

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

**Humble Petition of the Petitioner
Above-named**

MOST RESPECTFULLY SHOWETH :

1. The Petitioner is the citizen of India. He is ex Member of Parliament and ex Member of the Maharashtra Legislative Assembly. The Petitioner is a Chartered Accountant by profession and is involved with various social organizations and also with various organizations fighting for the interest of the common persons. The Petitioner has taken up various issues before the Bombay High Court in the form of Public Interest Petitions.

2. The Petitioner also successfully took up the case of the deceased and the injured in the bomb blasts that occurred at 7 places in Mumbai on 11th July 2006 and had filed a Petition before this Hon'ble Commission. The Hon'ble Commission was pleased to grant all the just demands of the Petitioner in favour of the affected persons including the provision to provide the relief of medical reimbursement and job to the affected persons and the kind of the deceased persons.

3. Respondent No.1 is the State of Maharashtra. Respondent No.2 is the Secretary of the Home Ministry of the State of Maharashtra. Respondent No.3 is the Secretary of the Rehabilitation Ministry of State of Maharashtra. Respondents Nos. 2 and 3 are responsible for implementing the Rehabilitation decisions taken by Respondent No.1.

Respondent No.4 is the Commissioner of Police for Greater Mumbai and is responsible for maintaining law and order situation and making the lives of people safe in the city of Mumbai. Respondent No.5 is the Divisional Railway Manager of the Central Railway and is responsible for the affairs of the Railway and particularly implement the decisions of the Ministry of Railway in respect of the subject matter above.

4. The Petitioner submits that on 26th November 2008, for the first time in the history of India, 10 terrorists traveled to Mumbai by sea and attacked Taj Mahal Hotel, Nariman House, Oberoi Hotel Trident, CST Railway Station and also indiscriminately fired at Leopold Hotel, near Cama Hospital, near Metro Theatre. The terrorists also snatched the Police vehicle and traveled upto Mantralaya. They forcibly snatched Skoda vehicle. One terrorist was killed at Chaupaty and other was apprehended.

5. The Petitioner submits that 16 policemen including Shri Hemant Karkare, Joint Police Commissioner, Anti Terrorism Squad, Shri Ashok Kamte, Additional Police Commissioner, Eastern Region, Shri Vijay Salaskar, Police Inspector, Anti Extortion Cell, Shri Shashank Shinde, Police Inspector, CST Railway, and 2 Commandos including Major Sandip Unnikrishnan and Shri Gajendra Singh sacrificed their lives in the process of protecting the city and the innocent citizens.

6. The Petitioner submits that the firing continued for about 60 hours and number of officials of National Security Guards, Commandos, Marine Commandos, Mumbai Police, men of the Mumbai Fire Brigade and other agencies were involved in the operation.

7. The Petitioner submits that in the process 174 innocent lives including 26 foreigners were lost and 311 people were injured.

8. The Petitioner submits that the Government agencies including Government of India, State Government of Maharashtra and the Railway Ministry made following announcements for helping the deceased and the injured persons :

A. State Government announced Compensation to the Security Personnel 'Shahid' –

i) Rs. 25 Lac.

ii) Police officer family who doesn't have their own house shall be provided house in Maharashtra state and stamp duty & registration shall be free of cost.

a. 'A' Class is been provided with 1000 sq. foot house.

b. 'B' Class is been provided with 800 sq. foot house.

c. 'C' Class is been provided with 750 sq. foot house.

d. 'D' Class is been provided with 600 sq. foot house.

iii) Those who stay at Police quarters can stay up till 3ys & if any other decision will be taken by Home Minister.

iv) Job will be given in (C) & (D) Class. Educational qualifications will be the bases of the job for Class (B) & (A).

v) Free education for 2 children for School/ College / Professional course/It Course/ Medical Course/ Business Management.

B. Prime Minister's Relief Fund – Compensation -

Rs. 2 lac to kin of Dead Victims

C. Rs.3 lac compensation under Home Ministry, Govt. of
India Scheme -

Rs.3 lacs compensation for the dead and permanently disabled persons will be directly paid to the victims/victims' kin by the Home Ministry, Delhi.

The Government has told the Petitioner that they have asked The Respective Collectorate to collect the Bank Account Number of the beneficiaries and the same to them directly at Delhi. Rs.3 lacs shall be directly credited to the victims' Bank Account by Home Ministry, Delhi.

The kin of victims can inform their Bank Account details to :

1. Shri Y.R. Bhalerao

Deputy Collector

Office of the Collector, Mumbai City

Old Custom House, 3rd Floor

Shahid Bhagatsing Marg

Fort, Mumbai 400 001

2. Shri B.B. Thackeray

Deputy Collector (GAD)

Office of the Collector, Mumbai Suburban Dist.

Administrative Building, 10th Floor

Opp. Chetana College, Government Colony

Bandra East, Mumbai 400 051

Central Govt. Scheme for Assistance to Victims of Terrorist and Communal Violence

- Ministry of Home Affairs Govt. of India
- Commencement of Scheme with effect from 1st April, 2008

Assistance

- Families of the victims would be eligible to get assistance Even if they have received any other assistance, by way of ex-gratia.
- In case employment is given to any family member of a victims, family will not be entitled to assistance. However, in case such employment is given after the release of assistance shall not be withdrawn.
- Those permanently incapacitated, would be given a health card by the District Health Society, under NRHM for free medical treatment in respect of injuries due to violence and all other major illnesses.
- Children in the family would continue to be entitled for Assistance admissible under National Foundation for Communal Harmony (NFCH)
- One can file their claims within 3 years of the relevant incident, can be relaxed on recommendation of District Collector or central govt. itself.
- An amount of Rs.3 lakh would be given to the affected family, irrespective of the number of deaths in a family in a particular incident, however if the bread-winner and the householder of a family die/ are permanently

incapacitated in separate incidents /occasions the family would be entitled to get assistance on each occasion.

- The principal amount would be put in a fixed deposit account

Documentation

- Police Report / FIR
- Death-cum-Post-mortem Certificate in the event of death
- Medical Certificate in the event of permanent incapacitation
- Birth Certificate of the claimant (if minor)
- Other documents for determining the rightful beneficiary

Procedure

- District Committee would send recommendations to Joint Secretary, MHA, New Delhi in the prescribed form, with a copy to the Home Department of the State Government.
- All the document would be verified & certified by the District Committee
- The cheque would be deposited in the FD account of the beneficiary, with instructions to the Bank that no premature withdrawal may be allowed.

D. Compensation Schemes for Victims of CST -

Financial relief

- Railway Ministry – Rs.10 lacs
- State Government – Rs.5 lacs
- Railway Claims Tribunal – Rs.4 lacs

- Home Ministry (Govt. of India) – Rs.3 lacs
- Procedure to be followed
- Copy of FIR
- Post Mortem Report
- Other documents
- Application of the successor to all the authorities
- Filing claims with the Railway Claims Tribunal
- Other procedures
- Job to a family member.

E Compensation for Taj, Oberoi, Nariman House Victims

Financial relief

- State Government – Rs.5 lacss
- Home Ministry (Govt. of India) – Rs.3 lacs
- Procedure to be followed
- Copy of FIR
- Post Mortem Report
- Other documents
- Application of the successor to all the authorities
- Other procedures
- Job to a family member.

The management of Taj & Oberoi Hotels are to provide additional support to the victims.

9. The Petitioner submits that, in spite of such a tragedy in the city of Mumbai, again the Government agencies have become totally insensitive.

There is a great lethargy on the part of Rehabilitation authorities and the aid is not reaching the victims.

10. The Petitioner himself met various families of the deceased persons. Petitioner also visited the injured persons at their residences and the hospitals and has seen the pathetic condition of the injured persons. He has observed that, in spite of the announcements made by the Ministers and the officials of Government of India, State Government of Maharashtra, Railway Ministry, there is great laxity on the part of these Departments in the implementation of the same.

11. The Petitioner submits that, since Day 1, the Petitioner got involved in providing and getting, arranging relief and rehabilitation for the victims. In the process, the Petitioner submits that he approached the following :

- i) The Petitioner met the Hon'ble Chief Minister of Maharashtra on 10th December 2008 and submitted written representation. Annexed hereto and marked **Annexure 1** is copy of the representation.
- ii) The Petitioner met the Jt. Secretary in the Ministry of Home Affairs, Internal Security Division Government of India, with a view to get confirmation that the Central Scheme of Rs.3 lac financial compensation is available to the victims of 26/11 terror attack.

11. The Petitioner informed the above authorities regarding the requirements of the affected persons/victims and the difficulties faced by them.

12. The Petitioner was pained to observe that no sooner the attack was over, the Government system got busy in their routine work and red-tapism has taken over the whole system. The Petitioner submits that the announcement of financial compensation, medical treatment, surgeries, job, rehabilitation were only attractive announcements and has again become out of reach of the victims.

13. The Petitioner submits that looking at the previous experience of settlement and relief work to the Railway blast victims of 2006 took more than 2 years, it is very essential that the system should wake up and all the relief work should be completed in a span of 3 months. Hence the Petitioner has approached this Hon'ble Commission.

14. The Petitioner submits that one month is over to the 26/11 incident. Victims, their families have to run from pillar to post to get financial compensation, medical treatment and claims, suffering from the red-tapism and inhuman system. Victims and their families are eligible to get relief and rehabilitation packages/schemes of State Government of Maharashtra and Government of India. No single Department is available to guide and help them. Here are few examples of their suffering -

- a) The family of Mr. Faustine Martis has not yet got corrected Death Certificate and Post Mortem Report. 48-year old Martis was employed at the Taj Hotel. He was shot dead at the Taj

Hotel by the terrorists. His young daughter, Priya, is moving from pillar to post -

- Local police station
- Anti-Terrorism Squad
- Crime Branch
- Sion Hospital (Post Mortem Center)
- Thane Municipal Corporation
- Mumbai Municipal Corporation
- Pinto Care Taker Service
- Taj Management

b) Harish Dulabhai Gohil, 25 years old, was shot at by the terrorists at Nariman House. The Collectorate categorically told his widowed mother that only Rs.5 lacs compensation from the State Government is available for them. They tried to mislead the family that there is no scheme of Rs.3 lacs of Home Ministry, Government of India.

c) The wife of Subhash Vaghela, who was shot at Leopold Café, was informed by the Government officials that she may get Rs.2 lacs compensation from the Prime Minister's fund but nothing about the Home Ministry Scheme.

c) The families of Khan and Bindh – Ziauddin Khan, who lost his brother, Shabuddin Khan, life at Café Leopold, are also struggling to get various compensation. Officials are giving various excuses including demanding domicile and such other

certificates. Annexed hereto and marked **Annexure 2** is copy of the Press Clipping of Indian Express of 28th December 2008.

- d) State Government announced special compensation of Rs.25 lacs each to the security personnel, who got 'shahid' in the terrorist attack. It is shocking that the Government Resolution (GR) No.DRQ-2008/C.No.399/DM-9 dated 1st December 2008 issued by the State Government has stated in Para 1(D) that "since the package Rs.25 lakhs are being paid to families of martyred police, Rs.13 lacs will not be payable to them under various provisions of law/workmen's compensation/Home Ministry guidelines". A policeman gets Rs.13 lacs if he dies while performing duty. Such GR is insulting to the 'shahid'. On the one side, Hon'ble President hands over the special compensation Rs.25 lacs cheque to the Shahid family. Such immoral and illegal GR was forcing them to surrender their rights. Annexed hereto and marked **Annexure 3** is copy of the GR in Marathi along with English translation.
- e) In spite of bad experience of relief and rehabilitation work of 11th July 2006 terrorist attack), no design or execution about the relief and rehabilitation work under the Disaster Management could be seen this time. The victims' families were to wait and suffer to get their near and dear ones dead body for hours. JJ Post Mortem/Coroner Center took 20 hours to deliver the dead body.

- f) The victims and their families had bad experience about the medical treatment at the J.J. Hospital. Victim of Nariman House, Sanjay Katar had very bad experience and were forced to shift the victim to private run Bombay Hospital. Annexed hereto and marked **Annexure 4** is Press Clipping of Times of India dated 24th December 2008.
- g) The victims and their families have to approach 12 different Government Agencies for relief and rehabilitation. Annexed hereto and marked **Annexure 5** is copy of letter dated 11th December 2008 addressed to the Hon'ble Home Minister, Government of India.
- h) The family of Manohar Sahani, dead victim of CST station, could not perform his last rites. The father of Manohar, Mr. Indrasen Sahani was forced to run from pillar to post to get the dead body of his. It was found that the Police/Govt. officials handed over the dead body of Manohar to some unknown person, Shiviah Shiremath. Mr. Shiremath informed the Police that he performed last rites at the Worli Crematorium. Father Mr. Indrasen Sahani recognized the photo of his son from the Government records and submitted documentary evidence. The Government officials handed over to him the correct certificates. But the officials were prompt to get "no complaint" certificate from Mr. Indrasen Sahani. It may be noted here that similar type of manipulation/fraud took place in the 7/11 incident. At that time, it was Gandhi family. Dead body of Jitendra Gandhi was in mischievous manner handed over to

some unknown person. It was found that such things took place to get the financial compensation. Annexed hereto and marked **Annexure 6** is copy of the Press Clipping of Mumbai Samachar dated 11th December 2008 and **Annexure 7** copy of the Press Clipping of Mumbai Mirror dated 11th December 2008.

- i) Multiple agencies have resulted into increasing the hardship of the victims and their families. They have to move to various agencies to get various certificates and documents. First the local Police Station, Anti Terrorist Squad, then Crime Branch as the case is transferred to them. No coordination between the State Government Home Ministry and the Rehabilitation Department. Lack of coordination between State Government, Government of India and Railway Ministry is very much noticed. Absence of clear guideline and policy on compensation is also creating hurdles. Annexed hereto and marked **Annexure 8** is Press Clipping of Times of India dated 9th December 2008.
- j) Lack of coordination and clarity also resulted in imbalance in the relief and rehabilitation packages. This has resulted into discontent among officials of the Fire Brigade, who performed tremendous job and saved lives of innocent citizens at the Taj Hotel and helping National Security Guard commandos. Annexed hereto and marked **Annexure 9** is copy of the Press Clipping of Divya Bhaskar dated 7th December 2008.
- k) The financial compensation is given to the victims through the

local Collectorate. It is sad that the Collectorate of Mumbai City at the Old Custom House, Mumbai Suburban at Bandra, Thane Collectorate officials did not have any information about the eligibility of financial compensation to dead victims families of Rs.3 lacs of Central Scheme of Government of India, Home Ministry, and the Prime Minister's Relief of Rs.2 lac to the dead victims families. Annexed hereto and marked **Annexure 10 to 12** are copies of letter dated 9th December 2008 along with "Maha News", letter dated 11th December 2008 and 16th October 2008 of Home Ministry, Government of India.

- l) The victims of CST station are eligible for claims under Railway Claims Tribunal Act. The present backlog at Mumbai Branch of RCT is 4670 cases. In the normal course, the turn for the hearing will come up only after 2012/13. The victims in 7/11 cases were given special treatment by the Chairman of RCT. Special Bench and special priority were given. Similar type of Special Bench and special priority be given to 26/11 victims. Annexed hereto and marked **Annexure 13** is copy of letter dated 9th December 2008 addressed to the Chairman of Railway Claims Tribunal.
- m) Though the State Government had accepted the importance of appointing a nodal Minister and a senior officer to coordinate all the relief and rehabilitation work, nothing has been done till today. The victims of 1993, 11/7/2006 and also 26/11 are suffering due to multiple agencies, apathy of the system. Annexed hereto and marked **Annexure 14** is letter dated 11th

December 2008 addressed to the Prime Minister.

- n) It may not be out of place to mention that NSG, Marine Commandos, security personnel have played very vital role in curbing the terror attack and killing 9 terrorists out of 10. A suitable recommendation by this Hon'ble Commission will be desirable on the points of their remuneration, allowances, insurance cover, modern weapons, housing welfare facilities and facilities giving them moral booster and equipping them to fight the terror. Annexed hereto and marked **Annexure 15** is copy of letter dated 9th December 2008 addressed to the Prime Minister, Government of India.
- o) It may not be out of place to mention that, in spite of directions and orders passed by this Hon'ble Commission in respect of victims of bomb blast in Railway on 11th July 2006 at the final hearing of this Petition, Rehabilitation authorities of the State of Maharashtra have failed to implement the order dated 17th October 2008 and directions of this Hon'ble Forum, which goes to show the laxity on their part how even the directions of this Hon'ble Forum have fallen on the deaf ear.

15. In the circumstances, the Petitioner submits that the indulgence of this Hon'ble Forum is essential for giving speedy justice to the victims. Hence, the Petitioner approaches this Hon'ble Forum with the following prayers :

PRAYER

- i) This Hon'ble Forum be pleased to direct for immediate withdrawal of illegal, immoral GR of Rehabilitation Department, Government of Maharashtra, ordering forfeiture of Rs.13 lacs due to the Shahid personnel under the Home Ministry guidelines for work/employment / workmen's compensation or such Act.

- ii) This Hon'ble Forum be pleased to direct for appointment of Nodal Minister and Nodal Secretary to act a single window for all relief and rehabilitation work, e.g. financial compensation, medical treatment, employment, Railway Claims Tribunal, legal advice, necessary certificates, etc.

- iii) This Hon'ble Forum be pleased to direct for arrangement be made so that dead victims relatives or injured are not asked to move from pillar to post.

- iv) This Hon'ble Forum be pleased to direct for arrangement by various Government agencies including Rehabilitation Ministry, Home Ministry, Collectorates, Railway, Prime Minister's Office, Government of India, to submit the compensation, etc., to the victims/families.

- v) This Hon'ble Forum be pleased to direct the Government of Maharashtra / Collectorates to coordinate for financial compensation, etc., of Prime Minister's fund, Home Ministry's

scheme and to make available the cheques, bank credit directly to the victims, as all the paper work and formalities had been completed for the Government of Maharashtra financial compensation. Victims should not be compelled to repeat all such formalities for other claims.

- vi) This Hon'ble Forum be pleased to direct that senior officer be deputed to collect all the necessary certificates including death certificate, post mortem report, copy of FIR, etc., from all the agencies and make it available/given to the victims/families.

- vii) This Hon'ble Forum be pleased to direct that special arrangement be made to make available best medical treatment to the victims hit hard with bullet injuries, etc.

- viii) This Hon'ble Forum be pleased to issue directives to Government of Maharashtra to clear all the financial claims, medical treatment/surgeries of 1993 and 7/11 victims.

- ix) This Hon'ble Forum be pleased to issue directives to the Police, Railway Police, Railway authorities to submit details about handing over dead body of Manohar Sahani to so-called Mr. Shiviah Shiremat. Enquiry should be made to investigate the motive behind this act.

- x) This Hon'ble Forum be pleased to issue directives to the State Government, Collectorate to provide healing touch to the relief and rehabilitation work and complete the work in 3 months.

VERIFICATION

I, Dr. Kirit Somaiya, the Petitioner above-named do hereby state on solemn affirmation that whatever state above is true to my own knowledge and is also gathered from the public and media records.

**DR. KIRIT SOMAIYA
PETITIONER**

ADVOCATE FOR THE PETITIONER

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

PETITION NO. /2008

Dr. Kirit Somaiya

Petitioner

V/s

State of Maharashtra & Others

Respondents

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

PETITION NO. /2008

Dr. Kirit Somaiya Petitioner

V/s

State of Maharashtra & Ors....Respondents

PETITION

**Dinanath Tiwari & Associates
Advocate for Petitioner
Gold Coin Premises
Vakola, Santacruz East
Mumbai**