



## WEST BENGAL HUMAN RIGHTS COMMISSION

BHABANI BHAVAN (2<sup>ND</sup> FLOOR)

ALIPORE, KOLKATA - 700 027

Phone : 2479 - 1629 / 7727 / 7259, Fax : 2479-9633

E-mail : wbhrc8@bsnl.in

Website : www.wbhrc.nic.in

Ref No. 755/WBHRCCOM/915/12-13

Date 15.7.13

Recommendations No. 25,26 & 27 /13-14/WBHRCCOM/915/2012-13

From: Shri J. Sundara Sekhar, IAS  
Secretary & CEO

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 15.07.2013 made by the West Bengal Human Rights Commission in connection with the complaint dated 17.08.2012 of Shri Asim Sarkar, General Secretary, B.J.P, West Bengal Unit. The recommendations are self-explanatory.

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

Enclosure: As stated above.

Yours faithfully

  
( J. SundaraSekhar ) 15/7/13  
Secretary

WEST BENGAL HUMAN RIGHTS COMMISSION  
BHABANI BHAVAN, ALIPORE, KOLKATA-27

File No. 915/WBHRC/COM/2012-13

Present

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

One petition was filed on behalf of Bharatiya Janata Party, West Bengal Unit before the Commission on 17.08.2012 alleging that one Shiladitya Chowdhury (hereinafter Shiladitya), a marginal farmer was arrested on 8<sup>th</sup> August, 2012 at Belpahari where the Hon'ble Chief Minister of West Bengal (hereinafter Hon'ble CM) was addressing a public meeting allegedly on the ground that Shiladitya was a Maoist. In the petition it was also alleged that in the meeting of the Hon'ble CM, Shiladitya protested against the high prices of fertilizer and other related problems of farmers in the state. After being apprehended by the police, as Shiladitya raised some questions in the meeting, he was interrogated by the police and on being released went home and two days thereafter he was arrested from his home on certain charges and he was taken into custody.

2. Considering the nature of the case, the Commission on 17<sup>th</sup> August 2012 directed the ADG & IGP of the Commission to enquire into the matter and submit a report to the Commission within three weeks from date. The report of the ADG & IGP (hereinafter the report) was submitted to the Commission on 21.10.2012. In the report it was stated that in the afternoon of 08.08.2012 the Hon'ble CM addressed a public meeting at Belpahari (hereinafter the meeting) in Jhargram Police District and the district police had made elaborate police arrangement since it was a Maoist affected area. It was also reported when the Hon'ble CM was addressing, a person, later

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on identified as Shiladitya Chowdhury, forcibly pushed his way to the barricade which separated the crowd from the high security zone in which police were present. The barricade was at a distance of about 40 to 50 feet from the dais from where the Hon'ble CM was addressing. After reaching the barricade Shiladitya shouted repeatedly in an aggressive tone, raising his hands for drawing the attention of the Hon'ble CM about the high prices of fertilizers. It was also reported that as the attention of the Hon'ble CM was drawn towards Shiladitya she pointed out that she had information that some Maoists had come to disrupt the meeting which shall not be allowed. She directed the police to immediately arrest Shiladitya. Noticing the said disturbance, some police personnel including Shri Sunil Kumar Chowdhury, IPS, Superintendent of Police, Paschim Medinipur went towards the barricade, stopped Shiladitya from further shouting and made him cross over the barricade from the high security zone and took him away to the back of the dais. Constable Mrinal Kanti Chatterjee of IB West Bengal, who was in civil dress, took Shiladitya away and a few police persons in plain dress followed them. S.P. Paschim Medinipur also followed them for some distance.

3. The report also suggests that the police VCDs clearly show that Shiladitya did neither break the bamboo barricade nor did he cross the high security zone. He was with the crowd on the other side of the barricade and the barricade was intact. Shiladitya crossed over the barricade into the high security zone only when he was asked to do so for being taken away by the police.

4. The report clearly stated that Shri Nirmal Kumar Majhi, I.C. Belpahari Police Station was not near Shiladitya in the crowd. Therefore, Shiladitya could not have pushed or injured I.C. Belpahari or obstructed him from performing his duty as alleged in the suo motu FIR of I.C. Belpahari of Belpahari PS Case No. 42/12 dated 10.08.2012 under Sections 447/332/353/506 IPC. The report further stated that it is unbelievable that

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a poor farmer could dare threaten the I.C. who was in police uniform saying 'দেখে নেব, মজা দেখাবো' in the presence of a large number of police personnel.

5. The ADG & IGP of the Commission was later on promoted as DG & IGP. This Commission also examined Shiladitya who stated that he cultivates a small piece of land and is a supporter of the TMC party and is also an admirer of the Hon'ble CM and is not connected with the Maoists. He attended the meeting of Hon'ble CM on 08.08.2012 and complained against the high prices of fertilizers and other problems which were faced by the farmers to draw the attention of the Hon'ble CM. He did not push or injure any policeman. He did not threaten or obstruct any policeman from performing their duties. He did neither break the barricade nor did he cross over to the high security zone till the police asked him to cross the barricade for being taken away by the police from that place. He was taken away by a policeman in civil dress to the back of the dais, where he was asked by two plain clothes police personnel including a police person in uniform, whether he was drunk. When he denied and said that he was not drunk, police allowed him to go home. Then he waited in the bus stand near the meeting place and after the meeting was over, he along with his co-villagers returned to their village by the said bus. Thereafter on 10.08.2012 at about 13:45 hrs., when he was on his land, police arrested him and took him away to Binpur Police Station and from there to Belpahari Police Station in the evening and on 11.08.2012 he was sent to Jhargram Court.

6. DG & IGP of the Commission also examined several other persons like Uday Basu, Ujjal Ghosh, Rajarshree Dutta Gupta, Buddhadeb Das and Chandan Das all media persons who were present in the meeting and they all corroborated the stand of Shiladitya about his conduct in the meeting and the police response to the same.

7. Shri Tilak Chowdhury, brother of Shiladitya and Tapan Das, co-villager of Shiladitya also corroborated the stand of Shiladitya in this regard.

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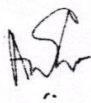


Shri Tapan Das also stated that he met Shiladitya in the village in the evening of 08.08.2012 after the meeting was over. Thus Shiladitya did not run away from the hands of the I.C. Belpahari as is alleged in the FIR or from the hands of the IB Constable Mrinal Kanti Chatterjee. It was stated if Shiladitya had any intention of running away from the clutches of the police he would never have returned to his village shortly thereafter. Shri Tilak Chowdhury said that both he and Shiladitya were supporters of the TMC and Shiladitya was not associated with Maoists and the allegations made by the I.C. Belpahari PS against Shiladitya in the FIR of Belpahari PS Case No. 42/12 dated 10.08.2012 are false.

8. The report also recorded the statement of Constable Mrinal Kanti Chatterjee of IB, West Bengal who was in civil dress at the meeting place. He stated that he took away Shiladitya from the place of disturbance through high security zone and on the way, when he asked Shiladitya his name, he told his name was Duryadhan Mahato and he freed himself from his hands and mingled into the crowd. On that statement of Constable Mrinal Kanti Chatterjee, it was commented in the report that it is unbelievable that Shiladitya could escape from the Constable's hands and mingle into the crowd, when many policemen were following them and when they were all walking in high security zone which was free of any crowd.

9. Shri Nirmal Kumar Majhi has also recorded his statement regarding his suo motu FIR of Belpahari PS Case No. 42/12 dated 10.08.12 and stated that Shiladitya pushed the I.C. and tried to move further towards the stage in a furious mood and threatening language and I.C. tried to catch him but taking opportunity of the huge gathering, Shiladitya managed to escape. On this statement, it was commented in the report that if this had been true, the police VCD would have shown this. But the said police VCD is totally silent about Shiladitya's conduct as alleged in the I.C.'s FIR. He stated that to justify his delay of two days in registering the case on 10.08.12

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The I.C. has created Belpahari PS GDE No. 267 dated 08.08.12. However, in the report it was stated that there was a major contradiction between the G.D. Entry and FIR. On the contradiction, the following comments have been noted in the report.

"While in the G.D. Entry, the I/C had stated that, "all that time some personnel who were performing duty at that zone took the said man out of the venue for verification and enquiry against the said unknown person", in the FIR the I/C had alleged that he "tried hard to catch him(Shiladitya) but taking opportunity of the huge gathering, he managed to escape".

The report also noted that the VCD showed some policemen were taking away Shiladitya from the venue. Therefore he could not have escaped into the crowd after pushing and threatening the I.C. as alleged in the FIR. The report also commented if Shiladitya committed various offences against the I.C. on 08.08.2012 afternoon, as alleged in the FIR, the I.C. would have had him arrested and sent him to Belpahari Police Station under sufficient police escort as the I.C. had sufficient police force with him. It has also been commented in the report that as per law, if the name of an accused person committing a cognizable offence is not known initially, even then a case has to be registered against an unknown accused person and then his correct identity is found during investigation and there is no provision in law for pre-investigation enquiry for the purpose of fixing the identity of an accused of a cognizable offence. On the statement of the police in the report the following comments have been made

"Had Shiladitya really escaped from the hands of the I/C after pushing and threatening him or later from the hands of some other policemen who were taking him away, and managed to mingle in the crowd, he in the crowd would have caught him and handed him over to the police immediately".

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10. The report also concluded by saying that Hon'ble CM might have thought that Shiladitya is a Maoist since he was shouting in an aggressive tone and disrupting her address as Belpahari is a Maoist affected area. But the police did not act on the direction of the Hon'ble CM. Police had taken away Shiladitya from the meeting place, questioned him and let him go after satisfying themselves but he did not pose any threat to the security of the Hon'ble CM and at that time the intention of the police was only to stop Shiladitya from further disrupting the meeting by sending him away from the meeting place. The report considered this to be a very correct and justified action by the police. But the local police had taken the decision later on 10.08.2012 to take action against Shiladitya perhaps to teach him a lesson for disrupting the public meeting of the Hon'ble CM by registering a false case against him and then sending him to Court. According to the report, Nirmal Kumar Majhi, I.C. Belpahari Police Station is responsible for this. In this matter several persons were examined by the Commission.

11. Shri Nirmal Kumar Majhi I.C. Belpahari Police Station was examined on 17.01.2013. In his examination Nirmal Kumar Majhi deposed that more than one hundred police personnel were deployed at the venue. He also said that Shiladitya wanted to cross the barricade but he went to stop Shiladitya and at that time there was an altercation. Shiladitya was not armed. At the time of altercation there were 10-12 police persons with him. However, he said that Shiladitya was the only agitated person in the crowd. He also stated that Shri Majhi was not injured in the melee and there was no criminal record against Shiladitya. He further stated that he never heard Shiladitya raising any question to the Hon'ble CM and he was not present at the spot when such questions were asked by him. He also stated that he did not arrest Shiladitya at any point of time. He submitted that Shiladitya was interrogated by the police personnel on 08.08.2012, the date of the meeting. But he was let off after sometime. Then on 10.08.2012 he started a suo motu case against Shiladitya as he disrupted the meeting on 08.08.2012

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under Sections 447/332/353/506 IPC. He also admitted that he had no evidence that Shiladitya was intoxicated at that time. He also stated that Mrinal Kanti Chatterjee, Constable of IB West Bengal caught hold of Shiladitya but Shiladitya escaped from him but no FIR was lodged on 08.08.2012. He also stated that he lodged an FIR on his own but not under the instruction of any one. He also submitted that he received a Memo from the Superintendent of Police, Jhargram on 09.08.12 asking explanation as to how one Durjodhan Mahato escaped from police custody from the meeting place of the Hon'ble CM and also to explain why no case was immediately started and what actions were taken by him. He also stated that the case ended in charge sheet in the last month. Prior to that he stated if he had not received the memo from the S.P. he is not sure whether he would have started the case. Thereafter he volunteered and said that even if the memo was not received he would have started the case.

12. Smt. Bharati Ghosh, IPS, Superintendent of Police, Jhargram Police District was examined on 16.04.2013. She also admitted that a huge police deployment was there around the ground on the date of the meeting and IGP, Western Zone, Shri Gangeswar Prasad Singh, was in-charge of police arrangement and was assisted by S.P. Paschim Medinipur and S.P. Jhargram. She stated that she was not at the venue when the alleged incident involving Shiladitya took place. She was managing the crowd at Narayanpur Chawk and stated that she did not witness the occurrence. She also submitted that by issuing of memo to I/C, Belpahari she has discharged her duties. She also stated that a massive police force was deployed at the venue. Her attention was drawn to a part of the report of the DG&IGP of the Commission. To that she said as she was not present at the venue she does not accept the correctness or otherwise of that part of the report. She has further denied that the local police has any grudge against Shiladitya to teach him a lesson.

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13. Statement of Shri G.M.P. Reddy, IPS, DG-IB West Bengal was also recorded on 14.05.2013. He submitted that he was not posted in the IB when the alleged incident of Shiladitya Chowdhury happened in the meeting of the Hon'ble CM. Mrinal Kanti Chatterjee who worked in IB was present at the spot at the time of occurrence and from Mrinal Kanti Chatterjee, Shiladitya reportedly escaped. But no adverse report was received from the S.P., Jhargram or IG-Western Zone against Mrinal Kanti Chatterjee and no departmental action was initiated against Mrinal Kanti Chatterjee till 22.02.2013 when he left IB.

14. The evidence of Shri Gangeswar Prasad Singh, IPS, ADG of Police, Civil Defence, West Bengal was recorded on 19.06.2013. He admitted that he was in charge of police arrangements in connection with the meeting of Hon'ble CM on 08.08.2012 and apart from himself there were 2 S.Ps a total number of 9 Commandants/SPs, Dy. Commandants, 26 ASP/ACs, SDPO, 39 Inspectors, 113 Sub-Inspectors, 296 ASIs, 8 Lady Sub-Inspectors, 329 Constables with lathi and 967 Constables with arms, 14 Constables with gas, 44 Lady Constables/Home Guards were deployed 434 Constables in the 2<sup>nd</sup> Tier were deployed in different sectors along with Central Reserve Police Force and Counter Insurgency Force in jungle patches. He agreed that massive police forces were deployed at the meeting and the crowd which turned up was more than what was expected. At the time when the Hon'ble CM was addressing the meeting he was either on the dais or near the dais for looking after the arrangements and heard some hue and cry about Shiladitya asking the reason for the hike of price of some commodity. While raising question Shiladitya was proceeding towards D zone and some persons were following him. At that time police arrested him but he did not see whether Shilditya breached the barricade. But he saw from the dais that S.P. of Paschim Medinipur was trying to take Shiladitya out of the place and he also saw that the S.P. of Paschim Medinipur handed over Shiladitya to IB Constable Mrinal Kanti Chatterjee. Then he came down from the dais and



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heard Constable Mrinal Kanti Chatterjee was directed by the S.P. Paschim Medinipur to take Shiladitya to the Police Station. He also supported the same course of action. Half an hour thereafter the meeting was over. Then arrangement was made for departure of the Hon'ble CM. Shri Gangeswar Prasad Singh admitted that Shiladitya was not armed and nobody except Shiladitya Chowdhury was arrested by the police. He also told that Shiladitya was being taken to the Police Station by Constable Mrinal Kanti Chatterjee but Shiladitya managed to escape from Mrinal Kanti Chatterjee and could not be taken to the Police Station. On enquiry he found that there was some gap in the police arrangement and that is how Shiladitya could come forward and question the Hon'ble CM. However, no steps were taken against anybody as he was responsible for making police arrangement. He also stated that Director of Security spoke to him and issued several guidelines to prevent recurrence of such incident in future. He, however, admitted that there was a grave lapse of Mrinal Kanti Chatterjee in failing to take Shiladitya to Police Station and the distance between the Police Station and the place of occurrence is just one-fourth of a kilometer. However, no departmental action was recommended against Mrinal Kanti Chatterjee. Police thought as Shiladitya was unarmed it is not unusual to send him to the Police Station by an unarmed Constable as there was police all around. He does not remember whether the incident of escape of Shiladitya from the hands of Constable Mrinal Kanti Chatterjee was entered into any GD and no case was registered on that day. As no case was registered against Shiladitya he directed S.P., Jhargram to issue show cause notice to the I. C. Belpahari asking why no case was started. Accordingly, S.P. Jhargram issued show cause notice to the I.C. Belpahari. However, it was ascertained that Shiladitya had no Maoist link whatsoever.

15. After the evidence of Gangeswar Prasad Singh was recorded by the Commission on 19.06.2013 the matter was discussed on 21.06.2013 and the Commission decided to watch the video of proceedings of meeting dated

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08.08.12. Thereafter video was watched by the Commission on 24.06.2013 and after watching the video, the Commission recorded the following observations:

Date: 24.06.2013

"In terms of the decision of the Commission dated 21.06.2013, today video clippings containing the speech of the Hon'ble Chief Minister were played before the Commission. As such we saw that one gentleman who is Shiladitya Chowdhury was trying to ask some questions to the Hon'ble Chief Minister in the said meeting. While he was asking question Shiladitya was behind the barricade and plenty of police personnel were around him. The question which was asked by Shiladitya is not audible in the video clippings but the responses of the Hon'ble Chief Minister were very clear. She gave clear direction to the police to arrest Shiladitya as she immediately declared that the person concerned is a Maoist and she had previous information that 4 or 5 Maoists entered that area in trying to disrupt the meeting. The Hon'ble Chief Minister also took credit that she succeeded in getting one Maoist arrested. When she gave direction to arrest him there was clapping from the audience. She claimed that these Maoists are trying to loot the jungle by entering from the neighbouring states- Jharkhand, Orissa and trying to kill police personnel and destroy the property, peace and tranquility of the area. These people will not be tolerated. Thereafter, it was found that Shiladitya was arrested and taken away from the meeting area by a number of police officials.

Along with the Hon'ble Chief Minister on the dais, were sitting Home Secretary, West Bengal and Director General of Police, West Bengal.

16. In the FIR lodged by Shri Nirmal Kumar Majhi, Inspector of Police on 10.08.2012 he stated that on 08.08.2012

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“while engaged in performing L/O duty at the Binpur-II B.D.O. Office ground at Belpahari in c/w the open meeting of Hon’ble C.M. West Bengal, Smt. Mamata Banerjee. At around 14.30 hrs. while the Hon’ble C.M. West Bengal was addressing the public meeting, suddenly the above noted person entered into the High Security Zone, which is a strictly prohibited zone, as per manual and was guarded by police personnel. On seeing this, I along with force reached at the spot and tried to prevent him to move further. But he pushed me and tried to move further towards the stage with furious mood and threatening language. I tried hard to catch him but taking opportunity of the huge gathering he managed to escape. As the identity could not be fixed, I endorsed SI, Ranjit Singha of Belpahari PS to establish the identify of that person. Later on after enquiry, his identity was established to be Shiladitya Chowdhury, s/o Lt. Kalipada Chowdhury of Vill. Nayagram, PO+PS-Binpur, Dist. Paschim Medinipur.

Under the above noted fact and circumstances I started Belpahari PS Case No. 42/12 dtd. 10.8.12 u/s- 447/332/353/506 IPC as Suo Motto against Shiladitya Chowdhury s/o Lt. Kalipada Chowdhury of village Nayagram, PO+PS-Binpur, District Paschim Medinipur.”

17. From the discussion of the aforesaid evidence and the materials on record, the following facts clearly emerge:-

- a) In the meeting there was a massive police arrangement.
- b) Shiladitya attended the meeting and while the Hon’ble CM was addressing it, he questioned about the rising prices of fertilizers and some other related matters and in order to draw the attention of the Hon’ble CM he went towards the barricade and asked the question loudly and repeatedly.

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- c) At the time of asking the question, Shiladitya was outside the barricade and did not cross it and was surrounded by several policemen. He was at a distance of 40 to 50 feet from the dias from which Hon'ble CM was addressing the meeting. He did not pose any security threat to the Hon'ble CM.
- d) The question of Shiladitya enraged the Hon'ble CM and she promptly directed the immediate arrest of Shiladitya as according to the Hon'ble CM, he was a Maoist. Immediately Shiladitya was arrested and taken away from the place of the meeting.
- e) Shiladitya was not armed nor was he drunk. He had no criminal records and police has not found any connection of Maoist organization with Shiladitya. On the other hand Shiladitya claimed that he and his brother are supporters of TMC and he is a small farmer. This claim of Shiladitya has not been contradicted on record.
- f) After his arrest on 08.08.2012, Shiladitya's version is that he was interrogated by the police and after some interrogation he was let off and allowed to go home. He boarded a bus and went home. Shiladitya stayed in his house on 08.08.12 and 09.08.12 and on 10.08.2012 while he was working in his field near his house he was arrested by the police.

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- g) Police version is that after Shiladitya was taken away from the venue of the said meeting, one Mrinal Kanti Chatterjee, Constable IB was taking him to the Police Station and Shiladitya escaped from him and mingled with the crowd.
- h) This police version has not been accepted as true in the said report for the following reasons:-
- (i) It was impossible for Shiladitya to run away from the hands of Mrinal Kanti Chatterjee and mingle with the crowd as there was huge police arrangement in the venue of the meeting. Any attempt by Shiladitya to run away would have been intercepted by police.
  - (ii) Shiladitya was taken by Mrinal Kanti Chatterjee at the back of the dais of the said meeting where there was no crowd. So it was not possible for Shiladitya to mingle with the crowd.
  - (iii) The distance between the venue of the said meeting and the Police Station was just one-fourth of a kilometer.
  - (iv) On 08.08.2012 no FIR was made and nothing was registered in the Police Station about the running away of Shiladitya from the hands of Mrinal Kanti Chatterjee.

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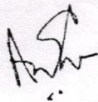
  
  
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- (v) If Shiladitya had run away from the police on 08.08.12 he would not have stayed in the house and then allowed him to be arrested from the field near his house where he was working.
- (vi) Some clear contradictions have been mentioned in the said report between the G.D. Entry being Belpahari PS G.D.E. No. 267 dated 08.08.2012 and the FIR lodged by the I.C. of Belpahari PS on 10.08.2012.
- (vii) Prior to the FIR which was lodged on 10.08.2012 against Shiladitya by I.C. Belpahari PS, a show cause was issued to I.C. Belpahari by the S.P. Jhargram PS, on the instruction of Shri Gangeswar Prasad Singh as to why no case was started about the escape of Shiladitya.

18. The Commission agrees with the aforesaid reasons and is of the opinion that the police version is highly improbable.

19. About the allegations in the FIR lodged by Nirmal Kumar Majhi, I.C. Belpahari PS on 10.08.12 against Shiladitya on the basis of which a criminal case was started against him under Sections 447/332/353/506 IPC and he was arrested on 10.08.12 and kept in custody for sometime till he was bailed out after 14 days it was very adversely commented in the report and some of the excerpts are quoted below:



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(a) *"It is highly unbelievable that Shiladitya after committing the various offences as alleged in the I/Cs suomoto FIR, escaped in to the crowd and again returned shortly to the high security zone barricade and started shouting about high fertilizer prices etc., (and then taken away by the police as shown in the police VCD. Had Shiladitya really escaped from the hands of the I/C after pushing and threatening him or later from the hands of some other policemen who were taking him away, and managed to mingle in the crowd, people in the crowd would have caught him and handed him over to the police immediately. This was a very correct and justified action by the police. Obviously, it was the local police which had taken the decision later on 10.08.2012 to take "action" against Shiladitya perhaps to teach him a "lesson", for disrupting the CM's public meeting on 08.08.2012, by registering a false case against him as shown above, arresting him and sending him to Court".*

20. As a charge sheet has been filed in that case the Commission desists itself from commenting further on it but it is inclined to endorse the observations made in the report of DG & IGP about the case.

21. On principle it has to be accepted that the head of a democratically-elected government, owing its allegiance to a written Constitution, where the right of free speech is fundamentally protected, cannot take exception to a question being asked by a common citizen in a public meeting which is addressed by that head of the government. Anyone adhering to the basic

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values of our Constitution cannot possibly doubt the soundness of this principle.

If this principle is applied in the facts of the present case, the Commission does not find that Shiladitya committed any wrong by asking the Hon'ble C.M. why the prices of fertilizers are rising. The prompt response of the Hon'ble C.M. to that question is, to say the least, very shocking. The Hon'ble C.M. without trying to understand the relevance of such a question coming from a person in a rural area promptly tried to silence him by asking the large police force to arrest him and immediately labeled him a Maoist in a public meeting which was greeted by clapping. She felt proud that she succeeded in getting a Maoist arrested, and she further claimed that such Maoists who kill people and destroy properties will not be tolerated.

It has been proved even from police sources that Shiladitya was not a Maoist nor did he have any criminal antecedent, nor was he armed neither was he drunk. Rather, he was an ordinary citizen from a poor family and it has come on the record, which has not been contradicted, that he is a supporter of T.M.C. Shiladitya is a classic case to point out the difference between freedom of speech and freedom after speech. It has also come on the record that, at the time of asking the question, Shiladitya was at a distance of at least 40 to 50 feet from the dais from which the Hon'ble C.M. was addressing and he did not breach the barricade. Therefore, Shiladitya did not pose a security threat to the Hon'ble C.M. In this context it may be

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appropriate to recall what was said by Lord Atkin in his famous dissenting speech in *Liversidge v. Anderson* and they are quoted: A.

“When I use a word,’ Humpty Dumpty said in rather a scornful tone, ‘it means just what I choose it to mean, neither more nor less.’ ‘The question is,’ said Alice, ‘whether you can make words mean different things.’ ‘The question,’ said Humpty Dumpty, ‘which is to be master—that’s all.’”<sup>1</sup>

This possibly seems up the attitude of the Hon’ble CM while making wild allegations against Shiladitya.

This Commission is statutorily charged with the duty of protecting the human rights of ordinary citizens, especially when they are invaded by the State.

Right of free speech is a common heritage of mankind. Here is a clear case where the freedom of speech, a basic human right, of Shiladitya disappeared and he was thrown behind the bars. This invasion of his right has taken place at the instance of the Hon’ble C.M. Under this situation, this Commission cannot cave in. We must remember ‘when great rights are gouged within the sound proof, sight proof, precincts of prison houses, where, often dissenters and minorities are caged, Bastilles will be re-enacted. When law ends, tyranny begins, and history whispers, iron has never been the answer to the rights of men’.<sup>2</sup>

1. 1942) AC 206
2. 1978) 4 SCC 104 at 107

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22. Now coming to the question of making recommendation in this case, the Commission has given it a very anxious consideration. There are two aspects of this case. One is the accusation of Hon'ble CM after hearing the question of Shiladitya and the other is the criminal case which has been foisted upon Shiladitya by the State.

21. In so far as the criminal case is concerned; the same has ended in a charge sheet and it is now for the Court to deal with the matter. This Commission has respect for and confidence in the impartiality of the judicial system in this country. As such this Commission does not make any comment on the same except hoping that the Court will consider the entire matter in the correct perspective.

24. But in so far as the CM's accusations of Shiladitya as a Maoist are concerned, they are very serious. CM after calling him as Maoist directed the police to arrest him and said such Maoists, who have come to Belpahari for looting the jungle, property of the people and killing the policemen will not be tolerated. She said this in a public meeting.

25. This certainly affected the dignity of Shiladitya who is not a Maoist but was labeled as such in an open meeting by the Hon'ble CM. This has the result of isolating Shiladitya from the rest of the community by giving him the tag of a terrorist. This has serious adverse social and psychological effects on him. And it has been proved that he is not a Maoist.

Therefore, this Commission is constrained to recommend:-

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- (i) Shiladitya must be compensated for the loss of his dignity and social status at the instance of Hon'ble CM in an open meeting. It cannot be that just because Shiladitya is a poor farmer his dignity and status can be trifled with by slapping wild allegation on him of being a terrorist. The Commission, therefore, directs that an amount of Rs. 2,00,000/- (Rupees Two Lacs ) be paid by the State Government to Shiladitya within a period of eight weeks from date.
- (ii) In so far as the Hon'ble CM is concerned, it is no doubt true that she is a democratically elected popular leader. Even such a democratically popular leader has to abide by the Constitutional norms. That is the oath the Hon'ble CM has taken before assuming her office. In that context violation of human rights of any citizen of this state is a matter of serious concern.
- (iii) The Commission is constrained to make this observation as it is duty bound to do so as an institution to uphold the human rights of the people of the state and the same should be taken in that spirit.

26. This Commission believes in what was said by Will Durant, the great philosopher, Durant said: "It is time for all good men to come to the aid of their party, whose name is civilization".<sup>3</sup>

3. Will Durant: What life has taught me: Bhavan's journal, volume XXIV, No.18 dt. 9.4.1978 P 71 & 72

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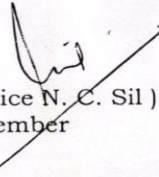
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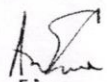
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27. The State Government is requested to inform this Commission about the action taken on the basis of the recommendation as stated in para 25(i) within a period of two months from the date of communication.

  
(Shri S. N. Roy )  
Member

  
( Justice N. C. Sil )  
Member

  
(Justice Asok Kumar Ganguly)  
Chairperson

Dated Kolkata, the 15<sup>th</sup> July, 2013.



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