he does not press for any other job.

15. Learned Counsel for the parties inform me that out of the total compensation of Rs. 2,50,000/- awarded, the Petitioner has already been paid

a sum of Rs. 1,25,000/-. Consequently, the Respondents shall pay the remaining compensation being a sum of Rs. 1,25,000/- within a period of

two months from today, and in any case, before 15th August, 2011. In case, the amount is not paid by 15th August, 2011, the Respondents will

pay interest @ 9% per annum on the amount of Rs. 1,25,000/-.

16. The writ petition stands disposed of with the above directions.