



STATE POLICE
ACCOUNTABILITY COMMISSION
ASSAM



ANNUAL REPORT 2014



**Chairperson
State Police Accountability Commission,
Assam, Ulubari
Guwahati-781 007
94351-06319(M)
0361-2462408(O)**

**D.O. No. SPAC/2014
Dated, the April, 2015.**

Dear

The Annual Report for the calendar year 2014 is presented for your needful. This Report is about the cases of 'serious misconduct' or 'misconduct' committed by police, findings made and action recommended by the Commission against the erring policemen.

During the calendar year 2014, as many as 78 cases of alleged serious misconduct were registered; out of which 39 cases have been disposed of by the end of December, 2014. As on 2nd June, 2014, since I assumed charge, there were 135 pending cases spilled over from the year 2011. The present Commission has also disposed 119 cases out of those 135 pending cases within the short period of 06 months from June, 2014 to December, 2014.

Since its inception in 2008, the Commission registered 461 cases in total and disposed 406 cases leaving only 55 cases for disposal as on 31.12.2014.

In 2014, 78 cases were registered; out of which, 19 cases each belong to the districts of Kamrup(M) and Nagaon. Of those 78 cases, 37, 17 and 15 cases relate to delay in investigation, non-registration of FIR and blackmailing respectively. The O/Cs, very often, refuse or delay registration of FIRs by way of making unauthorized preliminary enquiries in cognizable cases. Cases of illegal detention, custodial torture, blackmailing, bribery and corruption are in the rise. The General Diaries are not maintained properly by the Thanas and the Out Posts. Manipulations are found therein. Same is the case with the Case Diaries. Investigations are done mostly by untrained and inexperienced officers in the rank of SI and ASI in the most perfunctory manner and without applying conscious mind, modern technology and methods. Cases are returned in FRs(Final Reports) with usual remarks, "Case is true but evidence/proof is insufficient." The complainants/informants are seldom informed about the filing of FRs depriving them of the right of filing objection (*Naraji* petition).

Most of the officers are not conversant with the basic law of arrest, seizure, search etc. Very often, the police in the name of investigation, in violation of Section 160 CrPC, pick up or compel the women, even the minor girls and boys and aged persons to appear at the Thana even in the night time and detain them whole night or hours together. Sometime the police pick up and bring people to Thana at a certain time but record them being arrested at the later time after doing the so called interrogation without recording the exact time i.e. the time of bringing them to the Thana. Such recourse is taken to cover up the illegal detention and their

default in producing the arrested person before the Magistrate within 24 hours under Section 57 CrPC. The Commission received several complaints of arbitrary detention/arrest of villagers on false implication in criminal cases in Barpeta district. The so called police agents/source demand money from selected persons and get them detained/arrested if their illegal demands are not met. Some top police officers of the district are allegedly conniving with and shielding the vicious circle. The Commission has recommended action against the suspected top police officers.

Amendment of Cr.PC, 2010 has made the police officer duty bound to not only record his reasons for making an arrest but also for not making arrest with emphasis on investigation before an arrest is made or not made. The disrespect towards or non-compliance of amended provision is found to be due either to ignorance of law or *mala fide* intention of police officers. In these circumstances, sending back all police ranks for taking better training to serve the nation and the society better, has become a pressing call of the day. Such recourse was taken in the beginning of 1984 after Deng came to power in China. It sounds to be appropriate but unaffordable. We have, therefore, recommended for refresher course only for the police officers to train them up in criminal law relating particularly to drawing up or registration of FIR, maintenance of general diary, effective investigation of all types of cases including the cyber crimes, arrest, search, seizure etc with special reference to latest amendment of CrPC and also to rebuild the police ethics and morals.

In my short tenure since June, 2014, not much complaints are received. It may be due to lack of awareness of the people about the mechanism provided in Chapter-VIII of the Assam Police Act, 2007 that deals with Police Accountability towards law and people for their misconduct. The much needed awareness programme could not be launched in the desired manner due to budgetary constraints. The Govt. is requested to provide sufficient budgeted fund on this count. The Govt. is also requested to redress the Commission's demand for upgradation of resources for providing effective strength in the Investigating Wing, sanction of permanent staff for the Commission by amending Section 76(3) of the Assam Police Act, 2007 and allotment of land for its permanent office building.

We cherish your personal attention for immediate redressal of our demands and implementation of recommendations made in the past and present.

Thanking you,
With regards,

Yours sincerely,

(P. K. MUSAHARY)

Shri Tarun Gogoi,
Chief Minister, Assam,
Dispur,
GUWAHATI-781 006

Annual Report 2014

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The Statute and
the Practices

Assam Police Act, 2007 provides for the police accountability under Chapter-VIII with parameters as defined by Section 78, Sub-Section 78(1) -

- (a) death in police custody;
- (b) grievous hurt;
- (c) molestation, rape or attempt to commit rape; or
- (d) arrest or detention without due process of law;
- (e) forceful deprivation of a person of his rightful ownership or possession of property;
- (f) blackmailing or extortion;
- (g) non-registration of FIR

**and any other case referred
to it by the Government or the DGP of the State
subject to the nature of such cases meriting for
independent enquiry.**

Section 83(1) of the Act, provides for submission of
“**Annual Report**” dwelling upon –

- (i) the number and type of cases of serious misconduct enquired into it;
- (ii) the number and type of cases of misconduct referred to it by the complainant upon being dissatisfied on the departmental enquiry into his/her complaint;
- (iii) the number and type of cases including those referred to it in (b) above in which advice or direction was issued by it to the police for further action;
- (iv) the number of complaints received by the district accountability authorities and manner in which they were dealt with;
- (v) the identifiable pattern of misconduct on the part of the police personnel in the State; and

(vi) recommendations on measures to enhance police accountability.

ESTABLISHMENT

The present Commission :

Shri Pranay Kumar Musahary, Justice (Retd), Chairperson(w.e.f. 2nd June, 2014)

Smti Parul Debi Das, IAS(Retd), Member (w.e.f. 4th June, 2014)

Shri Sibabrata Kakati, IPS(Retd), Member (w.e.f. 1st July, 2014)

Smti Nellie Ahmed Tanweer, Member (w.e.f. 10th April, 2013)

The Commission's Secretariat is headed by Shri Dimbeswar Kalita, ACS (Retd) (w.e.f. 08th October, 2012) assisted by Ministerial Staff Senior Assistant - one, Junior Assistant – one, Stenographer – one, Computer Operator – one, 4th Grade employee – three.

Moreover, the Commission has inducted –

Shri Rohini Kumar Bania, IPS(Retd) as Chief Investigator (w.e.f. /2009 to 31st May, 2014,

Shri Bhakta Bahadur Chetri, APS (Retd) as Chief Investigator w.e.f. 07th August, 2014,

Shri Garga Narayan Dutta Choudhury, APS (Retd) (w.e.f. 1st March, 2012 to 18th Dec, 2014,

for manning the Investigation Agency of the Commission.

Accommodation:

The Office of the Commission is at present housed at a rented premises located at B.K. Kakati Road, House No. 95, ‘AMITABH’, Ulubari, Guwahati-7, Assam.

The Commission has been experiencing insufficiency of adequate space to accommodate the present man power and the records in the present office building.

The Commission has requested the Govt. of Assam to allot land at suitable location in Guwahati City in the name of SPAC, so as to construct its own building.

The Home (A) Deptt is reported to have taken up the matter with Revenue & Disaster Management Deptt for allotment of land for SPAC.

Finance:

Source : Deptt of Home(A)

Head of A/c – Major head 2070 – other administrative services (ii)
vigilance and other commissions of
enquiry” other State plan & non
plan scheme.

Minor head : 105- special commission of enquiry.

Sub head : 0434 - State Police Accountability
Commission

Detail head: 31 - Grants-in-Aid Salary

32 - Grants-in-Aid(Non Salary).

Fund position :- Financial Year 2014-2015

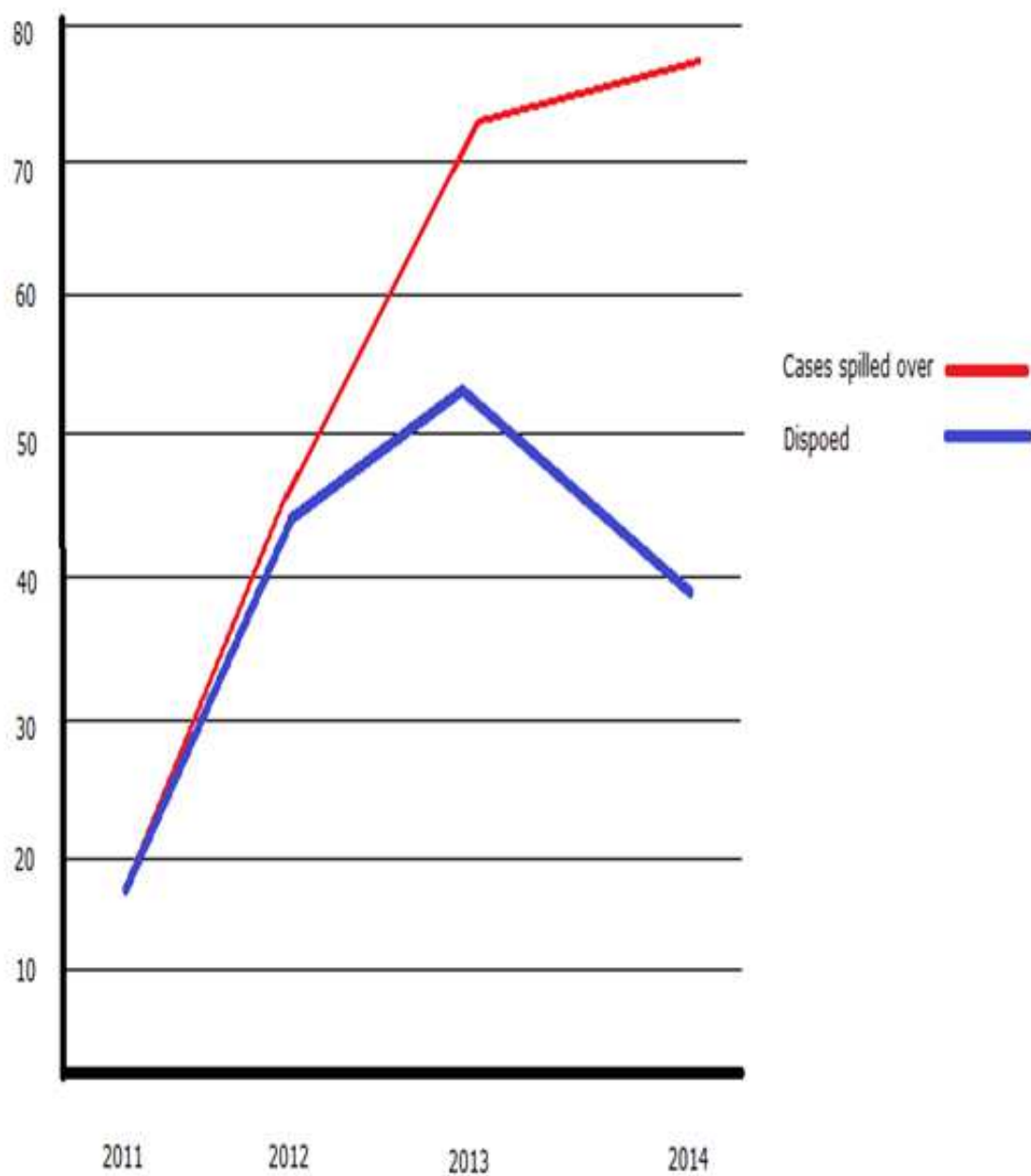
(A)	(B)
Budget proposed – Salary – Rs.50,00,000.	<u>Supplementary Due</u>
<u>Non Salary - Rs.31,31,000</u>	Salary – Rs. 6,34,746
Total - Rs.81,31,000	<u>Non Salary-Rs.22,30,000</u>
	Total - Rs.28,64,746
Total of A + B = Rs.1,09,95,746.	

Fund received

(R)	(S)
Salary – Rs.20,06,000	Non Salary-
(M) + Rs.21,26,000	Rs. 4,54,00
<u>Through SD-Rs. 7,00,000</u>	Rs. 4,56,000
Total - Rs. 48,32,000	<u>SD - Rs. 7,00,000</u>
	Total- Rs.16,10,000

Total of R + S = Rs. 64,42,000

Table No. - 01



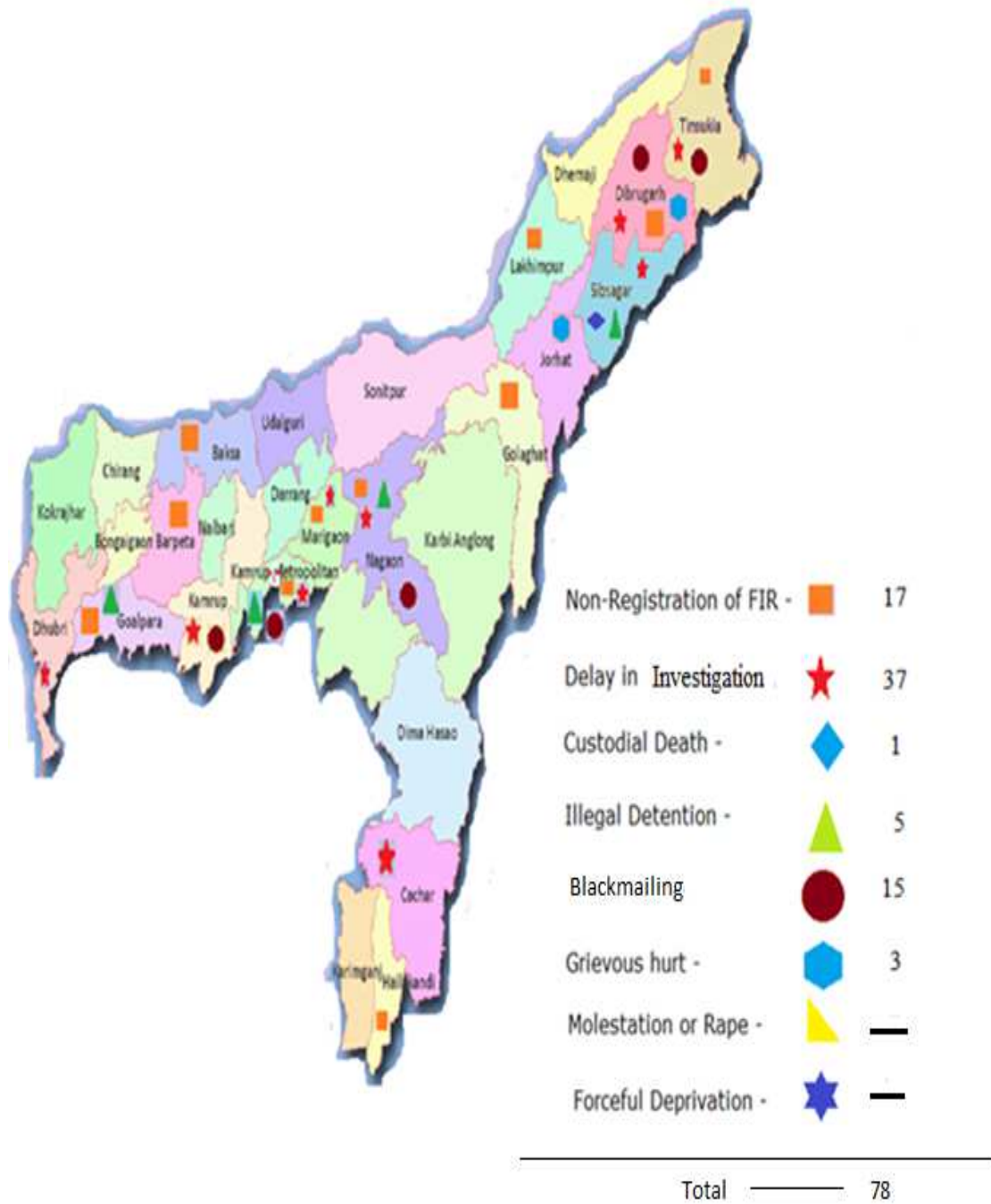
Statement of pending cases & disposal upto 31/12/2014

		DISPOSED DURING 2014
Cases spilled over	2011 --- 18	18
	2012 --- 46	45
	2013 --- 71	53
Cases registering	2014 --- 78	39
Total --- 213		155 + 3 Misc Cases

Graphic representation : On disposal of cases during the year 2014.

Table No. - 02

Districtwise distribution of complaints received during 2014, indicating the type of serious misconduct :



Brief Order : Passed on a few significant cases during 2014.

Present

Justice D. N. Chowdhury(Retd)	-	Chairmn
Shri S. P. Ram, IPS(Retd)	-	Member
Smti Nellie Ahmed Tanweer	-	Member

SPAC Case No.25/2011

Shri Hangsa Nath Das (Retired Dy.SP)

-Versus-

Incharge, Howli Police Outpost & Staff

It is a complaint, alleging serious misconduct against the police personnel of Howli Police Outpost.

The Commission gave anxious consideration on the issue. The materials on record reveal grave dereliction of duty by the police. Assaults on persons including women were allowed to take place in presence of the police. They become simply onlookers where the alleged offenders perpetrated even crimes on women, allowed the offenders even to cause fracture or dislocation of teeth. The Incharge of Howli Police OP and Incharge of Bhabanipur Police OP simply failed to uphold and enforce law impartially and to protect life, liberty, human rights and the dignity of the members of the public. The Commission expressed grave disconcerts on the matter. It is a case where police intentionally disobeyed the direction of law as to the way in which he was to conduct himself and by their disobedience caused injury to the persons. Such acts of the police are offences under the Penal Code. As a superintendence of the district, it was duty of the SP Barpeta to take appropriate measures under the law as an instrument of internal accountability mechanism. Likewise, The Commission found that the O/C Barpeta PS also failed to exercise supervision and control over the two Incharges of Howli and Bhabanipur Police Outposts and take appropriate measures against the accused persons. The Commission expressed its concern and disapprobation on the conduct of the concerned SP Barpeta and concerned Addl.SP(HQ) Barpeta.

On overall consideration of the matter, the Commission considered it appropriate to recommend the DGP, Assam to initiate departmental action against the concerned O/C Barpeta Police Station for the alleged misconduct enumerated above as well as to cause DP against the concerned Incharges of Howli Police Outpost and Bhabanipur Police Outpost.

Present

Justice D. N. Chowdhury(Retd)	-	Chairmn
Shri S. P. Ram, IPS(Retd)	-	Member
Smti Nellie Ahmed Tanweer	-	Member

SPAC Case No.02/2014

Shri Dulal Bora

-Versus-

Inspector Dilip Dutta, CID

It is a complaint alleging grave misconduct said to be committed in discharge of the statutory duty, by police personnel.

It was interalia alleged that on 13.12.2009 at about 2-30 pm an FIR was lodged by Shri Nirmal Doloi, son of Late Brindaban Doloi of village Jogdol, PS-Sonapur to the effect that on the night of 12.12.2009 some unknown culprits killed his elder brother, his wife, two daughters of his elder brother, his son and his nephew in the house of his brother and took away the severed heads of Atul and Tukul. The complaint was registered and case was taken up for investigation. Considering the gravity of the offence and the sensitivity of the gruesome murder, the case was transferred to CID for investigation. The then Inspector Dilip Dutta was entrusted with the investigation. The reports received indicated that all was not well with the investigation, investigation was reportedly partisan in nature. The SP in his report even indicated that the then Deputy Director of Forensic Department was also not free from blame. The Commission was also informed that CID PS Case No.18/2012 Under Section 120(B)/436/201 IPC was registered against the then O/C Sonapur PS, one SI, the then I.O. of the case and the Deputy Director, FSL, Assam, Kahilipara. The report also indicated that Inspector Dilip Dutta, the then I.O. of the case mishandled the CD and left the duplicate CD along with relevant documents in the place of the complainant. We were also informed by the communication that these documents were seized and SSP suggested for an appropriate disciplinary action against Inspector Dilip Dutta. The communication received from the Addl. Director General of Police clearly indicated that authority has taken the right measures.

All these documents clearly indicated about serious misconduct and gross negligence of duty by the then Inspector of CID Shri Dilip Dutta. The action taken by Shri Dutta clearly exhibited criminal negligence in conducting investigation. It is, no doubt, a serious lapse in the investigation of the case which is yet to be completed.

The Commission is not inclined to proceed with the case further. The Commission accordingly thought it proper to send the papers to the DGP, Assam for disposal at his end with an intimation to the Commission in due course.

Present

Justice D. N. Chowdhury(Retd)	-	Chairmn
Shri S. P. Ram, IPS(Retd)	-	Member
Smti Nellie Ahmed Tanweer	-	Member

SPAC Case No.06/2011

*Shri Dwijendra Talukdar & Smt Kanika Talukdar
-Versus-*

- (1) *Shri Jitendra Kumar Doley, SP(B), Bhangagarh*
 (2) *Shri Dilip Phukan, O/C, Gorchuk PS*
 (3) *Shri Jugal Kishore Kalita, SI Gorchuk PS*

It is a complaint of serious nature alleging perpetration of a crime against an innocent citizen as well as women seemingly at the bidding of a senior police officer.

All things considered The Commission considered it appropriate to advise the State Government and the Director General of Police to take appropriate Departmental action against Shri Jitendra Kr Doley, the then SP, Border Organisation and the Inspector Dilip Kumar Phukan and SI Jagat Chutia for the misconduct enumerated above.

Present

Justice D. N. Chowdhury(Retd)	-	Chairmn
Shri S. P. Ram, IPS(Retd)	-	Member
Smti Nellie Ahmed Tanweer	-	Member

SPAC Case No.23/2011

Shri Arun Deka

-Versus-

OC, Dispur Police Station & Others

The Commission acted on a communication received from the complainant alleging serious misconduct against SI Latifuddin Ahmed and O/C of Dispur Police Station.

The Commission expressed its disapprobation on the conduct of the District Supdt of Police in faltering to take appropriate measure as per law as District Supdt of Police. The Commission gave its anxious consideration of the matter and on consideration of the aspect of the matter, found it appropriate to direct the Director General of Police, Assam to cause initiation of departmental enquiry against SI Latifuddin Ahmed and Inspector Manik Kalita, the then O/C of Dispur Police Station.

Present

Justice D. N. Chowdhury(Retd)	-	Chairmn
Smti Nellie Ahmed Tanweer	-	Member

SPAC Case No.66/2012

Shri Jitu Dutta

-Versus-

SI Rupjyoti Dutta, O/C Gaurisagar PS

A complaint was received containing allegation of serious misconduct against the concerned O/C of Gaurisagar PS SI Rupjyoti Dutta for unlawful arrest/detention as well as of blackmailing and extortion.

All things considered, the Commission was of the view that SI Rupjyoti Dutta, O/C Gaurisagar PS need to be proceeded departmentally. Accordingly, the Commission thought it proper to advise the DGP to initiate departmental action against SI Rupjyoti Dutta, the then O/C Gaurisagar PS at the forthwith. The senior officers, namely, Addl.SP, SP, DIG who had faltered in conducting enquiry and in turn failed to take appropriate measure for preventing misconduct by the subordinate police personnel. These officers deserve to be pulled up by the Head of the Department.

Present

Justice D. N. Chowdhury(Retd)	-	Chairmn
Shri S. P. Ram, IPS(Retd)	-	Member
Smti Nellie Ahmed Tanweer	-	Member

SPAC Case No.24/2011

Smt Ramala Deka
 -Versus-
OC, Noonmati Police Station.

It is a complaint in the nature of blackmailing and harassment by the police personnel of Noonmati Police Station.

The Commission was of the opinion that it is a fit case in which the DGP need to take appropriate steps to severely reprimand the officers involved in the misconduct so that such things do not recur. The Commission consider that it is a fit case where the DGP need to issue proper office memorandum/guidelines for not to indulge in such unlawful act in future. With this, this proceeding stands closed.

Present

Justice D. N. Chowdhury(Retd)	-	Chairmn
Smti Nellie Ahmed Tanweer	-	Member

SPAC Case No. 46/2011

Shri Arup Dutta - Complainant
 -Versus-

- (1) Samsul Rahman, Asstt. Jailor, Central Jail, Guwahati,*
- (2) L. N. Deka, Incharge of Odalbakra Police OP,*
- (3) The Second Incharge of Odalbakra Police OP*

A complaint was received alleging biased action of the Police. The complainant inter alia alleged that the Officer-in-Charge and the second officer of Udalbakra Out post and the O/C, Dispur Police Station failed to act in an impartial manner.

The Commission is of the view that the alleged police officers have not been fair and the due process of law followed in the disposal of the complaints. They shall be pulled up by the Department.

Present

Justice D. N. Chowdhury(Retd) - Chairmn
Smti Nellie Ahmed Tanweer - Member

SPAC Case No.15/2013

Smt Meenakshi Deka

-Versus-

Shri Arnab Deka, Commandant, 11th AP Bn

A complaint has been received by the Commission alleging serious misconduct said to have been committed by a senior police personnel, namely, Shri Arnab Deka, Commandant of 11th AP Bn.

All things considered, The Commission was of the opinion that Tezpur PS Case No. 620/12 need to be reopened and reinvestigated taking into account our findings and observations.

- (a) The relevant considerations were overlooked. Police resorted to subterfuge in undermining the rule of fair and impartial investigation. To restore public confidence keeping in mind all the aspects of the matter and advise the authority to reopen and reinvestigate the investigation.
- (b) Inspector Biren Chandra Deka, the then O/C Tezpur need to be criminally proceeded for non-registration of FIR dated 28.04.12 and forgery of GD Entry No. 1531. GD is a public document. The Commission advised the DGP to take appropriate steps to lodge FIR against the O/C concerned under Sections 166A/201/217/218/466 read with Section 98(A) and 98(B) of the Assam Police Act, 2007. The Commission also advised the authority to departmentally proceed against the officer for perfunctory investigation of the case No. 620/12 of Tezpur Police Station.
- (c) The Commission also direct the authority to initiate departmental action against the then Commandant, 11th AP Battalion Shri Arnab Deka for the alleged misconduct of criminal intimidation, trespass with a view to forcefully depriving the complainant from her rightful ownership and possession of property.
- (d) The Commission also direct the authority to make appropriate rules conforming to the provisions under Section 64(g) of AP Act, 2007 by the Home Department of the State Government.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member

SPAC Case No.45/2012*Shri Nripen Chandra Nath**-Versus-**SI Partha Pratim Gogoi, I/C of Panikhaiti Police Outpost*

This case has been registered on the basis of a complaint dated 16.06.2012 filed by Shri Nripen Chandra Nath, son of Kalicharan Nath of Narengi Tiniali, Guwahati-26.

The DGP, Assam, Guwahati was directed to cause departmental proceeding against I/C SI Partha Pratim Gogoi providing him chance of defence and other opportunities as provided under the existing law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member

SPAC Case No.03/2012*Sahidul Patgiri**-Versus-**SI(UB) Gaznabi Ahmed, O/C Krishnai PS & ASI Hazarat Ali*

This case was registered on the basis of a complaint dated 07.10.2011, received from Sahidul Patgiri. The complainant, inter alia, alleged that ASI Hazarat Ali, under direction of SI Gaznabi Ahmed, O/C of Krishnai PS rang up the complainant's wife Smt Parvin Zaman over her mobile phone No. 98541-18473 on 05.10.2011 and asked her to appear at the Krishnai PS for amicable settlement of a boundary dispute, which was already disposed of by an order dated 23.09.2011 passed by the Addl. District Magistrate, Goalpara in Misc Case No. 56/2011 U/S 107/133 CrPC.

It appears from the SP's report that a D.P. has already been drawn up against SI(UB) Gaznabi Ahmed, who was the O/C of Krishnai PS. In our considered view, similar departmental proceeding should also be drawn against

the ASI Hazarat Ali, who rang up the complainant's wife to appear in the police station. The DGP, Assam, Guwahati is hereby directed to cause departmental proceeding against ASI Hazarat Ali immediately providing him opportunity to defend in accordance with law under intimation to this Commission. The DGP, Assam is also directed to intimate this Commission about the result or status of the departmental proceeding against SI Gaznabi Ahmed.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member

SPAC Case No.67 /2012

Sayada Nurjahan Begum.

-Versus-

O/C Baihata Chariali Police Station

The basic allegation made in this complaint petition is that the FIR lodged by the complainant with the O/C Baihata Chariali Police Station on 26.07.2012 was not registered. The further allegation is that the police personnel of Baihata Charaiali Police Station acted in a bias manner for the interest of the accused persons.

The O/C concerned, in The Commission's view, committed serious misconduct and dereliction of duty by not registering a case on the basis of the telephonic information received from the village headman on 26.07.2012. By not registering FIR, the then O/C of Baihata Chariali PS committed serious misconduct within the meaning of Section 78(1) of the Assam Police Act, 2007 warranting appropriate departmental action. Enough materials are found against the then O/C Shri Balabhadra Patgiri to proceed against him by the department under the existing Discipline & Appeal Rules of the Police Department. The DGP, Assam, Guwahati is directed to cause drawal of departmental proceeding against the then O/C Shri Balabhadra Patgiri providing him due opportunity to defend himself in accordance with law. The result of the departmental proceeding should be intimated to this Commission.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member

SPAC Case No.70/2012*Amit Prasad**-Versus-**SI Bhaskar Kalita, Panitola Police Outpost, Dist. Tinsukia*

A complaint was received by the Commission alleging serious misconduct against the In-charge of Panitola Police Outpost SI Shri Bhaskar Kalita and his associate one Shri Das. The complainant, amongst other, alleged that the I/C Bhaskar Kalita along with 4/5 police personnel illegally entered his house, which was attached to his shop, at about 7.30 pm and made a search in his house without any authority.

It is established that the I/C Bhaskar Kalita visited/searched the house and premises of Shri Bipin Sah at AT Road, Panitola without registering a case, which is not permitted under the law. The action of the I/C against Shri Bipin Sah without registering a case amounts to serious misconduct and dereliction of duty within the meaning of Section 78 of the Assam Police Act, 2007. For this misconduct, I/C SI Bhaskar Kalita is liable to face departmental proceeding.

In view of above findings, the Commission directed the DGP, Assam to cause departmental proceeding against SI Bhaskar Kalita for misconduct in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member

SPAC Case No.58/2012*Musstt. Saira Begum Barbhuyan**-Versus-**SI Abul Kalam Azad, I/C Arunachal Police Outpost
under Silchar Police Station.*

This case was registered on the basis of complaint dated 07.08.2012 received from Musstt. Saira Begum Barbhuyan.

On completion of enquiry, the Superintendent of Police submitted a report vide his letter No. G/SR/8910 dated 20.09.2012. In the said report it has been stated that “*SI Abul Kalam Azad defaulted by not registering a regular case on the basis of verbal information given by Yahiya Ahmed Borbhuyan on 13.05.2012 for which show cause notice is being issued*” upon him “*to draw Departmental Proceeding against him for negligence of duty.*”

The Departmental Proceeding drawn against aforesaid SI Abul Kalam Azad has been concluded. The Superintendent of Police Cachar, as Disciplinary

Authority awarded punishment of stoppage of one annual increment with cumulative effect. This has been communicated to this Commission by the Superintendent of Police Cachar, vide Memo No. CR/SPAC/C/58/2012/SLC/2374 dated 19.04.2014.

In view of the above action taken by the department, the Commission deems it fit and proper to close this case. Accordingly, this case stands disposed of.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member

SPAC Case No.42/2012

Smt. Anita Mandal

-Versus-

*Officer-in-Charge of Tinsukia PS and others
under Sivasagar District*

This case was registered on the basis of complaint dated 24.05.2012 received from Smt. Anita Mandal, Proprietor, M/S Anita Enterprise, Tinsukia. She has alleged that the police is negligent in the investigation of the Tinsukia Police Station Case No. 57/09 registered U/S 468/409 IPC. The complainant's grievance is that the O/C and the I/O concerned have failed to bring the said Accountant Raj Kr. Roy to book as they are negligent in the investigation of the case.

Having considered the entire facts and circumstances of the case the Commission directs the present O/C of Tinsukia Police Station to submit a charge-sheet before the court through the Superintendent of Police concerned immediately to proceed against the accused persons, including the absconding accused Sri Raj Kr. Roy and also to proceed against the bank authorities for showing a conduct of non-cooperation to the Investigating Agency. The Superintendent of Police, Tinsukia, is directed to procure the Case Diary from the O/C and take necessary steps immediately as provided under the law in consultation with the Public Prosecutor, if so advised.

From the available records the Commission holds a view that the officers-in-charge, who were in the Police Station since the case was registered on 16.01.20019 and also the I/Os, who were entrusted with investigation of the case, are accountable for their lapses in submitting the charge-sheet and taking necessary steps after collection of sufficient materials against the accused persons and thereby committed serious misconduct within the meaning of

Section 78(1) of the Assam Police Act, 2007 and occasioned failure and denial of justice to the informant/complainant.

The Commission directed the Director General of Police, Assam, to cause Departmental Proceeding against the O/Cs and I/Os concerned providing due opportunity of defence as provided under law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member

SPAC Case No.12/2013

Shri Dharani Dhar Mali

-Versus-

*SI Badrul Islam, O/C Palasbari PS,
District Kamrup*

Complaint dated 12.04.2013 filed by Shri Dharani Dhar Mali, son of late Santo Ram Mali, resident of Lalganesh Lokhra Road, Guwahati-34 led to registration of this case. It has been alleged therein that ASI Firoj Doley of Palasbari PS, Mirza came to the complainant's house on 06.04.2013 at around 1.30 pm along with a group of armed police and warned him and his son not to obstruct the construction works being carried out by Shri Bhubaneswar Mali and his son inside the campus of the complainant. The ASI Firoj Doley, as alleged by the complainant, abused him and his son and threatened to beat them mercilessly in case they do not abide by his verbal order.

It is established that the O/C, Palasbari PS did not register cases in regard to the aforesaid incidents reported in writing by Shri Dharani Dhar Mali and Shri Bhubaneswar Mali and directed the said ASI to enquire the matter without registering any cases as required U/S 154 of the Code of Criminal Procedure, 1973. However, GD Entries were made in connection with the aforesaid reported incidents..

SI Badrul Islam was the O/C of Palasbari PS at the relevant point of time, i.e. on 05.04.2013 and therefore, he is accountable for his lapse or failure in registering cases. He has committed serious misconduct within the meaning of Section 78(1) of the Assam Police Act, 2007. Having come to the above conclusion, the Commission directs the DGP, Assam, Guwahati to cause departmental proceeding against the aforesaid police officer immediately, preferably within a period of 30(thirty) days from the date of communication of this order providing him due opportunity to defend himself in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member

SPAC Case No.49/2012*(1)Sharaf Uddin Laskar &**(2)Ikbal Bahar Laskar**-Versus-**(1)Sri Subrata Purkayastha, SI**(2)Sri F.R. Barlaskar, SI &**(3)Smt. Shilpi Begum**of Hailakandi Police Station*

The complainants seek administrative action against SI Sri Subrata Purkayastha, SI F.R. Barlaskar and Women Constable Smt Shilpi Begum of Hailakandi Police Station for their inaction in taking legal action in the matter related to possession of land property belonging to them.

Having considered the entire facts and circumstances of the case the Commission holds the SI Bidhan Ch. Nath, O/C, Hailakandi Police station accountable for committing lapses and illegality in registering the case in violation of provision U/S 154 CrPC, which is considered as a serious misconduct on his part and for which he is liable to be proceeded by the Department U/S 78 (1) of the Assam Police Act 2007.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member

SPAC Case No.22/2012*Md. Dilbar Mollah**-Versus-**Shri Harin Chandra Deka, the then O/C of Dhubri**Sadar PS and others*

The Commission held Shri Harin Chandra Deka, the then O/C of Dhubri Sadar PS accountable for not registering cases before proceeding or deputing his subordinate officers to the place of occurrence and causing preliminary enquiry. The Commission also holds Constable Mohiruddin Sheikh and SI

Akbar Ali accountable for their culpability in the crime in connection with the aforesaid PS cases. Accordingly, the Commission directs the DGP, Assam, Guwahati to cause departmental proceeding against the aforesaid Assam police personnel for committing serious misconduct as indicated above in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.66/2011

Sri Kanahaiyalal Yadav

-Versus-

Inspector Juga Kanta Bora, O/C, Tinsukia PS.

The complainant Sri Kanahaiyalal Yadav, son of Sri Ram Kawal Yadav of Sripuria Pathar, Raja Ali Road, PS & Dist. Tinsukia states that he filed an FIR on 03.12.2011 before the O/C Tinsukia informing him that one Ram Girish Upadhaya, equipped with deadly weapons, forcefully entered into his house and started assaulting his wife and thereafter, completely damaged the eastern portion of his house and took away some valuable properties. The complainant again filed another complaint addressed to the SP, Tinsukia on 07.12.2011 regarding the said incident. The SP, Tinsukia forwarded the said complaint/ejahaar to Tinsukia PS for registering a case. On receipt of the said order from the SP, Tinsukia, the SI Sri Nirmal Handique of Tinsukia PS threatened the complainant over cell-phone for lodging a complaint before the SP. Inspector Shri J.K. Bora, O/C of Tinsukia PS, however, registered a case, being Tinsukia PS Case No.764/11 U/S 447/427/506/34 IPC without adding the offence U/S 394 or 379 IPC although there was a specific allegation that the accused persons took away cash amount of Rs.5,000/- with gold ornaments and other valuables. The complainant also alleged that the investigation of the case was conducted by SI Nirmal Handique, the same officer, who earlier conducted enquiry on the FIR filed by him on 03.12.2011, which was treated as non-FIR case.

The officer-in-charge of Tinsukia PS, who, in violation of Section 154 CrPC, indulged in making or causing preliminary enquiry for registration of a case. Such procedure and action resorted to by the said O/C have no sanction of law, and this Commission holds Inspector Juga Kanta Bora, O/C Tinsukia PS accountable for the illegality committed by him in registering non-FIR case as

mentioned above. The complainant seems to be very much conscious about his right and so, he again filed FIR directly to the SP, Tinsukia, who forwarded it to the O/C, Tinsukia PS and registered the regular PS cases on the basis of written FIR submitted by the parties. The Commission have noted that the parties filed FIR furnishing similar information both in the FIR submitted at the first instance in which non-FIR case was registered and in the second FIRs, which were registered as regular PS cases. The investigation of the said PS cases has ended with submission of charge-sheet before the court and the court may proceed with the trial in case charge(s) is/are framed against the accused person.

The Commission found no fault or irregularity in the action taken by the O/C, Tinsukia PS in respect of PS cases inasmuch as PS cases were registered without ordering preliminary enquiry and submitted charge-sheets after completion of investigation. The Commission held Inspector Juga Kanta Bora, O/C, Tinsukia PS accountable only for the illegality and lapses committed by him in the earlier case in which he ordered preliminary enquiry without registering a case and refused to register a case as the matter was found to be of civil nature. The O/C, in our considered view, committed serious misconduct within the meaning of Section 78(1) of the Assam Police Act, 2007 for which he is held accountable and liable to Departmental action/proceeding. The DGP, Assam, Guwahati is directed to cause drawal of departmental proceeding against Inspector Juga Kanta Bora, O/C, Tinsukia PS providing him due opportunity to defend himself in accordance with law and rules. The result of the departmental proceeding should be intimated to this Commission.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.53/2013

Sri Bikramjit Dey

-Versus-

*Sri Jagadish Kumar Sinha, O/C, Nagaon Sadar PS,
Dist. Nagaon*

This case has been registered on receipt of a complaint petition dated 22.07.2013 from one Bikramjit Dey, son of Ranjit Kumar Dey, resident of Dimoruguri under Sadar PS, Nagaon and District Nagaon.

The Commission held Sri Jagadish Kumar Sinha, Nagaon Sadar PS accountable for endorsing the FIR on 17.04.2013, ordering local enquiry/preliminary enquiry through I/C of Itachali TOP Sri Manabendra Das and belatedly registering a case after about 40(forty) days on 27.05.2013. The

Commission also held Sri Manabendra Das, I/C of Itachali TOP, Nagaon accountable for causing unexplained inordinate delay in submitting report of his preliminary enquiry to the O/C. For the reasons stated above, the Commission recommends Departmental action against the Inspector Sri Jagadish Kumar Sinha, O/C of Nagaon Sadar PS and SI Manabendra Das, I/C of Itachali TOP for alleged serious misconduct committed by them within the meaning of Section 78(1) of the Assam Police Act, 2007. The Commission directed the DGP, Assam to initiate appropriate proceeding against the said police officers providing them opportunity of defence as provided under the existing law and rules.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.08/2012

Sri Naren Ch. Deka

-Versus-

ASI Arun Baruah, Dispur Police Station

The complainant claims that he is the owner of a piece of Annual Patta land measuring 2 kathas. He is in possession of the said plot of land. It has been alleged that on 25.12.2011 at about 11.15 pm, a dacoit party coming out from the house of Nripen Barman, entered his house and a lady hit him on his head by a dagger and caused injury on his eye. He laid unconscious and the dacoit party took away cash amount of Rs. 9,500/-. He was removed to hospital by his wife and ASI Arun Baruah. On the same night, an FIR was lodged in connection with the aforesaid incident. The said ASI Arun Baruah asked the complainant to hand over the possession of the said plot of land, else he threatened with dire consequences. The said ASI on several occasions asked the complainant over phone to withdraw the case filed against Smt Rubi Barman, otherwise he would arrest him on charge of committing rape on Smt Rubi Barman. In fact, on 24.01.2012 at about 9.30 am the said ASI came along with some Constables and picked him up from his shop. The said ASI obtained complainant's signatures on a piece of blank paper and put him in the lock-up whole day. Later, he was enlarged on bail of Rs.2,000/-. The complainant came to know that the ASI Arun Baruah was involved in land grabbing activities and

so he had made a prayer for taking necessary action against the said ASI as he has not taken any action against Smt Rubi Barman and other accused persons.

The Commission held ASI Arun Baruah, I/O of the case accountable for the serious misconduct and lapses committed by him as stated above and held him liable for departmental action. Accordingly, the Director General of Police, Assam, Guwahati was directed to initiate appropriate departmental action against the said police officer providing him opportunity of defence as provided under the existing law and rules.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member

SPAC Case No.49/2011

Md. Nekibutddin Ahmed

-Versus-

OC, Sivasagar Police Station, Dist. Sivasagar

The complaint pertains to alleged lapse on the part of the police in investigating the Sivasagar PS Case No. 399/11 registered U/S 365/34 IPC and also failure to take steps for adding Section 302 IPC to the said case.

The conduct of the SP in not furnishing the information required and not sending the I.O. concerned to the Commission for producing the relevant records is not only unexpected but also unbecoming of a Head of the District Police Organisation, which could be treated as insubordination and dereliction of duty attracting departmental action under the existing law and rules. The Commission, therefore, recommends initiation of departmental action against the SP concerned providing him due opportunity of explanation and defence in accordance with law.

The complainant was advised to approach the learned CJM, Sivasagar for appropriate relief under the provisions of Code of Criminal Procedure, 1973. The Director General of Police, Assam, was directed to take up the matter of departmental action with the Govt. forthwith and submit the action taken report to this Commission.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 61/2011

Sri Sib Narayan Das.

-Versus-

Officer-in-charge, Tinsukia Police Station.

The complainant stated that his mother, aged about 80 years, has been possessing a plot of land at Tinsukia Town, covered by Dags No. 754 and 781 under Tinsukia Mouza with a dwelling house thereon, where all the family members are residing. His mother received a notice from the Union Bank of India, Tinsukia Branch, informing that she stood as a guarantor and mortgaged the said plot of land for one Smt Sushmita Roy Sen and her husband for obtaining loan. Upon enquiry made and having come to know, that the aforesaid couple got a deed executed on 08.04.2008 by forging the thumb impression of complainant's mother, filed a complaint petition before the CJM, Tinsukia. The said petition was forwarded to Tinsukia Police Station and a case, being Tinsukia Police Station Case No. 707/2010 was registered U/S 468/419/420/34 IPC. In this petition the complainant has alleged that the investigation has not been done properly inasmuch as the I/O has not seized the original forged documents from the bank and sent the same to FSL "***after obtaining proper and legally valid thumb impression***" of his old mother.

In view of the above, the Superintendent of Police, who is believed to be instructed in fundamental law, would not have behaved and acted in the manner as has been done by him in this case. The above conduct of the Superintendent of Police, in not furnishing the required informations and not sending the I/O concerned to the Commission for producing the relevant records/documents is not only unexpected but also unbecoming of a Head of the District Police Organization, which could be treated as insubordination and dereliction of duty attracting Departmental action under the existing law and rules. The Commission, therefore, recommended initiation of Departmental action against the Superintendent of Police concerned providing him due opportunity of explanation and defence in accordance with law.

The complainant/informant was advised to approach the learned CJM, Tinsukia, seeking appropriate relief as indicated above under the provisions of Code of Criminal Procedure, 1973. The Director General of Police, Assam,

Guwahati, was directed to take up the matter of Departmental action with the Government forthwith and submit an Action Taken Report to this Commission.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.59/2011

Prasenjit Baruah

-Versus-

Sri Hari Charan Kalita, O/C Kampur Police Station.

Complainant Sri Prasenjit Baruah, resident of Kampur Higher Secondary Road, PS- Kampur, Dist-Nagaon, by filing an affidavit duly sworn before Notary Guwahati, alleged that on 01.11.2011, at about 11 pm, one Mr Hari Charan kalita, O/C of Kampur Police station along with some Battalion personnel assaulted him in an inhuman manner and arrested him without following due process of law and also refused to accept the FIR when he wanted to lodge one with the Police Station.

The Commission directed the Director General of Police, Assam, Guwahati to cause Departmental Proceeding against the aforesaid O/C Haricharan Kalita forthwith in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 46/2012

Md. Ajmat Ali

-Versus-

I/C Mandia Outpost, Dist: Barpeta.

The Commission held SI Rajibur Rahman accountable for the serious misconduct as stated above and liable for Departmental action. Accordingly, the Director General of Police, Assam, Guwahati was directed to initiate appropriate proceeding against the said police officer providing him opportunity of defence as provided under the existing law and rules.

The Commission pointed out that there is a specified form prescribed in the Assam Police Manual Schedule XL (A) Part 1 Form No. 211 for seeking/requisitioning medical examination. The said schedule indicates the type of medical examination required in each case. What the Commission found in the present case is that the medical report furnished by the medical officer of Mandia PHC was not in the said prescribed form and so the required information for police to take action was not available. The Commission, therefore, observes that the medical report should be furnished by the medical officer concerned in the prescribed form and the Superintendent of Police should ensure that the police officer concerned collects the medical report furnished in the prescribed form only.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.36/2012

*INSP (T) Hemanta Barman,
32nd BN, SSB, Howly, Assam.*

-Versus-

*SI (UB) Bitupan Chutia,
I/C of Pathsala Police Outpost.*

Complainant Sri Hemanta Barman, an Inspector working in the 32nd BN, SSB, Howly, has approached this Commission against the alleged inaction and misconduct on the part of SI Bitupan Chutia of Pathsala Outpost and SI Binod Barman, O/C of Pathsala Police Station.

The Commission put on record that the SI Bitupan Chutia, I/C of Pathsala Outpost committed serious misconduct as stated above for which he is liable to be proceeded departmentally as per the existing law. It is good enough that the higher police authority could realize the serious misconduct committed by its subordinate officers and the Commission can hope that appropriate order would

be passed against the erring police officers/officials to gain public confidence and show that the policemen are people friendly and service-oriented.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.20/2012

Sri Sahadev Das

-Versus-

*SI Muhi Kanta Gogoi, Guijan Police Outpost
under Tinsukia PS*

In this complaint petition it is alleged that on 09.11.2011, complainant's nine-year old daughter Bijoya Das, while proceeding alone to her uncle's house, in the same village Guijan at about 8.30 pm, was suddenly accosted by one Indrajit Sarkar. He forcibly gagged and tried to kidnap her towards the jungle. Somehow, the girl was able to free her mouth and shouted for help. That alerted the villagers, who appeared in the scene. The accused then fled away under the cover of darkness. The complainant filed an Ejahar in the Guijan Police Outpost on the next day. As no action was taken, he again went the next day to the police outpost to enquire as to why no action was taken on his complaint. The complainant alleged that he was asked by the police to settle the case amicably with the accused and the police registered the case after four days, overwriting the date mentioned in the Ejahar.

The Commission held that the action of the I/O SI Muhi Kanta Gogoi in connection with the case was one of negligence and dereliction of duty as defined U/S 98 of the Assam Police Act, 2007. He is liable to be proceeded U/S 166(A)/217/218 IPC. The Commission, therefore, recommends departmental action against the I/O SI Muhi Kanta Gogoi. The DGP, Assam, Guwahati was directed to cause drawal of departmental proceeding against I/O SI Muhi Kanta Gogoi providing him due opportunity to defend himself in accordance with law. The result of the departmental proceeding should be intimated to this Commission.

The Commission also desired that Sri Jayanta Sarathi Bora, Addl. SP(HQ), Tinsukia be reprimanded for his failure in supervising the investigation in a manner desired from a senior officer.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.11/2014

Smti. Aimoni Bora

-Versus-

Sri Mohidhar Tye, TSI, Nagaon PS

The complainant's grievance is that Town SI Sri Mohidhar Tye of Nagaon released two accused persons arrested in non-bailable cognizable offence case by taking huge bribe money, against whom she lodged FIR to the effect that the accused persons took an amount of Rs.3,00,000/- from her promising employment in the State Social Welfare Department but failed to provide the employment.

The Commission recommended departmental action against Town SI Mohidhar Tye for the serious misconduct committed by him

The Commission also recommended appropriate action against the Addl.SP(HQ), Nagaon Sri Hitesh Chandra Ray for wrong direction given to the subordinate officer.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.05/2013

Smti. Wahida Begum

-Versus-

OC, Tinsukia Police Station, Dist. Tinsukia

The complainant Smti. Wahida Begum, wife of Late Md. Isa of Lal Bangla, Tinsukia filed Ejahars on 02.07.2010 and 25.11.2010, but the O/C, Tinsukia PS did not register any case and as a result, no investigation was made.

The Commission held the concerned O/C of Tinsukia PS accountable for non-registration of a case, at least in respect of the second FIR dated 25.11.2010 which discloses commission of cognizable offence. The Commission held that the concerned O/C of Tinsukia PS committed serious misconduct within the meaning of Section 78(1) of the Assam Police Act, 2007 and directed the DGP, Assam, Guwahati to cause departmental action/proceeding through the SP, Tinsukia against the concerned O/C of Tinsukia PS under the existing law and rules providing him due opportunity to defend himself in accordance with law.

The Commission also viewed with concern the 'could'nt care less' attitude of the SP and Addl.SP of Tinsukia district for showing non-responsive to the said two written FIRs received by Tinsukia PS which were within their full knowledge but did not try to ascertain the identity of the person who received the written FIR dated 25.11.2010 and showing no interest in taking the follow-up action. The Commission, while apprising the said matter, advised the DGP, Assam to give suitable advice to the officers concerned.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.91/2013

Md. Raju Ali & Others

-Versus-

OC, Jeypore Police Station, Dist. Dibrugarh

This is an unusual case. On 26.10.2013 at about 11.30 AM, one Md. Dilu Ahmed of Jeypore Town verbally informed the O/C, Jeypore PS that he lost his Micromax Mobile handset about ten days back and he came to know that one Kalpajyoti Gogoi purchased the said mobile handset from Md. Rahul Ali and Azad Ali. On being informed so, the ASI Phanidhar Gogoi of Jeypore PS along with staff proceeded and picked up Rahul Ali, Azad Ali and Kalpajyoti Gogoi. They were allegedly detained in the PS. The O/C asked the complainant to lodge a written FIR about the theft of his mobile handset, but he refused to do so because he has already received back the lost mobile handset from the accused persons who had assured that they would not commit such offence in future. The O/C allegedly detained the said boys in the PS for about 36(thirty-

six) hours without providing them food and demanded Rs.4,000/- from each of the detained boys or else he would send them to jail.

The Department, as it appears from the aforesaid reports and statement of the SP, Dibrugarh, has admitted that the Inspector Pradip Kumar Bora, O/C of Jeypore PS committed serious misconduct in arresting the minor boys and detaining them in police station for some hours without registering a case and making any investigation. The Commission, therefore, held the said O/C accountable for the serious misconduct and dereliction of duty and also make him liable for departmental action U/S 78 of the Assam Police Act, 2007 and other existing relevant provision of law. The DGP, Assam, Guwahati was directed to cause drawal of departmental proceeding against Inspector Pradip Kumar Bora, O/C, Jeypore PS providing him due opportunity to defend himself in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 90/2013

Sri Subodh Sardar

-Versus-

SI Nirmal Ch. Biswas, O/C Laluk Police Station.

The complaint dated 02.12.2013 has been received from Sri Subodh Sardar wherein, he has alleged that before last Durga Puja the Motorcycle of his uncle was stolen and in connection with the said case, one Md. Samsul of Bishnupur village, was arrested by Laluk Police Station and released after realizing Rs. 35,500/- (Thirty five thousand five hundred) . The said Md. Samsul was again taken to Laluk Police Station on 22.11.2013 in connection with the same case. He was allegedly beaten up by police and kept in lock-up till 24.11.2013. His mother and brother came to the Police Station to enquire about him. Then the police took signatures from them on a piece of paper for receipt of an amount of Rs. 1,00,000/- (One lakh) only wherein it was written that in the event of complainant's failure to repay the amount within 10 days, his uncle would be entitled to take possession of 1 (one) bigha of land. The police also picked-up another boy namely Santosh Roy. The said boy was released by police after taking Rs. 8,000/- (Eight Thousand).

The O/C Laluk Police Station, SI Nirmal Ch. Biswas violated the provision of law and procedure U/S 154 CrPC by way of conducting a preliminary enquiry which is not contemplated under the law without registering a case. He has, thereby, committed serious misconduct and dereliction of duty which is punishable U/S 78 (g) & (d) of the Assam Police Act, 2007. He is also liable to be prosecuted U/S 166(A)/217/218 IPC, R/W Section 98/99 of the Assam Police Act, 2007 and drawal of Departmental Proceeding for commission of such serious misconduct. The Director General of Police, Assam, Guwahati was directed to initiate appropriate proceeding against the said O/C concerned providing him opportunity of defence as provided under the existing law and rules.

The enquiry conducted by Addl. Superintendent of Police (S) Md. Imdad Ali, APS, is found perfunctory, bias and incomplete inasmuch as he overlooked the misdeed/ misconduct committed by O/C SI Nirmal Ch. Biswas and thereby indulged the subordinate officer to continue with illegal action in the matter of investigation of cognizable offence. Addl. Superintendent of Police has also committed negligence and dereliction of duty for which he is also liable to be proceeded with Departmental action. The Director General of Police, Assam, Guwahati, was directed to take up the matter of Departmental action against the aforesaid Addl. Superintendent of Police.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.12/2012

Smti. Saharun Nessa

-Versus-

*Inspector Sri Utpal Kumar Das, O/C,
Fatasil Ambari PS & Another*

Smti. Saharun Nessa, wife of Lt. Akhtar Hussain Bar Laskar, resident of House No. 21, Lachit Nagar, Guwahati, as complainant, alleges that Inspector Utpal Kumar Das and SI Abani Sharma of Fatasil Ambari PS demanded money from her and tried to grab her land illegally.

The Commission held Inspector Utpal Kumar Das, O/C of Fatasil Ambari PS accountable for serious misconduct committed by him U/S 78 of the Assam Police Act, 2007. Accordingly, the Commission recommended drawal of departmental proceeding against him. The DGP, Assam was directed to cause drawal of departmental proceeding against Inspector Utpal Kumar Das, O/C of Fatasil Ambari PS providing him due opportunity to defend himself in accordance with law.

Apart from departmental proceeding, The Commission directed that the O/C concerned is also liable to be prosecuted U/S 166(A) (*public servant disobeying direction under law*), a bailable cognizable offence with punishment of imprisonment for minimum 3(three) months which may extend to 2(two) years and fine. The DGP, Assam, Guwahati may also proceed against the O/C concerned under the aforesaid section of law for prosecution of the said Inspector Utpal Kumar Das.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.59/2012

Smti. Maromi Gogoi

-Versus-

OC, Basistha Police Station, Guwahati

The complainant Smti. Maromi Gogoi, daughter of Sri Krishna Kt. Gogoi of Patharkuchi, Koinadhara under PS Basistha has approached this Commission by filing an application supported by a duly sworn affidavit stating inter alia, that on 13.08.2012 at about 7.00 AM, one Nityananda Mili trespassed into their house and rebuked her by using slang language. The said Nityananda Mili even allegedly attempted to commit rape on her. The said accused Nityananda Mili demanded compensation as her nephew allegedly stole his laptop. He warned her of dire consequences if the compensation was not paid. The complainant has alleged that she filed an FIR with the O/C, Basistha PS, but he refused to accept it. Then she filed an Ejahar directly to the SSP, Guwahati City and at his intervention only a case, being Basistha PS case No. 568/12 U/S 448/376/511/506 IPC was registered.

The complainant has also made a serious allegation that some policemen from Basistha PS picked up her nephew Sri Sunmoni Gogoi, a minor boy of 8(eight) years and took him to Basistha PS. The said minor boy was allegedly detained without any authority of law for several hours along with his parents. The Commission registered this case and called for report from the SSP, Guwahati.

Having considered the entire facts and circumstances of the case and also taking into consideration the materials on record, the Commission holds that the arrest of Sri Parashmoni Gogoi in connection with Basistha PS case No. 532/12 is justified. However, the Commission did not approve the action of the police in bringing Master Sunmoni Gogoi, a minor boy of 8(eight) years and detaining him for some hours in PS. Such action of the police is condemnable by all. As for the alleged assault of the boy by police, no material has been placed before the Commission.

In view of the above, the Commission expressed displeasure and anguish over the highhandedness and mis-conduct of the police in bringing a minor boy of 8(eight) years to the PS and keeping him under detention for few hours. The act is in clear violation of the Juvenile Justice (Care and Protection of Children) Act, 2000. The DGP, Assam was directed to take departmental action against the erring officers for their serious misconduct U/S 78(1) of the Assam Police Act, 2007, providing them due opportunity to defend themselves in accordance with law. The DGP, Assam was directed to take special steps to sensitize the Police Force in the matter of apprehension and detention of minor children.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.16/2014

Sri Purnadhar Mahela

-Versus-

Officer-in-charge, Dhing Police Station,

Dist: Nagaon.

The petitioner Sri Purnadhar Mahela, son of Lt. Ananda Mahela, resident of Botabari, PS: Dhing, Dist: Nagaon, complains that he filed an FIR on

22.12.2013 alleging that his son Sri Bikash Mahela was assaulted by Sri Papu Deka son of Lt. Tankeswar Deka. The police did not register any case and the accused persons are moving freely without being arrested.

It was found that there was an inordinate delay in registering the case by the O/C Dhing Police Station. In the aforesaid circumstances the Commission held the O/C concerned accountable for not registering a case immediately after he received the FIR from the in-charge Ahomgaon PP and keeping it pending till 11.04.2014. The O/C concerned is answerable for his inaction, dereliction of duty and misconduct. He is, therefore, liable to be proceeded departmentally U/S 78 of the Assam Police Act, 2007 providing him due opportunity to defend himself in accordance with law.

Apart from the Departmental Proceeding, the O/C concerned is also liable to be prosecuted U/S 166 (A) (Public servant disobeying direction under law) a bailable cognizable offence with punishment of imprisonment for minimum 6 (six) months which may extend to 2 (two) years and fine.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 33/2014

Md. Niamul Hussain

-Versus-

ASI Biswajit Saikia, Haiborgaon Outpost,

Dist: Nagaon.

He complained that on the night of 20.05.2014 at 12 AM he went to drop his friend Sri Nitai Mudok at Dhing gate, Haiborgaon, Nagaon in his vehicle WagonR, bearing Registration No. AS-01-AM-8944. A Police Patrolling Party, on suspicion, took them to Haiborgaon Police Outpost along with the said vehicle. They were detained in the Outpost although they produced all the documents relating to the vehicle before ASI Biswajit Saikia who was on duty at the Outpost. The said ASI allegedly demanded Rs. 5,000/- from the complainant for their release with vehicle. As the complainant refused to pay the demanded amount he was assaulted and pushed out by ASI Biswajit Saikia

from the Outpost after obtaining signature on a piece of blank paper. In the next day morning at about 7 AM complainant's friend Sri Nitai Mudok was released from the Outpost. The vehicle was also released at 9AM on 21.05.2014. The complainant lodged an FIR with the Superintendent of Police, Nagaon on 22.05.2012 narrating the whole incident and the excess committed by ASI Biswajit Saikia.

We have seen from the communication dated 21.06.2014 received from the Superintendent of Police, Nagaon that the said ASI Biswajit Saikia of Haiborgaon Town Outpost has been placed under suspension for his gross negligence of duty. However, nothing has been indicated whether Departmental Proceeding has been initiated against the ASI.

The Commission, having perused the report of the Addl. Superintendent of Police was satisfied that the ASI Biswajit Saikia illegally detained the complainant and his friend along with the vehicle without registering a case. Moreover, during detention, the ASI physically assaulted the complainant causing injury to his person. The ASI has committed excess in his action apart from committing serious misconduct in not registering a case before taking action against the complainant. The Commission approves the action already taken by the District Police Authority against the erring police ASI.

In view of the above, the Commission closed this case asking the Superintendent of Police to furnish the details of the Departmental Proceeding, if any, initiated against the ASI and if not, directing him to initiate the Departmental Proceeding against the said ASI in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.30/2012

Smti Radhika Shah & Another

-Versus-

OC, Howraghat Police Station, Dist. Karbi Anglong

Two sisters namely, Smti Radhika Shah, aged about 20 years and Smti Gayatri Shah, aged about 18 years, daughters of Ram Chandra Shah of village Pan Ingti under PS Howraghat, Dist. Karbi Anglong, are before this Commission by filing a complaint alleging that they have been subjected to constant physical and mental torture due to hostile attitude of some local people and inaction of the police in providing protection to them.

The department concerned has already held some officers negligent in performing their duties and had initiated departmental proceedings against them as stated above in connection with Howraghat PS Case No. 49/2010. The result of the departmental proceedings is yet to be intimated to the Commission.

The Commission have found the O/C concerned accountable for his misconduct in discharging his duties in respect of FIR dated 02.12.2010 and liable for departmental action under the existing provision of the Assam Police Act, 2007. Accordingly, the DGP, Assam, Guwahati was directed to cause drawal of departmental proceeding against the O/C concerned of Howraghat PS providing him due opportunity to defend himself in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.45/2013

Sri Gobinda Chakraborty

-Versus-

SI Rajib Kumar Saikia, O/C, Barbaruah PS,

Dist. Dibrugarh

This case has been registered on the basis of complaint dated 28.06.2013, received from one Sri Gobinda Chakraborty, representing Bee Bee Control Pvt. Ltd of Lepetkatta, Dibrugarh. It is stated that the said Firm is the sub-contractor of BHEL, BCPL and it received work order for erection, commissioning etc of C & I job in July, 2012. They erected four Gas detectors in the BHEL, BCPL work site on 02.06.2013 and out of those four Gas detectors, two were stolen by

unknown miscreants. Accordingly, they reported the matter in writing to O/C, Barbaruah PS on 03.06.2013 but the police did not register any case. Being refused, they laid a petition dated 12.06.2013 before the SP, Dibrugarh but to no effect. Then they again lodged a similar petition to the SP, Dibrugarh.

The SP's report holding the O/C concerned accountable for his serious misconduct was acceptable by this Commission. However, the Commission has noticed that the SP remained satisfied by simply severely reprimanding the erring O/C without drawing any departmental proceeding against him

In view of the above, the DGP, Assam, Guwahati was directed to take up the matter in its right perspective, recall the SP's order reprimanding the O/C concerned and cause departmental proceeding against the said O/C concerned and see that the DP is conducted, being monitored by the IGP of the concerned Range,

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.25/2013

Shri Amal Chowdhary

-Versus-

OC, Bihubor Police Station, Dist. Sivasagar

Sri Amal Chowdhary, son of Late Anil Chowdhary and Smti Mala Chowdhary, wife of Sri Amal Chowdhary, residents of Santak Panch Ali under Bihubor PS in Sivasagar district are the complainants. The couple states that their minor daughter Miss Nikita Chowdhary, aged about 14(fourteen) years, met with a motor-cycle accident on 18.04.2013 at 4.30 PM while she was returning from Bihubor Mazar after offering a prayer. In the said accident, she received fracture injury on the left-arm as the motor-cycle which was driven in a high speed hit her. She was first removed to Santak Govt Primary Health Centre and referred to Sivasagar Civil Hospital for better medical treatment. The matter was informed over phone to ASI Puneswar Mech, who was holding the charge of Officer-in-charge of Bihubor PS. The said ASI visited the place of accident and brought the rider of the motor-bike to PS. It is alleged that the said ASI,

without taking any legal steps and making any arrangement for treatment of the injured girl, released the motor-cycle in favour of the owner, after taking illegal gratification of Rs.20,000/- on 19.04.2013. The family members informed the PS on 20.04.2013 about the said fact. The complainants alleged that the said ASI, taking advantage of absence of the O/C, who was on leave, took no steps and, therefore, the complainants prayed that necessary action be taken against the said ASI and realize from him the expenditure involved in the treatment of their daughter.

The Commission perused the SP's reports dated 28.05.2013 and 10.06.2013. From the said reports, it appears that the O/C returned from leave and joined his duties on 26.04.2013 and submitted a written report on 29.04.2013 to the SP against ASI Puneswar Mech for his gross negligence of duty as In-charge, O/C of the PS. The O/C received FIR from the complainant on 26.04.2013, but he awaited till 22.05.2013 to register the FIR. In order to have a clarification, SI Jogendra Nath Deka was summoned. Appearing before the Commission on 21.06.2013, he stated, amongst other, that on 13.05.2013, the SP, Sivasagar ordered him to register a case and so, he visited the house of the complainant but could not contact her. The mother of the injured came to PS on 22.05.2013 and lodged FIR and accordingly registered the Bihubor PS Case No. 22/13 U/S 279/338 IPC and started investigation. From his statement, we have found that the O/C registered the case after 9(nine) days from the date of receipt of SP's order dated 13.05.2013 asking him to register a case. The said delay of 9(nine) days in registering a case by the O/C cannot be excused. The O/C concerned is also equally accountable like the ASI Puneswar Mech for keeping the FIR pending without registering a case. In our considered view, the O/C concerned is also accountable for his serious misconduct in not registering the case inspite of having knowledge of the accident and inaction of the ASI concerned. The O/C is, therefore, liable to be proceeded by the department for committing serious misconduct U/S 78 of the Assam Police Act, 2007. The Commission accordingly directed the DGP, Assam, Guwahati to cause drawal of departmental proceeding against the O/C concerned providing him due opportunity to defend himself in accordance with laws. The result of the departmental proceeding should be intimated to this Commission.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.69/2013

Shri Manoranjan Das
 -Versus-
OC, Patacharkuchi Police Station,
Dist. Brpeta

Allegation before this Commission is that he lodged an FIR on 24.08.2012 with the O/C, Patacharkuchi PS to the effect that in the night of 23.08.2012, some persons identifying themselves as employees of Trinath Enterprise came to his house and forcefully took away his *Pulsar* motor-cycle and cash amount of Rs.15,000/- from him. The accused persons also threatened him and also held out threat to his life. He alleged that the police did not take any action in the said matter; rather registered a case at the behest of the OP and gave undue harassment to him.

SI Binod Barman, the then O/C, Patacharkuchi PS, without any reason whatsoever, delayed the registration of the FIR which may be treated as a serious misconduct on his part U/S 78 of the Assam Police Act, 2007. The Commission held him accountable for the serious misconduct. The Commission also held that the O/C concerned is liable for criminal proceeding U/S 166(A)/217/218 IPC r/w Section 98 of the Assam Police Act, 2007. The DGP, Assam, Guwahati was accordingly directed to draw or cause drawal of departmental proceeding against the SI Binod Barman, the then O/C of Patacharkuchi PS as well as criminal proceeding U/S 166(A)/217/218 IPC r/w Section 98 of the Assam Police Act, 2007 providing him due opportunity to defend himself in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.21/2011

Sri Diganta Chowdhury
 -Versus-
OC, Paltanbazar Police Station, Dist. Kamrup(M)

The complaint is about conspiracy allegedly hatched and mischievous action taken by police for effecting a forced settlement of a matter by way of getting a counter FIR filed by the OP against the complainant as a measure of putting pressure on him.

SI Sri B. C. Borah was found accountable for the lapses he committed and also held liable for departmental action in accordance with law U/S 78 of the Assam Police Act, 2007. The Commission directed the DGP, Assam, Guwahati to cause drawal of departmental proceeding against the first I/O SI B. C. Borah providing him due opportunity to defend himself in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.56/2013

Musstt. Rafila Khatun
-Versus-
OC, Chandmari Police Station,
Dist. Kamrup(M)

In this case, complaint is about non-registration of case and lapses in investigation of the cases and demand of bribe money from the complainant for taking necessary action by the O/C of the Chandmari PS and the I/O concerned.

The Commission held Inspector Arun Kumar Borah, O/C, Chandmari PS accountable for serious misconduct committed by him in not registering a criminal/PS case and also making him liable for departmental proceeding U/S 78 of the Assam Police Act, 2007. The DGP, Assam, Guwahati was directed to cause drawal of departmental proceeding against Inspector Arun Kumar Borah, O/C, Chandmari PS providing him opportunity to defend himself in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member

Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.21/2014

Md. Badrul Islam Choudhury
-Versus-
OC, Panchgram Police Station & Others,
Dist. Hailakandi

The allegations, as made in this case, pertain to non-registration of criminal case at the earliest despite the Court of Addl.CJM, Hailakandi forwarded the complaint to the O/C concerned for making investigation and file FF. The complainant has been aggrieved by the actions of the concerned O/C in belatedly registering a case after about four months from the date of receipt of the complaint petition forwarded by the Addl.CJM, Hailakandi on 10.01.2014.

Having discussed the entire facts and circumstances of the case and the position highlighted by the SP in his report, the Commission held the officer concerned accountable for their misconduct and dereliction of duty and makes them liable for departmental proceeding U/S 78 of the Assam Police Act, 2007 and also criminal prosecution U/S 166(A)/217 IPC. The DGP, Assam, Ulubari was directed to cause drawal of departmental proceedings against the officers concerned providing them opportunity of defence and being heard in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 59/2013

Smt Bhabani Sarma.
-Versus-
O/C Hojai Police Station,
Dist: Nagaon.

In the complaint petition filed before this Commission, the complainant has alleged that she was brought to Hojai Police Station by police and detained

illegally for more than 3 (three) days. The Inspector Khiteswar Bania, O/C of Hojai Police Station and SI Sri Santanu Roy, I/O of the case demanded an amount of Rs.10,00,000/-(Rupees ten lakhs) for effecting compromise and threatened to put her in custody implicating her in some false cases if their demand was not met.

The Commission was of the view that integrity of Inspector Khiteswar Bania, the then O/C of Hojai Police Station and SI Santanu Roy, I/O of the case was covered by dark clouds of doubt. The Director General of Police, Assam, Guwahati, was therefore, directed to cause Departmental action against the aforesaid officers providing them due opportunity to defend themselves in accordance with law with intimation to this Commission about the progress and result of the Departmental Proceedings.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.50/2012

Md. Shadial Hoque

-Versus-

OC, Lakhimpur Police Station, Dist. Goalpara

In this case, complaint is against the investigating officer of Lakhipur PS who investigated the Lakhipur PS Case No. 299/2011 U/S 143/447/448/427/379 IPC. The said I/O, as alleged, willfully and with mala fide intention did not investigate the case and arrest the accused persons

The Commission did not find anything wrong in the investigation conducted by the I/O and, therefore, it did not accept the above allegation of the complainant as correct and true. The I/O concerned was found not accountable and liable for serious misconduct or misconduct under the Assam Police Act, 2007.

The Commission, however, expressed great concern over the fact that the higher officers in the Goalpara District Police Administration, had shown callousness and negligence in their duties, particularly in supervising investigation of the case by the I/Os, and even submitted misleading report in

respect of submission of charge-sheet without verifying the relevant records. Time has come that Police Headquarters should take effective and strong measures and action against the officers responsible for sending such misleading report to the Commission to save the credibility of the Police Administration. The DGP, Assam, Guwahati was, therefore, directed to cause an enquiry into the matter of submission of wrong and misleading report and initiate appropriate action against the officer concerned with intimation to this Commission.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.39/2013

Sri Gautam Nath

-Versus-

OC, Duliajan Police Station, Dist. Dibrugarh

The present complainant Sri Gautam Nath lodged a complaint before this Commission alleging that he was arrested and harassed by the O/C, Duliajan PS implicating him in a false case.

The Commission, held that the O/C, SI Binoy Kumar Barman of Duliajan PS arrested the complainant wrongfully without due process of law which is a serious misconduct under explanation (d) of Section 78(1) of the Assam Police Act, 2007. In view of the above, the Commission held him accountable for serious misconduct under the aforesaid section of law and liable for departmental proceeding in accordance with law. The DGP, Assam, Guwahati was directed to cause drawal of departmental proceeding against O/C, SI Binoy Kumar Barman of Duliajan PS providing him due opportunity to defend himself in accordance with law.

The Commission advised the complainant to file an application under Section 358 CrPC before the appropriate Criminal Court claiming compensation from the erring O/C concerned for arresting him groundlessly and without providing/furnishing arrest memo as required under the existing established

provision of law and also guidelines given by the Hon'ble Supreme Court from time to time.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.08/2014

Sri Ranjit Barman

-Versus-

*SI Deepjyoti Mazumdar, I/C, Suagpur OP,
Dist. Baksa*

There was a written FIR filed by the present complainant Sri Ranjit Barman before the Incharge, Suagpur OP on 18.08.2014 but the I/C refused to accept the same.

The Commission found that the I/C of Suagpur OP, SI Deepjyoti Mazumdar, committed serious misconduct inasmuch as he withheld the FIR/complaint from the O/C concerned that has led to non-registration of a case for which he is liable to be held accountable and liable for departmental action under Section 78 of the Assam Police Act, 2007 and other relevant provisions of law. The DGP, Assam, Guwahati was directed to cause drawal of departmental proceeding against the then I/C of Suagpur OP, SI Deepjyoti Mazumdar, providing him due opportunity to defend himself in accordance with law

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.55/2013

Smti Manju Dey Roy

-Versus-

*OC, Nagaon Sadar Police Station,
Dist. Nagaon*

The petitioner lodged a written FIR dated 16.07.2013 with the O/C, Nagaon Sadar PS alleging that on 15.07.2013 at about 9.00 AM her abovenamed in-laws damaged her bath-room, latrine and removed the doors causing great inconvenience to her and also causing loss of about 1.5/2 lakhs of rupees. The O/C forwarded the said FIR to Itachali OP for making an enquiry. It is alleged that the I/C of Itachali OP, Shri Manabendra Das demanded Rs.1,000/- from the petitioner and as she failed to meet the same, the I/O took no step resulting in loss of property worth about one lakh rupees.

The Commission held that the O/C concerned committed serious illegality in not registering a PS Case on the basis of the FIR lodged by the complainant under appropriate provision of law and thereby committed serious misconduct within the meaning of Section 78(1)(g) of the Assam Police Act, 2007 and makes him liable for departmental proceeding in accordance with law. The DGP, Assam, Guwahati was directed to cause drawal of departmental proceeding against the O/C concerned providing him due opportunity to defend himself in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 29/2014

Sri Santosh Chouhan, Hijuguri, Tinsukia.

-Versus-

I/C Hijuguri Outpost, under Tinsukia Police station,

Dist: Tinsukia.

Perused the complaint petition dated 07.05.2014. Facts revealed from the complaint petition, in brief, are that the petitioner purchased a plot of land on 02.04.2014 at Hijuguri village near Hanuman Mandir opposite to Hijuguri Railway Station in Tinsukia district. On 08.04.2014 at about 12.30 PM, while he was repairing his shop by engaging some labourers, a group of local persons came and ransacked his shop. Besides assaulting him 'right and left', the miscreants pulled him out from the shop and snatched away the lock & key. Thereafter the miscreants locked the shop and forcefully obtained signatures of one Sri Raju Sahani on some pieces of blank paper. The I/C of Hijuguri Outpost, on being informed, came to the spot and took the key from the

persons/culprits. The key was never returned to petitioner inspite of repeated requests made by him. Thereafter on 26.04.2014 at about 6.00 PM the said I/C along with staff came and handed over possession of the petitioner's shop premises along with the key to one Sri Ranjit Patel, a scrap dealer. The petitioner has alleged that the I/C has dispossessed him from his property in an illegal and unauthorized manner. So his prayer is for re-possession of the shop premises, return of lock & key and punishment of the culprits involved.

The Commission found that the O/C registered the said case after 10 (ten) days. In the prescribed FIR form which was duly filled up by the O/C, against column No. 3(C), it has been mentioned that the information was received on 08.05.2014 at 9.00 PM vide GD Entry No. 374. It is difficult to believe that the complaint dated **27.04.2014** which was received at the SP's office on **28.04.2014** could reach the O/C Tinsukia after **10(ten) days**, unless acceptable reason is shown supported by convincing and sufficient materials. The O/C has not furnished any document or material to show that he received the said complaint from SP's office on 08.05.2014.

In view of the above, the Commission found that there was a clear case of non-registration of FIR in promptitude. The delay of 10(ten) days in registering the case is a serious lapse amounting to misconduct and dereliction of duty on the part of the O/C concerned. We, of-course, do not hold that the O/C concerned has committed serious misconduct within the meaning of explanation to Section 78 of the Assam Police Act, 2007 to recommend Departmental proceeding against him. However, in the facts and circumstances of the case, the Commission directs the Superintendent of Police, Tinsukia to enquire the matter of delay of 10 (ten) days in registering the case and take appropriate action against the O/C concerned with due intimation to the Police Headquarters as well as this Commission. The Superintendent of Police, Tinsukia was also directed to submit his enquiry report with Action Taken Report to this Commission.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 12/2014

Sri Tapan Kanta Baruah

-Versus-

*Smt Violet Baruah, IPS, SP, CID, Assam,
Guwahati, Dist: Kamrup(M).*

A pending Domestic Violence case has dragged a high ranking police officer to a high drama controversy. Smt Violet Baruah, IPS is presently holding the position of Superintendent of Police, CID, Assam. Her elder sister Smt Juliet Baruah married to one Sri Tapan Kanta Baruah (present complainant) on 23.04.1975. The couple could not lead a happy nuptial life. Smt Juliet Baruah alleges that she has been subjected to inhuman cruelty by her husband. On 12.05.2013 she was brutally assaulted causing grievous injury on her person. She was hospitalized for treatment and on being released, when she returned from Hospital, her husband threw her out from the house. She lodged an FIR against her husband. It was registered as Dispur PS case No. 945/13 U/S 324/325 IPC. Her husband Sri Tapan Kanta Baruah was arrested and released on bail but he did not stop his act of cruelty on Smt Juliet Baruah. That made her file the complaint case in the Court of Chief Judicial Magistrate, Kamrup, Guwahati on 12.08.2013. The said complaint was forwarded to Dispur Police Station and upon receipt of the same, O/C registered it as Dispur PS Case No. 1673/13 U/S 498A/307/199/205/506 IPC. The said case, on completion of investigation, was returned in CS vide charge-sheet No. 370 dated 02.09.2013.

Smt Juliet Baruah ultimately filed a case being Misc(DV) Case No. 105^M/13 U/S 23 under the provision of the Protection of Women from Domestic Violence Act, 2005 in the court of Chief Judicial Magistrate, Kamrup, Guwahati. Contesting the case Sri Tapan Kanta Baruah filed written objection stating *inter alia* that

“this answering respondent specifically denies the same and further begs to state that on 13.05.2013 after lodging the false FIR at the Dispur Police Station she along with police personnel came to the residence of respondent with her sister who is by profession Superintendent of Police, CID, Crime Branch, Assam, Guwahati and collected her every possible belongings which includes cash, gold jewellery, wearing apparels etc on to which she acknowledged by a memorandum to the O/C of Dispur PS on 13.05.2013”.

Smt Violet Baruah sharply objected the said contention of Sri Tapan Kanta Baruah and lodged a written FIR on 12.08.2013 with the O/C Dispur Police Station. In the said FIR, she requested the O/C to investigate and find out as to what official records had shown that she was present on 13.05.2013 at the residence of accused person (present complainant Sri Tapan Kanta Baruah). She has also alleged that accused Sri Tapan Kanta Baruah is a habitual drunkard and has gone to the extent of maligning her in public with criminal intent to cause injury. The O/C, having found that the FIR of Smt Violet Baruah discloses non-cognizable offence, filed an application through the Prosecuting Inspector, before the Chief Judicial Magistrate, Kamrup, Guwahati praying for permission to register a case. The permission, as sought for, was allowed by the learned Court and accordingly the O/C registered the Dispur PS Case No. 1702/13 U/S

193/500 IPC. Against the filing of said FIR by Smt Violet Baruah, the complainant Sri Tapan Kanta Baruah, filed a petition dated 24.02.2014 before the Director General of Police, Assam, Chairman of this Commission and the Senior Superintendent of Police, City, Guwahati stating amongst others that no police officer can register any case U/S 193 IPC on a complaint made by a private person who is not authorized by the Court for making any complaint. So also the police officer cannot register any case U/S 500 IPC inasmuch as Section 199 CrPC provides specific provision as to how prosecution for defamation is to be made. Over and above, the complainant has alleged that Smt Violet Baruah by mis-using her power and position has been interfering in the Judicial proceeding in favour of her sister just to harass and get him defeated in the case.

Smt Violet Baruah, by filing an FIR overstepped on the power and functions of the Court. She has taken no leave of the Government or the higher authorities for filing the FIR in the capacity and position of a Superintendent of Police. The officer needs counselling and proper instruction for her future guidance.

The Government of Assam, through its Commissioner and Principal Secretary to the Government of Assam, Home Department, shall ask Smt. Violet Baruah, an IPS officer to explain her conduct and reprimand in case her explanation is found unsatisfactory. The DGP, Assam shall call the officer for counselling and imparting necessary instruction.

With the aforesaid observations and directions this case stands closed. The Government and the DGP shall submit their Action Taken Report within 60 (sixty) days from the date of receipt of this order. Let a copy of this order be furnished to all concerned.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.21/2013

Miss Sultana Ragiya
-Versus-
OC, Barpeta Police Station,
Dist. Barpeta

Mother is the first informant in this case of alleged kidnapping of her 16-year-old minor daughter. Her FIR dated 25.03.2013 was received at the Bhawanipur Police OP. The I/C of the said OP forwarded the same day to the O/C, Barpeta PS who, on receipt thereof, registered the Barpeta PS Case No. 639/2013 under Section 366A IPC and entrusted the ASI Amrit Kumar Ray to investigate the case.

As per the FIR, the victim's daughter Miss 'X' (name withheld as per direction of the Supreme Court), aged 16 (sixteen) years, was a First-year student of Chaparbari Senior Madrassa. On 25.03.2013 at about 2.00 PM, while her daughter Miss 'X' was returning home from the Madrassa, the accused Md. Nurul Islam, son of Md. Jonab Ali of village Katla Pathar, under Mouza Bhawanipaur, forcefully lifted her away from a place nearby the Rajakhat Anchalik High School. The said accused had already married two women whom he tortured and driven out from his house. The informant (present complainant) suspected that the accused would take her daughter to an unknown place and sell her away to someone.

As a complainant before us, the victim's mother, has alleged that though a PS Case has been registered, no effort has been made by the I/O to arrest the accused Nurul Islam or to investigate the case properly. The I/C of Bhawanipur OP rather asked her to compromise the case. She did not agree and on her insistence only the victim girl was produced before the SDJM, Bajali for recording her statement under Section 164 CrPC. On the day of recording the victim's statement, the complainant, as claimed by her, requested the I/C, Bhawanipur OP to expedite the investigation and arrest the accused who was available at his house, but the said I/C, instead of responding to her request, misbehaved and abused her. She even approached the SP, Barpeta on 09.04.2013 and submitted a petition requesting him to cause proper investigation and arrest of the accused. She got no response from any quarter and hence she filed the present complaint before this Commission.

No serious misconduct within the meaning of Section 78 of the Assam Police Act, 2007 is attributable to the O/C and the I/O concerned. But there is definitely a case of misconduct against them inasmuch as there are lapses in conducting the investigation as indicated above. The misconduct committed by the I/O and the O/C concerned is required to be enquired further and appropriate action initiated by the Police Headquarters in accordance with the provisions under the Assam Police Act, 2007.

The Commission expresses its great displeasure with the act of withholding the relevant case records like GD and CD entries and also with the negligence of the SP concerned in supervising or not causing supervision of the investigation by a competent officer of the district police administration that has led to failure in apprehending the accused person. The Commission feels that

the SP concerned should be counselled and instructed properly on the duties and responsibilities of the SP as the head of the district police administration.

This case stands closed with direction to the Police Headquarters to cause an enquiry in the conduct of the I/O and O/C concerned and also arrange counselling of the SP concerned for imparting necessary instructions to amend his conduct and submit the Action Taken Report to this Commission within a period of 60(sixty) days from the date of receipt of this order.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.19/2013

Shri Makhan Bhagawati

-Versus-

OC, Titabor Police Station,

Dist. Jorhat

This is against police atrocity allegedly committed by none other than the Officer-in-Charge of Titabor PS SI Prabhat Phukan. It is alleged that on 19.12.2012 at 5.00 PM, the said O/C rang up complainant's wife from Mobile phone No. 9854357863 and asked her husband to send him to PS for an important discussion. When the complainant along with his wife appeared at the PS, the O/C Prabhat Phukan straightway started abusing him in slang language and demanded to know why he did not return the money he took on loan from Shri Surya Das, Shri Nilo Das and Shri Manoranjan Barua. When he and his wife told the O/C that they had already returned the money, they were abused in the most vulgar words and the O/C put hand-cuff on complainant's wrists and tied him to the bars of the lock-up. He was kept hand-cuffed for an hour and later on beaten up with a bamboo stick. The O/C further demanded that the complainant should sign an undertaking promising to return the money. The complainant, under acute pressure, had to sign three undertakings. He was released only after signing the undertakings under duress.

From record, it has been established that the O/C called the petitioner to the PS and detained him for two hours without following the due process of law. All the three informants were also present when the petitioner appeared at the PS. The matters are entirely civil in nature. The O/C had no business to call

the parties involved in private deals and try to get the matters settled amongst themselves. The Commission, therefore, held that the O/C SI Prabhat Phukan committed misconduct by registering the cases under Section 406 IPC knowing fully well that the petitioner took loan from the informants and the ingredients of offence of criminal breach of trust, as discussed earlier, were not disclosed. Therefore, the Commission held that the O/C SI Prabhat Phukan committed serious misconduct by detaining the petitioner in the PS for about two hours without following due process of law. The said O/C is accountable and liable for commission of serious misconduct under explanation (d) to Section 78(1) of the Assam Police Act, 2007. In view of the above, the Commission directs the DGP, Assam, Guwahati to cause drawal of departmental proceeding against SI Prabhat Phukan, the then O/C of Titabor PS providing him due opportunity to defend himself in accordance with law.

The DGP, Assam was also directed to hold or arrange counselling of Smt Sanjukta Parasor, IPS, who was the SP of Jorhat district at the relevant point of time and give necessary instructions on the relevant law and procedure for registering cases, in future.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 58/2014

Md. Giasuddin Ahmed

-Versus-

Hajo Police Officials.

An FIR was lodged on 24.03.2014 by his son Md. Samsul Ali informing the O/C Hajo PS that on 23.03.2014 at about 7.30 PM, the accused Md. Munna Ali, cousin of the informant (being son of maternal uncle) belonging to same village took his sister with an assurance that he would escort and drop her back home. Since then informant's sister (present petitioner's daughter) went missing and remained untraced until she was found lying in an unconscious state at 7.30 AM of 24.03.2014 in a field near Kalitakuchi Chawk. She was first removed to Hajo Hospital and then to Guwahati Medical College and Hospital, but expired on way to GMCH. The O/C received the information and registered it as Hajo

PS Case No. 125/14 U/S 376/302 IPC against Md. Munna Ali. The investigation was entrusted to SI Susil Saikia.

The Commission, while sharing with the complainant's anxiety to get the perpetrators punished and justice done, does not feel proper to hold a view that the Investigating Agency did not take proper steps in the investigation of the case and there was any delay, lapse or negligence on the part of the O/C of Hajo PS and the I/O of the case. The Commission is not persuaded to accept the allegation of the complainant as correct and true. Having considered the entire facts and circumstances of the case, the Commission holds that the O/C and I/O concerned, or for that matter, any police official concerned with the investigation of the case has committed no serious misconduct or misconduct under the provision of Section 78 of the Assam Police Act, 2007.

Before parting with the records it must be pointed out that the present petitioner and the informant, as father and brother of the victim, represented before the DGP, Assam and SP Kamrup, alleging that the accused Kamaluddin's brother Md. Nur Uddin Ahmed and Md. Afraddin Ali, were very much involved in the case and insisted on their arrest to get the police to the truth. The requests of the victim's father and the brother have not been responded by the DGP and the SP concerned. It appears that the SDPO, Rangia who made enquiry had no knowledge about the said requests made by victim's guardians and so he made no enquiry to that effect. There appears to be some missing points in the investigation of the case which are required to be looked into by way of expert supervision. Accordingly, this complaint case stands disposed of with direction to the DGP, Assam to get the investigation of the case finally supervised by the ADGP(CID) and arrange submission of FF as early as possible in accordance with law with intimation to this Commission.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 24/2013

Smt Sova Barman

-Versus-

O/C Dispur PS & Others

Dist: Kamrup(M).

The petitioner Smt. Sova Barman, a resident of Rukminigaon, Guwahati, has brought allegations of wrongful arrest and harassment by police in a false and fabricated criminal case. Her version is that she was running a Hotel in the name & style of “*Ajay Hotel*” in a room taken on rent from one Sri Dhireswar Kalita of the same locality along with one Sukesh Debnath since 10.07.2008. The petitioner alleges that the I/O did not investigate her case properly. Rather subjected her to illegal arrest, mental and physical sufferings besides being put to financial loss.

Inspector Tapash Chakraborty, O/C of Dispur PS and SI J.Mili should be held accountable for serious misconduct for arresting the petitioner Smt Sova Barman without collecting any incriminating material against her and harassing her unnecessarily by sending her to jail for 14 (fourteen) days and submitting a charge-sheet without collecting supporting material and ingredients of offence under Section 294 IPC. Accordingly, the said officers was held accountable under explanation (d) and (e) to section 78(1) of the Assam Police Act, 2007 and made liable to departmental proceeding. The DGP, Assam, Guwahati was directed to cause drawal of departmental proceeding against Inspector Tapash Chakraborty, O/C, and SI J Mili, Dispur PS providing them due opportunity to defend themselves in accordance with law.

The Commission also recommended initiation of criminal proceeding against the said O/C and I/O and directs the Police Headquarters to cause lodging of FIR against them with the O/C of concerned PS with intimation to this Commission.

Last of all, it must be put on record that the investigation of the case was not monitored/supervised by the senior officer in a desired manner and the charge-sheet was submitted without properly consulting the records and the penal provisions. The Commission, therefore, deems it fit and proper to direct the Police Headquarters to pull-up Sri A.P. Tiwari, IPS, SSP, City, Guwahati for his lapses and callousness in submitting the CS to the Court and submitting a misleading report to the Commission and warn him not to do so in future.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.40/2014*Shri Lachit Gogoi**-Versus-**Inspector Ghana Kanta Bhuyan, OC, Sonari Police Station,
Dist. Sivasagar*

One Smt. Dibyalata Phukan filed a written FIR on 08.02.2014 before the O/C, Sonari PS alleging that one Bishnu Bora stole away two blank cheques issued against her bank account and fraudulently got an amount of Rs.20,00,000/- transferred to the account of Rupam Chetia at Sivasagar and Jorhat branches of Indian Bank. The FIR was registered as Sonari PS Case No. 24/2014 under Sections 419/420/406/468 IPC and the investigation was entrusted to SI Umesh Bora. The O/C, Sonari PS picked up the present petitioner for interrogation in connection with the said PS Case on 30.05.2014 at 4.00 AM and released him at 03.10 PM the same day.

We have perused the complaint petition. The petitioner has denied his involvement in the said case and alleged that the O/C subjected him to unnecessary harassment and illegal detention.

The Commission held that Inspector Ghana Kanta Bhuyan, O/C of Sonari PS illegally detained the petitioner without due process of law, for long 11(eleven) hours in the *Thana* for which he is held accountable for serious misconduct under explanation (d) to Section 78(1) of the Assam Police Act, 2007. The DGP, Assam, Guwahati was directed to cause drawal of departmental proceeding against Inspector Ghana Kanta Bhuyan, O/C, Sonari PS providing him due opportunity to defend himself in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No.77/2012*Smt Jonaki Das**-Versus-**OC, Dispur Police Station and Others,
Dist. Kamrup(M)*

The complainant alleges that on 27.10.2012 at about 10.30 AM, when she and her husband Jogen Das were absent, some police personnel from Dispur PS came to her aforesaid land and premises and locked the house and took away her four daughters, including two minors, Kritismitri Das (16 years) and Juktamukhi Das (12 years), along with other relations, among whom one was a pregnant woman, who came to visit her family, to PS. As alleged, her minor daughters were allowed to leave the PS at 06.00 PM on 28.10.2012, i.e. after being detained in the PS for more than 30(thirty) hours and during detention, they were subjected to abusive behaviour.

The Commission held that Inspector Biren Chandra Deka, O/C of Dispur PS and SI K. Mandal, I/O of the case committed serious misconduct in arresting and detaining the aforesaid 6(six) girls particularly, two minor girls among them. Both the police officials are found accountable for serious misconduct under Section 78 of the Assam Police Act, 2007 and liable to be proceeded with departmental action forthwith in accordance with law. The DGP, Assam, Guwahati was directed to cause drawal of departmental proceeding against Inspector Biren Chandra Deka, O/C of Dispur PS and SI K. Mandal, I/O of the case providing them due opportunity to defend themselves in accordance with law.

Considering the serious misconduct committed involving the women, including two minor girls, the Commission, apart from departmental action, recommended criminal proceeding against them. The Assam Police Headquarters shall cause lodging of FIR with the CID or Woman Police Station forthwith for prosecution of the above named police officials in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.60/2013

Shri Sanjay Goswami Baruah @ Mainul Haque

-Versus-

OC, Moirabari Police Station, Dist. Morigaon

The petitioner's case, in brief, is that on 16.05.2012, the O/C, Moirabari PS summoned him to the police station. On his appearance at the police station, the O/C detained him. He was released on PR bond the next day, i.e.

17.05.2012. Again, after four months, the O/C of Moirabari PS arrested him on 15.09.2012 and was produced before the Court of CJM wherein he was remanded to judicial custody. While he was in the jail, a group of miscreants, who had been indicted in several cases, committed dacoity and looting in his house several times at night. The said miscreants looted various house-hold articles from his house on 08.12.2012, 17.12.2012, 18.01.2013 and 02.05.2013. The petitioner filed as many as 4 (four) FIRs on 18.11.2012, 09.12.2012, 19.01.2013 and 03.05.2013 reporting the matter to the O/C, Moirabari PS about the said incidents. He has alleged that his FIRs were not registered. Nor was any investigation made.

The Commission held that the O/C committed misconduct of dereliction of duty within the meaning of Section 98(b) of the Assam Police Act, 2007. The O/C is accordingly held accountable for the said misconduct. It was, therefore, directed that the DGP, Assam, Guwahati shall cause departmental proceeding against the then O/C, SI Kazimuddin Ahmed providing him due opportunity to defend himself in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.55/2012

Smti Rijumoni Saikia

-Versus-

*OC, Merapani Police Station,
Dist. Golaghat*

The petitioner filed a criminal case under Sections 498A/307 IPC in the Court of learned CJM, Golaghat on 21.04.2012 complaining that she has been subjected to mental and physical torture by her husband for not being able to meet his dowry demands. It was forwarded to the O/C, Merapani PS with direction to “*register a case, investigate and submit report in FF.*” The complainant alleged that the O/C, inspite of Court’s clear order, did not register any case. Hence, she approached this Commission.

The Commission held SI Jayanta Kumar Singha, O/C of Merapani PS accountable for ‘*Serious misconduct*’ due to his failure to register a case with promptitude on the basis of complaint filed by the complainant and showing

disregard to the order of the learned CJM. The Commission also held the SI Sahabuddin Barbhuyan, I/O of the Merapani PS Case No. 153/2012 accountable for 'Misconduct' due to his negligence and lapses shown in the investigation of the case in proper perspective. The Commission recommended departmental proceeding against the above O/C and I/O. The DGP, Assam, Guwahati is directed to cause drawal of departmental proceeding against SI Jayanta Kumar Singha, O/C and SI Sahabauddin Barbhuyan, Merapani PS providing them due opportunity to defend themselves in accordance with law.

The Commission while taking serious note of the farcical and perfunctory investigation of the case and supervision of investigation by the O/C in the rank of SI, who is not authorized under the Assam Police Manual, directs the Assam Police Headquarters to pull up the SP concerned for his failure to guide and monitor the functioning of the said O/C and I/O and take immediate remedial measures.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.44/2012

Md. Babul Hussain

-Versus-

TSI Dwipen Das, District Barpeta

The story, as told by the petitioner, is that on 28.12.2011 at 03.00 PM, two persons, namely, Hasmat Sikdar and Abdul Malek met him at Barpeta town. They told him that Addl.SP asked him to see the SP, Barpeta at his office in connection with some matters. Without protest, he immediately proceeded to SP's office along with them. At about 05.30 PM, the SP himself came to the canteen. At the signal of the SP, the electric light of the canteen was switched off. Then some policemen tied his hands and lifted him blind-folded in a vehicle. After a drive of about 10/15 minutes, he was taken inside a room. His hands were untied. As he removed the blindfold, he found himself at Barpeta Police Reserve. Through his cell-phone, which he was carrying, he informed his cousin Mafidur Rahman and the local MLA Abdul Rahim Khan. His cell-phone was snatched away by a guard, who slapped and put him inside the lock-up. At 10.00 PM (night time), he was taken out blind-folded with his hands tied and beaten up by the SP over the Nakhanda bridge. After assaulting him for about

2-¹/₂ hours, he was brought back to Police Reserve blind-folded. He was kept confined in Barpeta Police Reserve from 28.12.2011 till 07.00 AM of 03.01.2012. Only one meal was served to him during confinement. The police did not disclose his whereabouts to his relatives.

On 03.01.2012 at about 01.00 PM, he was brought to Sadar PS by the TSI Dwipen Das and forwarded to jail custody in connection with Barpeta PS Case No. 1417/2011. He was in jail for 2-¹/₂ months until he was released on bail on 03.01.2012.

The Commission held that the Inspector Tilak Chandra Deka, the then O/C and TSI Dwipen Das of Barpeta PS, accountable for committing serious misconduct within the meaning of Explanation (d) & (f) to Section 78(1) of the Assam Police Act, 2007 and makes them liable to departmental action. The DGP, Assam, Guwahati was directed to cause drawal of departmental proceeding against Inspector Tilak Chandra Deka, the then O/C of Barpeta PS and TSI Dwipen Das of Barpeta PS providing them due opportunity to defend themselves in accordance with laws.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.52/2012

Shri Amrit Konwar

-Versus-

OC, Makum Police Station,

Dist. Tinsukia

His allegation is that the SI Simanta Bora, O/C of Makum PS, in league with three persons, hatched a conspiracy to get his Dhaba closed or shifted elsewhere. On 04.07.2012 at about 12.30 PM, the said O/C picked him up with his son Sri Rituparna Konwar, rebuked them in slang language and threatened them with dire consequences if they failed to vacate the land they were allegedly encroaching. They were kept in the PS for about 3(three) hours and let off. Again on 07.07.2012 at around 01.00 PM, the O/C picked up his elder son Shri Rintu Konwar from the Dhaba and took him to the PS. While the complainant, with his younger son Rituparna Konwar appeared at the PS to enquire about Rintu Konwar, the O/C insulted and abused them in foul language and threatened them with dire consequences.

The Commission held that the very act of bringing Sri Rituparna Konwar to the PS, without arresting him, not only irregular but also illegal under the existing Code of Criminal Procedure and also under the provision of Assam Excise Act, 2000. The O/C Shri Simanta Bora committed dereliction of duty and thereby committed misconduct for which he is liable to be proceeded in departmental action. The DGP, Assam, Guwahati was directed to cause initiation of departmental proceeding against him in accordance with law and submit Action Taken Report in due course of time.

The Addl.SP(HQ), Tinsukia district, while submitting the enquiry report dated 10.08.2012, failed to draw the attention of the SP that the O/C committed the aforesaid irregularities/illegalities in not arresting the person from whose possession the alcoholic drinks were seized and in not taking any action for filing a case under the Assam Excise Act. It was seen that the Addl.SP(HQ) tried to shield the erring O/C and recommended no action against him. He rather blamed the complainant for filing a false case, with “ulterior motive, for receiving wrongful gain”. What is surprising is that the SP, Tinsukia, without examining the Addl.SP’s report, transmitted the same mechanically without any comment. Being the head of the district police organisation, it was expected that the incumbent SP should have examined the Addl.SP’s report before transmitting the same to the Commission. He should have taken corrective measures, or steps, against his subordinate officers. It is, therefore, expected that the Assam Police Headquarters would ask both the SP and Addl. SP(HQ) to explain their lapse and give appropriate instructions to deal with the SPAC cases seriously and submit reports/records after due examination to help the Commission arrive at a correct finding/conclusion in a given case.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.57/2013

Md. Salim Ali

-Versus-

OC, Baihata Chariali Police Station,

Dist. Kamrup

The complainant alleges that he was illegally detained and tortured physically by the police during custody.

SI Dipankar Gogoi, who is primarily responsible for the arrest and detention of Sri Salim Ali, did it “without due process of law” is held accountable for committing “*serious misconduct*” under Explanation(d) to Section 78(1) of the Assam Police Act, 2007. The officer was on probation at that point of time and was in the process of learning and hence the Commission takes a lenient view and orders that a departmental proceeding be drawn up against him in accordance with the existing rules and regulations.

SI Bolobhadra Patgiri, the then O/C Baihata PS **was** held responsible for non registration of FIR on the basis of the complaint submitted by Sri Mohan Ch Sharma on 04/07/2013. He is also responsible for failing to guide the young officer SI(P) Dipankar Gogoi along the right track as a result of which an innocent citizen was wrongfully arrested and detained in jail for 12 long days. As per Rule 33 of APM Part V “*an Officer-in-Charge of a police station is responsible for the effective working and management of the police subordinate to him*”. The officer miserably failed to carry out his responsibility and the Commission holds him accountable for “*serious misconduct*” under explanation(d) & (g) to Section 78(1) of the Assam Police,2007 and recommended a departmental proceeding against the officer in accordance with existing rules and regulation. The Commission also recommended that a case under Section 98(a),(b) & Section 99(3) of the Assam Police Act,2007 be registered against him and got investigated by the Criminal Investigation Department of the Assam Police.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member

No. 85/2013

Sri Dhiren Gohain
-Versus-
O/C Golaghat PS

The complainant Sri Dhiren Gohain and his son Sri Dadul Gohain alias Atul Gohain were once arrested in connection with Golaghat PS Case No. 865/2013 U/S 147/148/294/325/353/307 IPC corresponding the GR Case No. 1996/2013. They obtained an interim bail order from the Hon’ble Gauhati High Court. They appeared at Golaghat PS on 14.11.2013 at about 11.00 AM along with their bailor Sri Jimut Gogoi. They executed the bail bond at around 12.05 PM. After completing the legal formalities, as they were about to leave the PS,

the SI Shankar Dayal appeared and declared them arrested in connection with Golaghat PS Case No. 778/13 U/S 143/353/283/447/427 IPC. They were detained at the PS from 01.00 PM and put in the lock up for the whole night without furnishing any arrest memo. It is alleged that in the night the SI Sankar Dayal and constable Pradyut Bora beat them up severely, rubbed *Bhoot Chilli* on their eyes and other parts of their body in presence of the O/C, Golaghat PS. No food was served to them whole night. The next day, i.e. 15.11.2013 they were first taken to Kushal Konwar Civil Hospital and later produced before the CJM, Golaghat at 5.15 PM.

The Commission holds that the SI Sankar Dayal is primarily responsible for the irregularities committed i.e. arresting the complainant and his son after detaining them for 3 hours and using third degree punishment on them during detention. He was an officer on probation at the relevant point of time. The Commission could have, in view of his inexperience, been lenient on him and would have recommended for lighter punitive action on him. But it seems that he has a propensity for inflicting violence on innocent victims and this does not bode well for the police department as a whole. Accordingly, we hold him accountable for “*serious misconduct*” and recommend departmental proceeding/action with some exemplary action against him. The Director General of Police, Assam, Guwahati is directed to cause drawal of departmental proceeding against SI Shankar Dayal providing him due opportunity to defend himself in accordance with law.

Insp. Hiranya Dohotia, O/C of Golaghat PS, instead of guiding the young officer on the right track, remained a silent spectator and tolerated all the wrong doings committed in his presence by SI Sankar Dayal and tried to shield him. There is nothing on record that he even asked or ordered the SI Sankar Dayal not to indulge in the act of illegal detention and custodial torture on complainant’s son. We also do not find from record that the O/C issued any arrest Memo to the Complainant about arrest of his son. This amounts to violation of directions issued by the Hon’ble Supreme Court in D.K Basu’s case reported in (1997)I SCC 416. He has committed a serious misconduct. The Assam Police Headquarter was, therefore, directed to ask the Insp. Hiranya Dohotia to explain his misconduct and initiate Departmental Proceeding and award appropriate punishment providing him sufficient opportunity for his defence in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.49/2014

Mrs. Purnima Begum
 -Versus-
OC, Hojai Police Station & Others,
Dist. Nagaon

The petitioner is a lady-teacher of a Madrassa. Her grievance is that the police is not taking any step to arrest the accused person against whom she filed Ejahar and got a case registered. She has made an allegation that the police is pressurising her to compromise the case. She, therefore, demands an appropriate action against the O/C of Hojai PS.

The Commission regrets that the O/C concerned has failed to discharge his duties as assigned under the Police Manual. In view of the above, the Commission holds the SI Jogendra Nath Deka, O/C of Hojai PS accountable for commission of “*serious misconduct*” and recommends departmental action against him.

The DGP, Assam, Guwahati was directed to cause drawal of departmental proceedings against the SI Jogendra Nath Deka, O/C, ASI Khiro Mohan Bora of Hojai PS and ASI Nripen Saikia, I/C of Jugijan PP providing them due opportunity to defend themselves in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.77/2013

Shri Samir Saikia
 -Versus-
OC, Golaghat Police Station, Dist. Golaghat

The complainant alleges that on 13.10.2013 at about 09.00 PM, while he was about to leave Golaghat town with his friend Santosh Saikia in a bike, was accosted by the Traffic Police Constable Ritu Kumar Borah. The said constable abused them in slang language. When they requested the police constable not to use abusive language, he got the motor-cycle removed to Golaghat PS by a homeguard. The said constable also called the Traffic Police SI Md. Sahabuddin Borbhuyan to the spot, who on arrival, started beating them with a lathi. Thereafter, they were put in the police lock-up for the night and tortured

physically. The next day, they were sent to Golaghat Civil Hospital in the evening with hand-cuffs. They were booked under several non-bailable offences and sent to jail. The complainant Samir Saikia complains that in spite of doctor's advice for chest X-ray, it was not done.

The Commission was of the view that the accused persons were tortured physically by the complainant. ***It was clearly found that the O/C detained the petitioner and his friend in the Thana without following the due process of law.*** There would have been no grievance against the O/C if the arrest of the complainant and his friend was shown/recorded in the police record as at 11.20 PM i.e. soon after their apprehension at the spot due to alleged attempt to drive their motor-bike in the 'No Entry' road. The Commission was of the clear view that the O/C Inspector Hiranya Kumar Dahatia committed "*serious misconduct*" as defined under Explanation (d) to Section 78(1) (detention without due process of law) of the Assam Police Act, 2007. The DGP, Assam, Guwahati was directed to cause drawal of departmental proceeding against the Inspector Hiranya Kumar Dahatia, O/C of Golaghat PS providing him due opportunity to defend himself in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC/ C/Kamrup(M)/67/2014

Sri Nareswar Pator

-Versus-

SI Bhadreswar Pegu and another,

Basistha Police Station

Dist: Kamrup(M).

SPAC/C/ Kamrup(M)/69/2014

Sri Gauranga Das

-Versus-

SI Bhadreswar Pegu and another,

Basistha Police Station

Dist: Kamrup(M).

It is alleged that the complainants were picked up by SI Bhadreswar Pegu on 26.09.2014 at 10.00/10.30 PM. They were taken to Basistha PS and detained there whole night. They were released on the next day i.e. 27.09.2014 at 11.00 AM. The complainant Sri Nareswar Pator alleged that he was handcuffed while being taken to PS and detained without being served with food and water.

In the aforesaid facts and circumstances of the case and on consideration of the police report, particularly the GD Entries as referred to above, the Commission was convinced that the petitioners were detained illegally in the Thana on two occasions without due process of law. The O/C of the Basistha PS, Inspector Juga Kanta Bora and SI B.Pegu, at the relevant point of time, are answerable for such illegal detention. They were, therefore, held accountable for serious misconduct under Explanation (d) to Section 78 (1) of the Assam Police Act, 2007 and liable to departmental proceeding. The Director General of Police, Assam was directed to cause departmental proceeding against Inspector Juga Kanta Bora, O/C and SI B.Pegu of Basistha PS providing them due opportunity to defend themselves in accordance with law.

The Commission placed on record its **deep anguish** on the total lack of professionalism on the part of Sri Suprotive Lal Baruah, APS, DySP, Dispur Division while making the enquiry. He **refused or failed to see the obvious lapses/misconduct** and gave a clean chit to officers who, in a wholly illegal way, kept the petitioners confined in the police station on two occasions. The Commission desires that the competent authority issues a stern warning to him and advise him not to repeat such mistakes in future.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Misc.VII/2013

Sri Utpal Das

-Versus-

I/C Kharupetia Outpost

Dist: Darrang.

This complaint petition is about non-registration of FIR and commission of alleged serious misconduct by the I/C Kharupetia Outpost.

The Commission held SI Pawan Kalita I/C of Kharupetia Outpost accountable for serious misconduct and recommends departmental action against him as provided under the Assam Police Act, 2007 and other relevant rules in force. The Director General of Police, Assam is accordingly, directed to initiate departmental proceeding against the said I/C in accordance with law providing him due opportunity to defend in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Shri Sibabrata Kakati, IPS(Retd)	-	Member
Smt. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 28/2013

Smt Chintamoni Pandey

-Versus-

Officer-in-charge, Dibrugarh PS

Dist: Dibrugarh.

In this particular case the lady was unnecessarily detained in the Thana for the whole night and as such the Commission holds that the detention was for an unreasonable period of time inasmuch as it was beyond the period prescribed by the law. **This shows that the arrest/ detention of Smt Chintamoni Pandey in Dibrugarh PS from 12.15 PM of 30.06.2012 till 12 noon of 01.07.2012 was done without following the due process of law.**

Further from record it is found that the lady while in detention, was sent for medical examination at 8.45 PM vide GD Entry No. 1115 dated 30.06.2012 and at 10.50 PM vide GD Entry No. 1122 dated 30.06.2012. Therefore, her allegation that she was not sent for medical examination before 11.00PM is not true.

The Commission, in the aforesaid facts and circumstances, finds SI Gunajit Pathak and Inspector Hiranya Bora of Dibrugarh PS responsible for detention/arrest of Smt Chintamoni Pandey on 30.06.2012 for a period of 24 hrs and holds them accountable for “*serious misconduct*” under Explanation (d) of Section 78(1) of the Assam Police Act, 2007 and recommends Departmental action against them as provided under the said Act. The Director General of Police, Assam is directed to cause departmental proceeding against SI Gunajit Pathak and Inspector Hiranya Bora of Dibrugarh PS providing them due opportunity to defend themselves in accordance with law.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.41/2014

Md. Shahjahan Ali

-Versus-

*SI J.K. Bania, I/C of Haibargaon TOP &
another, Dist. Nagaon*

This complaint is lodged against SI J.K. Bania, I/C of Haibargaon TOP and Constable Maheep Srivastava of traffic police, Nagaon Police Reserve.

The facts in brief leading to filing of this petition are that the traffic police constable Maheep Srivastava lodged an FIR with Haibargaon Town OP on 29.04.2014 complaining that Md. Shahjahan Ali (present petitioner) and Md. Bakkar Ali, inspite of repeated request, did not pay him an amount of Rs1,43,700/- which was due to him in the course of business of coal supply. The said FIR was received at the Haibargaon TOP, but the I/C did not forward the FIR to O/C of Nagaon Sadar PS. Without taking any step for registration of a case, the I/C of Haibargaon TOP called the complainant to the OP on 06.05.2014 for settlement of the matter/dispute amicably. The complainant has alleged that the aforesaid policeman detained him illegally for more than 29(twenty-nine) hours and tortured him both physically and mentally. During detention, no food and drink was served to him. He was forced to sign two documents on 07.05.2014.

There is a clear case of illegal detention without due process of law attracting the provision of “*serious misconduct*” under Explanation (d) to Section 78(1) of the Assam Police Act, 2007. In view of the above, the Commission holds SI J.K. Bania, I/C of Haibargaon TOP accountable for “*serious misconduct*” and recommends departmental action against him in accordance with law. The DGP, Assam, Guwahati is directed to cause drawal of departmental proceeding against SI J.K. Bania, I/C of Haibargaon TOP providing him due opportunity to defend himself in accordance with law. The Assam Police Headquarters shall intimate the result of the departmental proceeding to this Commission in due course of time.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.79/2012

Smti. Shipra Dey

-Versus-

OC, Haflong Police Station,

Dist. Dima Hasao

A grief-stricken mother complains that her son was physically tortured in police custody and succumbed to his injury. She demands justice. She states that her son Liton Dey, while driving a bike on 28.03.2012 at 06.00 PM, fell down. No other vehicle was involved in the accident. No person was hit. He got up on his own and while he was about to start towards his house, at that moment, some police bike riders arrived and took him to Haflong PS. He was put in the lock-up. On being informed, she along with her husband, came to Haflong PS at about 07.30 PM. But before their arrival, Liton was already taken to Haflong Civil Hospital. So, they awaited at the PS till Liton was brought back to PS at about 08.45 PM with *'hand-cuffs like a criminal'*. The O/C put Liton in the lock-up. The complainant and her husband, had the opportunity to see and talk to Liton. They found him in normal state. Liton requested them to take him out of the police custody. They requested the O/C to release their son as *"he committed no wrong and simply met with self accident without loss of any human life and government property."* The O/C turned down their request. They enquired and came to know from the Civil Hospital that Liton sustained simple injury on his right hand. It was shown to them by Liton in the police lock-up. They returned home. At about 11.30 PM (night), the O/C informed them over phone that Liton was admitted to Haflong Civil Hospital in serious condition. They rushed to the Civil Hospital and found Liton in coma. In the early morning at 06.10 AM, he was declared dead.

The complainant alleges that her son was tortured by police while he was in custody and the tragedy would not have taken place if her son was released on bail at the time when she and her husband visited the PS and requested the O/C to release him (Liton).

The Commission holds:

That the detention of the deceased boy Liton Dey in the Police station, was illegal and without due process of law inasmuch as he was involved in a bailable offence and the parents made repeated requests to the O/C for his release on bail. There is no denial of the fact that the deceased was arrested under Sections 279 IPC & 177/185 MV Act. There is no dispute that offences under the aforesaid Sections of law are bailable. Section 436 of the CrPC says that “*When any person other than a person accused of a non- bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail.*” In this particular case the boy was legally entitled to be enlarged on bail inasmuch as his parents were ready to take him on bail. Moreover, the principle of law is “*bail, not jail*”. Under this principle, courts are even granting bail to accused persons arrested in non-bail offence. Bail is normally refused by court if the accused is required for custodial interrogation and if the presence of the accused is not assured. By refusing to release the deceased on bail, who was booked under bailable offence, the SI Sankha Sargiary, the then O/C of Haflong PS has committed “*serious misconduct*” as defined in Explanation (d) to Section 78(1) of the Assam Police Act, 2007.

What the Commission finds most reprehensible is that the O/C had shown a total lack of empathy towards the persons in distress. Here is a case of parents who had lost their son and wanted justice through proper investigation. The I/O Insp Shyam Babu Sinha had also acted in a most irresponsible manner and made a mockery of the investigation by way of returning the case in FR as “*mistake of fact*”. The investigation was so perfunctorily made that the I/O, not to speak of collecting material/evidence to book the offender U/S 302 IPC, failed to collect a piece of evidence to book the wrong doer U/S 342 IPC. Just unbelievable. We wonder what the officer supervising the investigation was doing in this case. On the whole it is a story of utter callousness and indifference of the police officers concerned. The Police Headquarters are definitely answerable for this lapse. The police Headquarters should read the message sent down by the trying Magistrate to the police by way of rejecting the FR submitted by the I/O and ordering reinvestigation of the case by a superior officer.

A departmental proceeding was drawn up against SI Sangkha Sargiary for his ‘*negligence towards government duty*’. But, surprisingly it has been dropped on 26/07/2013 by the then SP, Dima Hasao stating that since a criminal case

was already registered and the investigation was being made, there was no use in keeping the DP pending.

The Commission, therefore, directs, the Police Headquarters to revoke the order whereby the DP against the O/C was dropped and take or start the DP *de novo* against SI Sangkha Sargiary for his “*serious misconduct*” under the existing law and directions given by the Hon’ble court from time to time.

The Commission also desires that an enquiry be made to find out the circumstances under which the aforesaid officer was promoted even while a criminal case was pending against him.

Present

Mr. Justice P.K. Musahary(Retd)	-	Chairman
Smt. Parul Debi Das, IAS(Retd)	-	Member
Shri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.29/2012

Pabitra Hazarika, Human Rights Law Network

-Versus-

Geetanagar Police Station, Dist. Kamrup(M)

The backdrop of this case is that the then Assam CM and Governor of Punjab, Late Mahendra Mohan Choudhury brought one Gangadhar Dev Mishra from Barpeta as priest of Geetanagar Temple, Guwahati in 1979. The said priest was allotted a plot of land measuring 2 kathas belonging to Geetanagar Temple. He died on 07.01.2000 leaving behind his ailing wife, two sons and a daughter. Shri Santnu Kumar Mishra is the eldest son of the deceased priest. He inherited and continued to occupy the land along with other family members. Their peaceful possession over the land was disturbed by bad elements. Santanu lodged a written FIR on 20.11.2010 with the O/C, Geetanagar PS. In the FIR, it is stated *inter-alia* that the goons offered him Rs.1,50,000/- to vacate the land. As he refused to comply, the accused persons forcefully evicted the informant and his family members. Further, it is specifically alleged in the FIR that the O/C of the PS Shri Biman Chandra Roy forcibly occupied the land by constructing the house. No step, was, therefore, taken by the O/C against the culprits.

The petitioner has come forward for the victim’s family. First, he filed an application dated 07.02.2012 under the RTI Act, 2005 before the Public Information Officer, Geetanagar PS asking for status report of Geetanagar PS Case No. 179/2010. He received no response. He then filed the present petition.

It seems that the City Police is not interested in conducting the investigation of the case because of vested interest. Considering the entire facts and circumstances of the case, the Commission deems it fit and proper to direct the DGP, Assam to cause further investigation of Geetanagar PS Case No. 179/2010 through the Special SP, CID, Assam and submit additional charge sheet, if incriminating materials are collected or found against SI Biman Chandra Roy, in accordance with law. The Commission also directs the DGP to cause further investigation of Geetanagar PS Case No.180/2010, through CID, Assam expeditiously as it is felt that SI Biman Chandra Roy was not named as an accused in the CS submitted to the Court inspite of evidence against him are available. The investigation of both the cases be supervised by the Addl. DGP, CID.

Earlier Recommendations in brief:

Some of the important recommendations in brief made by the Commission since 2008 on measures to enhance Police Accountability are as follows:-

1. Formulate accountability parameters of various ranks including supervisory responsibility of senior ranks;
2. Steps for changing the image of the police force;
3. Transparency at all levels of police functioning;
4. Ensure professionalism;
5. Amend the relevant provisions of the Assam Police Act, 2007 in order to invest the Commission with greater regulatory and supervisory powers in regard to conduct of criminal cases by police in matters of registration, investigation and submission of Final Form;
6. Amend the Assam Police Act, 2007 empowering the investigating agency of the Commission to investigate the offences committed by police;
7. Accord top priority to crime investigation by availing the services of highly trained set of police officers;
8. Stress on submission of timely progress reports and supervision of investigation as prescribed in the Assam Police Manual;
9. Recruitment of better persons and imparting proper training;
10. Redefine the role of supervisory police officers;
11. Publish a state level crime and investigation audit annually;
12. Objective assessment of performance of officers in the investigation and supervision for posting them at police stations and circles;
13. Orientation course for SPs and Addl.SP. on Assam Police Act, 2007 with special emphasis on police accountability, transparency and human rights ;
14. Set up the District Accountability Authorities;
15. Submission of quarterly reports for effective monitoring of departmental proceedings;
16. Empower the Commission to engage prosecutor for conducting prosecution of cases charge-sheeted against police officers in criminal proceeding;

Present Recommendations

Implementation of Commission's recommendations is dismal. It is, however, found that the State Govt. have taken good initiative during recent years to have the police officials from SI level upwards imparting training on community friendly policing, women friendly policing and children friendly policing. More initiative is expected. Certain new and complex situations are emerging in the modern days. They are posing as new challenges. To meet those challenges, the Commission, in addition to earlier recommendations, further makes the following recommendations :-

1. Top priority be given to systematized training for the officers at the lower level to guide them in proper methods of investigation. The officers involved in the investigation be given proper instructions by way of requiring them to attend regular seminar/training at the district level so as to make them proactive and more efficient to help them cope with cyber and other high profile modern day crimes;
2. The senior level police officials be sent to North East Police Academy at Barapani, Meghalaya to undergo training in a regular manner or as and when called for. The trained officers be engaged as master trainer in the training programmes to be organised at the district levels;
3. During the course of enquiry into various allegations, the Commission observed that officer at the cutting edge level and even officers at the senior level are not aware of the latest Supreme Court rulings and the latest amendments to the CrPC in respect of registrations of cases, arrest/detention of persons and various restrictions while dealing with senior citizens, women and children. The officers in general are found to be totally ignorant about all aspects of the Assam Police Act, 2007. Government may direct the DGP, Assam to organize crash training programme to sensitize his officers in these areas;
4. There are some land mark judgments of the Supreme Court and some amendments to the CrPC which have a direct bearing on the day-to-day functioning of the police. The Assam Police Manual has not yet been updated in line with the judgments of the Supreme Court and the amendments made to CrPC. The Government may direct the DGP, Assam to bring necessary amendments to the Police Manuals.

Post Script

Accountability of an individual towards the society is an age-old term related to human civilization. In other words, a Society always invites accountability of its members. This is basically needed for every Society for its sustenance during the course of civilization; for civilization is a continuous process.

Accountability may be discoursed as an anticipation/expectation to justify the actions and decisions. The Police Accountability may be described as high expectation placed on the law enforcing agency and individual officer to act in a responsible and a legal manner while upholding the law; controlling crime and maintaining public order. This expectation reposed on law enforcing agencies by members of the Society is further ingrained in the expectation of the citizens that all will be treated equally under the law.

In various parts of the world, particularly in the democratic societies, the law enforcing officers, are expected to save and protect all individual citizens. Police Accountability assures that the Police should act impartially without fear and favour. The Police is expected to be well versed with different legislation and procedures to be abided by.

In curbing crimes, arrest/detention in judicial custody are some of the important aspects. While arresting a person, interrogating a witness/accused, Police is expected to remain within the domain of procedure with full sense of ethics and humanity. Proper investigation and securing conviction are both powerful means for controlling crime in the society.

The State Police Accountability Commission plays a pivotal role in ensuring police accountability towards the society in the State of Assam. It is felt that due to untiring efforts of the State Police Accountability Commission, the cases of serious misconduct like (1) Death in Police Custody; (2) Grievous hurt; (3) Molestation, rape or attempt to commit rape; or (4) Arrest or detention without due process of law; (5) Forceful deprivation of a person of his rightful ownership or possession of property; (6) Blackmailing or extortion; (7) Non-registration of Final Information Report etc and such other misconduct, usually being committed by Police, have been reduced significantly in comparison to earlier years.

The Commission, by holding awareness programmes, in different districts of the State has been giving stress that transparency in the conduct of the police and the public as well is unavoidably important. Transparency is a concept of

“perceived quality of interntionally shared information”, which certainly gears up removing barriers and facilitating free and easy access to information, laws and rules. Transparency means helping both the Government and the Public. The Commission expects the Police to respect the members of the society and their religion, social behaviour and customary laws.

The State Police has been on crossroads of the present-day Information Technology. The State Police, in order to perform its works more efficiently and effectively, has to be more proactive in upgrading itself in the latest technology and such other scientific development, particularly in the field of crime of different nature committed both at national and international level. A greater stress has to be made on this particular field in order to modernize and equip itself to handle the complex issues and situations arising due to fast rate of growth in technological and scientific field. The State Police must bear in mind that certain crimes are not confined to State only but also national and international expense. At the same time, the Commission is committed to make sincere efforts to dispose the complaints received against the misconduct of Police as defined in the Chapter-VIII of the Assam Police Act, 2007. For early disposal of complaints, the Commission would, however, invite active co-operation of Assam Police Headquarters and the complainants as well. The Commission appreciates the Assam Police Headquarters, for their active and sincere co-operation so far extended, without which the present Commission would not have been able to dispose of 149 cases during the short period from June 2014 to December, 2014 compared to disposal of 271 cases in last over 5 years, out of 471 cases registered during the period from 2008 to May, 2014.

There were 213 numbers of pending cases with effect from the year 2011 to December, 2014. The Commission, during the year 2014, has disposed 158 cases out of 213 pending cases.

Accountability of the Police towards the society as a whole would, definitely strengthen the efficiency of Police and making themselves people-friendly.

CHAIRPERSON

MEMBER

MEMBER

MEMBER