

**BEFORE THE HUMAN RIGHTS COMMISSION FOR THE STATE OF
MAHARASHTRA AT MUMBAI**

APPLICATION NO. OF 2011

**DR. KIRIT SOMAIYA, aged 55 yrs
Former Member of Parliament & Member of
Maharashtra Legislative Assembly
9C Neelam Nagar
Mulund East,
Mumbai 400 081**

Applicant No., 1

**Shri JANAK JITENDRA SANGHVI, aged 41 yrs
Corporator - Zaveri Bazaar
116, Lohar Chawl
Harharwala Building No.3, 2nd floor
Mumbai 400 002**

Applicant No.2

**Shri ALLWIN XAVIER D'CUNHA, aged 44 yrs
Victim of 11th July 2006 bomb blasts in local trains
Xavier Smruti, Aashirwad Cycle Mart
Near Lohar Chawl, Opp. Sagarseth Petrol Pump
Vasai West, Dist. Thane**

Applicant No.3

VS.

- 1. GOVERNMENT OF MAHARASHTRA
Mantralaya, Mumbai 400 032**
- 2. CHIEF SECRETARY
Government of Maharashtra
Mantralaya, Mumbai 400 032**
- 3. SECRETARY
Ministry of Home Affairs
Government of Maharashtra
Mantralaya, Mumbai 400 032**
- 4. SECRETARY
Department of Relief & Rehabilitation
Government of Maharashtra
Mantralaya, Mumbai 400 032**
- 5. SECRETARY
Department of Public Health
Government of Maharashtra
Mantralaya, Mumbai 400 032**

6. **COMMISSIONER OF POLICE**
Opp. Crawford Market
MUMBAI 400 001
7. **COLLECTOR - MUMBAI CITY**
Old Custom House
Shahid Bhagat Singh Road
Mumbai 400 001
8. **COLLECTOR - MUMBAI SUBURBAN DIST.**
Administrative Building
Government Colony
Bandra East, Mumbai 400 051
9. **COLLECTOR- THANE**
Court Naka
Thane

To
The Hon'ble Chair Person & Other Pious
Members of the Human Rights Commission

Application by the above named Applicants, praying for Order against the lack lustre relief & rehabilitation measures and executing the commitments made/ announced for the victims of bomb blast/terror attacks in Mumbai

RESPECTFULLY SUBMITTED AS FOLLOWS:

We, Dr. KIRIT SOMAIYA, Janak Jitendra Sanghvi and Allwin D'Cunha, above named applicants humbly beg to submit that applicants are public spirited persons, activist and also a victim.

Applicant No.1 is the former Member of Parliament, Member of Maharashtra Legislative Assembly and is a Chartered Accountant by profession has voiced public grievances at various forums from time to time and involved in relief and rehabilitation work of terror victims.

Applicant No.2 is the local Municipal Corporator from Zaveri Bazaar, Kalbadevi, Mumbai. He was at the Zaveri Bazaar corner and also heard/witnessed the blast.

Applicant No.3 is the victim of 11th July 2006 serial bomb blasts in local trains. His right hand was seriously damaged and shattered. After the fourth operation he is yet under medical treatment.

We are thankful to the Hon'ble Human Rights Commission for taking interest and passing instructions/directives and monitoring the relief and rehabilitation measures for the 2006 and 2008 blasts/terror attacks. We had approached the Commission through Petitions in 2006 and 2008 after the attacks.

We are obliged to the Hon'ble Commission for its final order of 17th October 2008 which stated :

“However, the Commission does feel that once the statement comes from the high dignitaries like Hon'ble Chief Minister and Hon'ble Dy. Chief Minister of the State Government, without waiting for any time (in the present case more than a year) it should be honoured. The Commission appreciates immediate action taken by the Railway Authority. The Commission hopes and trusts that in future occurrence of such tragedies the State Government as well as other authorities shall take immediate and prompt steps by providing all assistance to the victims in the best possible manner.”

Hereto and marked **Annexure 1** is the copy of the said order.

In the same order, the Commission also issued directives that the pending medical bills of various victims including Applicant No.3, Shri Allwin D'Cunha, shall be paid at the earliest by the State Government.

It may be noted that, till today in spite of repeated request, the State Government has not released medical expenses. The latest intimation Shri Allwin D'Cunha received on the 5th anniversary of the serial train blasts, i.e.11th July 2011, from the District Collector, Thane, states that his representation has been sent to the Revenue Ministry, Mantralaya.

Hereto annexed and marked **Annexure 2** is copy of the intimated from the District Collector, Thane.

26th November 2008 terror attack victim Sabira Khan, who suffered grievous injury, is moving door to door for medical treatment/compensation.

Another example of Government apathy is Shaheed Police official Shashank Shinde. His daughter has stated that much publicized petrol pump to the Shaheed family has not been allotted till today. The Government has demanded Rs.75 lacs from the Shaheed Shinde's family for such petrol pump – **Annexure 3**.

We are approaching the Hon'ble Human Rights Commission once again to see that

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- i) Victims of 13th July 2011 bomb blasts are not humiliated and have to suffer for the relief and rehabilitation as it happened in the case of victims of 11th July 2006 bomb blasts and 26th November 2008 terror attack.
- ii) Proper composite time bound relief and rehabilitation measures execution network.
- iii) Single window system for all relief and rehabilitation package/measures
- iv) Fulfilling relief and rehabilitation measures including successive surgeries/follow up treatment.

WE the above-named Applicants submit for consideration the injury and suffering, need of medical treatment, rehabilitation and compensation for the victims, rehabilitation of affected families due to the Bomb Blasts of 13th July in Mumbai. In all 19 persons died and 127 were injured. Hereto annexed and marked **Annexure 4** is the list of the dead in the 13th July 2011 bomb blasts of Mumbai City Collectorate.

These affected persons/families have to move from door to door to get

- i) Medicines
- ii) Medical treatment
- iii) Medical expenses
- iv) Long lasting treatment
- v) Problem of rehabilitation
- vi) Getting Post Mortem Report
- vii) Getting copy of FIR
- viii) Fighting and struggling for compensation
- ix) Psychological shock
- x) Disability.

Various announcements, commitments, legal and moral responsibility of

- a) Hon'ble Prime Minister
- b) Chief Minister of Maharashtra
- c) Maharashtra Government
 - Rehabilitation Department
 - Health Department
 - Various Collectorates
 - Mumbai Police
 - Hospitals
 - Post Mortem Centres
- d) Government of India Home Ministry's Central Scheme for Assistance to victims of Terrorist and Communal Violence – **Annexure 5**

should be followed up and completed as early as possible.

The same apathy, inhuman treatment is being seen towards the victims of 13th July 2011 bomb blast victims, e.g. – **Annexure 6 – News item**

Maharashtra Government announced financial compensation to the dead victims –

1. Rs.1.5 lacs to the dead victims upto the age of 8 years
2. Rs.2.5 lacs to the dead victims of/between the age group 8 to 18 years
3. Rs.5 lacs to the family of dead victims of above 18 years of age.

This has happened first time in India that the value of the life of dead victims has been calculated as per the age of the victim. In any natural or man-made calamity, various State Governments, Government of India announced lumpsum compensation to the family of the dead victims. The same amount is being given to all dead victims families Hereto annexed and marked **Annexure 7** is copy of the Press clipping.

Of course, due to severe criticism, the State Government has now corrected, announced and issued fresh GR No.RLF 2011/166/M-3 dated 14/7/2011). Hereto annexed and marked **Annexure 8** is copy of the said Government order.

Various commitments, announcements, bindings --

- a) Immediate ex-gratia payment to the affected persons/families for medical treatment, medicines, and immediate needs should be paid to all. The announcements and commitments in this regard were made by:
 - i) Prime Minister
 - Rs. 2 lac for the dead
 - Rs. 1 lac for the major injured
 - ii) Chief Minister/State Government (as per GR no. RLF 2011/166/M-3 dated 14/7/2011) (**Annexure 8**) -
 - Rs.5 lac for the dead.
 - Rs. 3 lac for the permanently disabled.
 - Rs. 1 lac for the major injured.
 - Rs. 10,000/- for simple injuries.

- iii) The Govt. has announced that the State shall bear all expenses made for medicines, medical treatment, for operations, etc., in all hospitals including private hospitals. The concerned person/family need not pay for the same. The hospital should not charge and collect from them.

Medical Treatment

Injured/affected persons were taken to nearby hospitals by fellow citizens, authorities immediately after the Bomb Blasts. As per the information available with us as on July 16, 2011, they have been treated in more than 13 hospitals including 5 Government hospitals. Treatment, surgeries have been done in more than 8 private hospitals.

The injured were admitted immediately by the hospitals in various departments, as per beds available. As it was a disaster, first the General Wards were completed. After the capacity/bed of General Ward got exhausted, further patients were taken to Second Class and other wards.

According to a news item, in Saifee Hospital, 2 affected persons were compelled to pay Rs. 25,000/- from their pockets for :

- i) Hospital bills
- ii) For purchase of medicines.

There is total confusion and chaos prevailing.

Sir, we want to highlight some of the problems victims and their families face in this situation. As it is stated in the Commission Order :

(Extract from order of the MSHRC no. 897, dated 17 October 2008) -

The Hon. Chairperson Justice Kshitij Vyas has mentioned that reimbursement of aid to 3 persons was still awaited though a year had elapsed. He has further added that ‘ the Commission does feel that once the statement (read: announcement) comes from the high dignitaries like the Hon. Chief Minister of the State Govt.,it should be honoured without wasting time’.

(Extract from order of the MSHRC no. 2279, dated 4.11.09) –

In the concluding remarks of his order, Hon. Chairperson Justice Kshitij R Vyas had said as under:

“Before concluding we would like to observe that the matter has remained with us for about 10 months- after the terror attack dated 26-11-2008. Even though the State Government and the Central Government agencies have tried their utmost to provide immediate reliefs to the victims, as per details given in the forgoing paragraphs – we do find that delays occurred to complete to provide financial assistance to many victims, in fact resulted into denial of financial assistance to them, as they have not received the same at the right time. It has practically lost its importance and urgency because of the lapse of time.

The situation could have been avoided if there was a laid policy, specified policy of Relief and Rehabilitation with time bound framework for implementation of this policy.”

Therefore, as per past experience, delay in compensating the victims is our first fear.

Secondly, we would like to point out here that in such incidents, the trauma of the victim is twofold: i) need for immediate help and relief, and ii) need for continued help for extended treatment.

The Government only extends immediate help and relief but there are many victims who have to undergo a series of operations and rehabilitation over an extended period of time.

The Government does not provide any help to such people. Some cases in point are:

- **In such blasts, the hearing capacity of a victim is seriously impaired and it is a life long problem.**

Should the Government not aid such a victim?

- **Government is not providing artificial limbs. The maintenance costs of the artificial limb are exorbitant for the victim to bear.**

On the eve of the 5th anniversary of the 11th July 2006 bomb blasts in local trains, we had a meeting with the Hon'ble Governor of Maharashtra, His Excellency Shri Shankarnarayanan. Hon'ble Governor had a one-hour interaction with all the victims in the delegation. 35 victims expressed their grievances, pathetic situation in the relief and rehabilitation measures. Hereto annexed and marked **Annexure 9** is copy of the letter submitted to the Hon'ble Governor. Also annexed hereto **Annexure 10** are 9 photos of the meeting.

We are obliged for the detailed order, observations and suggestions made by the Hon'ble Commission in its final order dated 4th November 2009 in the matter of our Petition on behalf of 26th November 2008 terror attack victims. The Hon'ble Chair Person of the Commission stated :

“We do find that delays occurred to complete to provide financial assistance to many victims, infact resulted into denial of financial assistance to them, as they have not received, the same at the right time. It has practically lost its importance and urgency because of the lapse of the time. The situation could have been avoided if there was well laid policy, specified policy of Relief and Rehabilitation with time bound frame work for

implementation of the policy. Taking into consideration of the facts and circumstances of the case, and to facilitate the immediate relief to the victim, for future disaster, natural or man-made, we recommend some of the measure for Relief and Rehabilitation and request the State Government to deliberate the same with all concern including NGOs and people's representative and local self government representatives and lay down clear policy.”

The Hon'ble Commission has given 15 healthy suggestions for the future relief and rehabilitation measures for the situations and calamities of such nature. Hereto annexed and marked **Annexure 11** is copy of the said final order.

Other than these some common problems faced are:

Copies of FIR

The affected people don't get copies of FIR from Police Stations.

Post Mortem Report

The affected families require copies of Post Mortem Report to be submitted to various authorities for supporting their claim. They are forced to go from door to door - Hospital Post Mortem Centre, local Police Station.

Lack of coordination between various departments

The affected persons have to move and approach various departments –

- Hospital
- Post Mortem Centre
- Local Police Station
- Health Department , Maharashtra Government
- Finance Ministry, Maharashtra Government

- Local Tehsildar
- Local Collector
- Rehabilitation Department, Maharashtra Government
- Mumbai Police
- Government of India, PMO

Our experience from the 2006 and 2008 victims is that the State Govt. pays only for the initial treatment and for the follow up and successive surgeries and treatment, the govt. has not paid anything.

Need for Disaster Management System.

In the state of chaos prevailing as of now, the need of the hour is to have a cohesive 'Disaster Management System' in place to address the following:

- A Bomb Blast Help Center to provide guidance to victims and their families,
- A panel of advocates to provide free legal assistance to the families of the victims.
- PRO to coordinate with various Government departments.
- Follow up for medical treatment.

We humbly submit to you to please accept and admit our Petition and give necessary directives to the various authorities.

In the circumstances, the Applicants pray that :

PRAYER :

- I Fulfilling the Relief and Rehabilitation Policy/Announcements.
- II Relief and Rehabilitation work under the monitoring of the Hon'ble Commission.

- III Appointment of a Committee consisting of the retired Judicial Officer, Relief & Rehabilitation Secretary and the Petitioner to monitor the relief and rehabilitation work to help the Commission.
- IV Single window system – appointment of senior officials to coordinate, guide and help the victims to get all relief and rehabilitation.
- V Permanent Relief and Rehabilitation Policy for terror victims.
- VI Complete execution of the remaining relief and rehabilitation work of 11th July 2006 bomb blast and 26th November 2008 terror attack.
- VII Provision of job for the family of dead victims and the victims rendered permanently disabled.
- VIII Respondents be directed to provide jobs to affected persons according to the qualifications and education and not any job.
- IX Respondents be directed by this Hon'ble Commission to immediately pay medical bills of the affected persons.
- X Respondents be directed to give copies of FIR to the affected persons as and when required.
- XI Respondents be directed to issue Post Mortem Reports to the affected persons as and when required.
- XII Respondents be directed to make arrangement to pay directly medical bills of the victims of Private hospitals.
- XIII Respondents be directed to prepare exhaustive fool-proof list of affected persons and make payment of compensation to all of them.
- XIV Respondents be directed to intimate all the hospitals Government and private – not to collect payment from patients for medical treatment and medical rehabilitation.

- XV Respondents be directed to enquire, investigate, and take action for the delay in execution and implementation of announcement, instructions for making arrangement for payment of medical expenditure/medicines to the private hospitals.
- XVI Respondents be directed to make proper system and arrangement for long lasting treatment for patients.
- XVII Respondents be directed to make arrangement to provide hearing aid, etc.
- XVIII Respondents be directed to make arrangement to provide artificial limbs to the victims who have lost vital parts and become handicapped
- XIX Respondents be directed to make arrangement for rehabilitation of affected families
- XX Respondents be directed to provide legal aid for filing different cases for compensation by affected persons.
- XXI Respondents be directed to make special arrangement for treatment for psychological rehabilitation of affected families.

AND for which act of kindness, we the Applicants above-named shall and are duty bound ever pray.

Dated 18th July 2011 at Mumbai.

Applicant (1)
Dr. KIRIT SOMAIYA

Applicant (2)
JANAK JITENDRA SANGHVI

Applicant (3)
ALLWIN XAVIER D'CUNHA

**BEFORE THE HUMAN RIGHTS COMMISSION FOR THE STATE OF
MAHARASHTRA AT MUMBAI**

APPLICATION NO. OF 2011

Dr. Kirit Somaiya & Others

Applicants

v/s

State of Maharashtra & Others

Respondents

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