



WEST BENGAL HUMAN RIGHTS COMMISSION

BHABANI BHAVAN (2ND FLOOR)

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No.: 272/WBHR/COM/877/10-11

Date: 2-5-13

Recommendations No. 04/13-14/WBHR/COM/877/10-11

From: Shri J. Sundara Sekhar, IAS
Secretary

To: The Chief Secretary,
Government of West Bengal
Writers` Buildings
Kolkata- 700001

Sir,

I am directed to enclose herewith an authenticated copy of the recommendations dated 08.04.2013 made by the West Bengal Human Rights Commission in connection with the custodial death of Sanjoy Mahapatra at Presidency correctional Home. The recommendation is self-explanatory.

Action taken by the Government on the recommendation may please be intimated to the Commission within two months from the date of communication.

Enclosure: As stated above.

Yours faithfully

ofc

30.4.13

(J. SundaraSekhar)
Secretary

West Bengal Human Rights Commission
Bhabani Bhavan, 2nd Floor, Alipore, Kolkata - 27.

877/WBHRC/Com/10-11
Date : 08.04.13

Present ::

1. Justice Asok Kumar Ganguly .. Chairperson
2. Justice N.C. Sil .. Member
3. Shri S.N. Roy .. Member

This is a case in which one UTP Sanjoy Mahapatra, 27 years old died in Presidency Correctional Home, Alipore. The matter was referred to this Commission by the National Human Rights Commission. Cognizance was taken by this Commission and the IG Correctional services, WB was directed to submit his report in the case. Simultaneously, S.P. South 24 Pgs. was also directed to enquire into the matter and submit his report within four weeks from the date of communication of the order.

I G Correctional services WB submitted his report before the Commission which reads as under :

“As it has been revealed from the preliminary enquiry done by Sri Kumaresh Roy, DIG(W&D) of Correctional Services that there were lapses in discharging duties properly on the part of the on-duty warders, Satyendra Nath Dey and Bimal Karmakar. Departmental proceedings to that effect has been initiated by the Superintendent, Presidency Correctional Home.”

After consideration of the report, the following witnesses were examined by the Commission :

- i. Aejez Ahmed, Head Warder.
- ii. Tarun Kr. Biswas, Acting Chief Warder.

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SECRETARY & C.E.O.,
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- iii. Biplab Das, Superintendent, Presidency Correctional Home.
- iv. Kumaresh Roy, IG Correctional Services, since retired.
- v. Dr. Sourabh Chottopadhy, Kolkata Medical College and Hospital.

Aejez Ahmed stated in his evidence that there were as many as three convicts who used to look after the patients in the mental ward and, in the night of occurrence, Haseen Tabrej @ Arzoo, Omvir and M.D. Rhaul were on duty to look after the patients in the mental ward where UTP Sanjoy Mahapatra was lodged. He also stated that so far he came to know, Arzoo used to torture deceased Sanjoy Mahapatra. He again stated that Arzoo was released from the jail after five months of the incident on completing his term of sentence.

Tarun Kr. Biswas, Acting Chief Warder had corroborated the evidence of Aejez Ahmed stating inter-alia that Sanjoy Mahapatra was assaulted by the convict in-charge, Arzoo inside the ward.

Biplab Das, Superintendent Presidency Correctional Home stated in his evidence that during enquiry he did not get any answer as to why and how so many injuries were caused on the person of the deceased Sanjoy Mahapatra for which he sent the dead body for post mortem examination.

Kumaresh Roy, DIG Correctional Services, since retired stated in his evidence as follows :

“At the time of his admission on 21.10.10 there was no record in the correctional Home of any injury on the person of the UTP. The injuries found on the dead body of Sanjoy Mahapatra must have occurred during his stay at the Correctional Home”

He further stated that he had recommended for issuing show-cause notices to Bimal Karmakar, on-duty Warder of the said mental ward and to Satyendranath Dey who was Section in-Charge.

After giving his findings he made the following proposals:

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1. The Medical Officers may be strictly directed to visit the male mental ward at least thrice during their duty hours and take appropriate step for medical treatment of the admitted patients.
2. Convict writer Haseen Tabrej and convict writer Om Veer Singh may be immediately transferred to distant Correctional Homes.
3. Warder Sri Bimal Karmakar (on duty warder at male mental ward on 25th October, 2010 from 6.00 a.m. to 12-00 noon) and warder Sri Satyendranath Dey (Section in-Charge for the said place on 25th October, 2010 from 6.00 am to 12.00 noon) may be served with show-cause notice seeking their explanation on their failure to inform timely and promptly to the on-duty Medical Officer and other Superior officers about the condition of the said deceased UTP in the morning of 25th October, 2010.

Dr. Sourabh Chottopadhyay conducted P.M. examination of the deceased Sanjay Mahapatra. His findings in this regard is as follows :

“There were as many as 28 injuries on the person of the deceased. There were multiple abrasions and bruises over the body. There was contusion over the right side parietal area of scalp and sub arachnoids hemorrhage in the brain. These injuries are sufficient to cause death in ordinary course of nature. The injury of the brain alone is also sufficient to cause death”

Now, on analysis of the evidence and the materials discussed in the foregoing lines, it is clear that there was absolute dereliction of duty on the part of warders, Sri Satyendranath Dey and Sri Bimal Karmakar who, as if, allowed the inmate Sanjoy Mahapatra to die for the assault perpetrated on him by the other inmates of the Home. It is also clear from the report of Sri Kumaresh Roy DIG (W&D) of Correctional Services

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that the department had already initiated departmental proceedings against Satyendranath Dey and Sri Bimal Karmakar and, therefore, there is no scope for making any recommendation by this Commission against those two warders. But in any case admittedly Sanjay Mahapatra died in the custody while he had been lodging in Presidency Correctional Home.

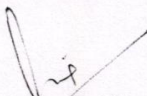
The evidence of Dr. Sourabh Chottopadhyya who held the Post Mortem examination over the dead body of Sanjoy Mahapatra found as many as 28 injuries on the person which were sufficient to cause death in ordinary course of nature. Thus, it is also established that the death of Sanjoy Mahapatra was due to injuries inflicted on him by the inmates of the Home and the incident could have been possible only for the inaction on the part of the two warders namely Satyendranath Dey and Sri Bimal Karmakar.


Accordingly the Commission recommends as below :

- i. a compensation of Rs. 50,000/- (fifty thousands) be paid to the next kin of the UTP Sanjoy Mahapatra by the Government.


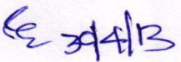
The Govt. should inform the Commission within a period of two months from the date of receipt of the recommendation as to the action taken or proposed to be taken in this regard.


(S.N. Roy)
Member


(Justice N.C. Sil)
Member


(Justice Asok Kumar Ganguly)
Chairperson

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