



WEST BENGAL HUMAN RIGHTS COMMISSION

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Ref. No. 972/WBHRC/COM/165/14-15

Date: 25.2.15

Recommendations No. 20,21,22,23 & 24/14-15/WBHRC/COM/165/14-15

From: Shri Laima Chozah, IAS
Secretary & CEO

To: The Chief Secretary,
Government of West Bengal
NABANNA
325 Sarat Chatterjee Street
Howrah, PIN- 711 102,

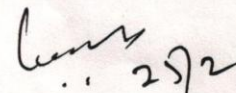
Sir,

I am directed to enclose herewith an authenticated copy of the recommendations dated 23.02.2015 made by the West Bengal Human Rights Commission alongwith the copies of complaint and enquiry report in connection with a complaint of Shri Shanwaj Kabir, S/o – Samsuddin Mondal, Vill & P.O.- Birpur, P.S. – Nakashipara, Dist- Nadia. The recommendations are self-explanatory.

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

Enclosure: As stated above.

Yours faithfully


Secretary & CEO

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.165/WHRC/Com/2014-15

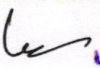
Present

1. **Shri Naparajit Mukherjee** - **Chairperson**
2. **Shri Mani Shanker Dwivedy** - **Member**

A complaint was received by West Bengal Human Rights Commission from one Shanwaj Kabir, S/o.Samsuddin Mondal, Vill. & P.O.Birpur, P.S.Nakashipara, Dist-Nadia on May 6, 2014 alleging illegal detention of Alamgir Kabir @Rintu, s/o. Samsuddin Mondal of Vill.&P.O.Birpur, P.S.Nakashipara by S.I. Raja Sarkar, Officer-in-Charge of Nakashipara Police Station.

2. In this petition the complainant, Shanwaj Kabir alleged that on 21-4-2014 around 2300 hrs. S.I. Raja Sarkar, O.C., Nakashipara P.S. along with force raided his house identified Alamgir Kabir and took him into their custody. The complainant contacted the O.C. at the spot and wanted to know reasons for arrest of Alamgir Kabir @Rintu. The O.C. maintained silence and did not issue any warrant memo or any inspection memo in regard to arrest of his brother Alamgir Kabir @ Rintu despite the request of the complainant. Alamgir Kabir @Rintu was placed in police lockup. On 22-4-2014 morning the complainant along with his family members visited Nakashipara P.S. and met the officers and requested them to inform the reasons behind Alamgir's arrest. The officers of Nakashipara P.S. denied any knowledge of arrest but the complainant came to know that the arrest was as a result of influence of some important persons. Complainant further

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Laima Chozah, I.A.S.
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alleged that till 1400 hrs of 22-4-2014 Alamgir Kabir @Rintu was not forwarded to the Court. He, therefore, prayed before the Human Rights Commission for justice etc.

3. The Commission took due cognizance of this petition and called for an enquiry report from Supdt. of Police, Nadia by 25-6-2014. The S.P., Nadia duly enquired into the matter through Dy.S.P.(D&T), Shri S.M. Azim and the report was received by the Commission on December 5, 2014.

4. Shri S.M. Azim, Dy.SP.(D&T) Nadia in his report stated that the petitioner and other relatives were identified and was (petitioner) examined along with Md. Ali Murtaja, s/o. Lt. Sk.Niyamatulla of Vill.Debkundu, P.S.Beldanga, Dist-Murshidabad, Yesnabi Mondal, s/o. Lt.Aulad Ali Mondal of Gopi Pur., P.S.Nakashipara and near relatives and witnesses and the petitioner, Shanwaj Kabir. According to the report of the Dy.S.P., the petitioner, Shanwaj Kabir alleged that S.I. Raja Sarkar, O.C. of Nakashipara P.S. had taken Alamgir Kabir into his custody during raid at about 2300 hrs. on 21-4-2014 from the house of Samsuddin Mondal. No arrest memo or inspection memo was prepared by O.C. and handed over to near relatives of Alamgir. On 22-4-2014 at 1500 hrs. Alamgir Kabir, the arrested person, was let off from Nakashipara P.S. custody after compromise on a land dispute which was done in presence of S.I. Animesh Dey, the second officer of Nakashipara P.S. and relatives of Alamgir Kabir signed it (compromise paper) in presence of other villagers of Birpur. Alamgir Kabir alleged that he and his relatives were forced to sign such compromise papers. The report of Dy.S.P. further stated that an entry in General Diary of Nakashipara P.S. between 21-4-2014 and 22-4-2014 it was observed that no information regarding registration of case or release of Alamgir Kabir was mentioned or diarised. The report further states that a petition was lodged by one Kalu Sk., s/o/ Lt.

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

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Churman Sk. of Birpur about 15 days prior to this incident regarding a land dispute between them and Samsuddin Mondal. However, on the complaint of Kalu Sk. against Samsuddin Mondal no criminal case was initiated at Nakashipara P.S. The report further stated that the O.C., S.I. Raja Sarkar left Karimpur P.S. on 22-4-2014 for election duty in Murshidabd Parliamentary Constituency Election 2014 and S.I. Animesh Dey, second officer was in-Charge of the Police Station during the intervening period. The report of Dy.S.P. further stated that a Writ Petition has been filed in Hon'ble High Court, Calcutta and S.P., Nadia has started a departmental proceeding against S.I. Raja Sarkar, O.C. of Nakashipara P.S.

5. On perusal of this report and original petition of Shanwaj Mondal, the full Commission decided on 27-1-2015 to hear S.I. Raja Sarkar, O.C. of Nakashipara P.S. u/S 16 of the Protection of Human Rights Act on 12.2.2015. However, on 10-2-2015 a petition was submitted to the Commission by S.I. Raja Sarkar to the effect that Additional Sessions Judge, Second Court, Krishnanagar, Nadia has ordered him to appear in person in his Court on 12-2-2015 on account of which he is unable to present himself for hearing before the Commission and requested for a further date. Accordingly, Commission decided to defer the hearing and hold it on 17-2-2015.

6. On 17-2-2015 S.I. Raja Sarkar duly appeared before the Commission and gave his statement. He stated that he is currently posted as O.C. of Nakashipara Police Station and on 21-4-2014 he was holding charge of O.C. Nakashipara P.S. He admitted that on 21-4-2014 at about 2300 hrs. he was on mobile patrolling and remembered that one complaint was lodged about land dispute against Samsuddin Mondal and his sons by Kalu Sk. at Nakashipara P.S. He admitted that on 21-4-2014 at about 2300hrs. he went to the house

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

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of Samsuddin Mondal and brought his son Alamgir Kabir to Police Station as Samsuddin Mondal was sick. This was in connection with the land dispute complaint of Kalu Sk. The S.I. admitted that no/arrest or inspection memo was prepared into the matter of bringing Alamgir Kabir from his house as it was a matter of land dispute and he had not arrested Alamgir Kabir but simply brought him to P.S. for compromise. S.I. Raja Sarkar stated that on 22-4-2014 he was not at Nakashipara P.S. but he was performing election duty as assigned to him in Karimpur Constituency. S.I. Raja Sarkar stated that Alamgir Kabir was released from P.S. on 22-4-2014 at about 1500hrs. after compromise of land dispute by second officer S.I. Animesh Dey. S.I. Animesh Dey informed S.I. Raja Sarkar over mobile phone that a compromise has been affected between the parties. Accordingly, Alamgir Kabir was let off from P.S. No criminal case was registered at the P.S. regarding land dispute. S.I. Raja Sarkar further stated that he wanted to settle land dispute for which he had called Samsuddin Mondal to the P.S. but the latter did not turn up at P.S. on which he went to the house of Samsuddin Mondal at night and brought his son Alamgir Kabir to P.S. for settlement with Kalu Sk. S.I. Raja Sarkar further stated that Shri Sabhyasachi Raman Mishra, IPS the then S.P. of Nadia has initiated a departmental proceeding against him over this issue and the matter was pending enquiry.

Findings :

The Commission carefully went through the petition of Shanwaj Kabir, s/o. Samsuddin Mondal, the fact finding report of Shri S.M. Azim, Dy.S.P. as submitted by S.P., Nadia and submission of S.I. Raja Sarkar, O.C. of Nakashipara P.S. The Commission is of the view that there has been a gross violation of Human Rights of Alamgir Kabir @Rintu as alleged in the petition it has been duly substantiated by the enquiry report of Shri S.M.

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Azim, Dy.S.P. and the statement of S.I. Raja Sarkar himself. The dispute regarding land of Kalu Sk. was reported to the P.S. but the P.S. did not start any criminal case. On the contrary on the night of 21-4-2014 at about 2300 hrs. i.e. in the dead of night the O.C. himself went to the house Samsuddin Mondal, took his son into custody and brought him to P.S. without any arrest memo or inspection memo or observing any formality as demanded for u/S 41 of the Cr.P.C. The victim, Alamgir Kabir was detained in the P.S. upto 1500 hrs. of 22-4-2014 and following forcibly signing a compromise paper with Kalu Sk. he was released. There is no documentation in the P.S. about arrest or release of the victim. Such gross irresponsible activities of the local police led to illegal detention at the P.S. of an innocent person and gross violation of his Human Rights. It is, however, heartening to know that the S.P., Nadia took prompt action and has initiated departmental proceedings which is pending enquiry and the same should be expedited.

Recommendations :

The Commission in view of above findings make following recommendations :

- i. The departmental proceeding initiated by Supdt. of Police against S.I.Raja Sarkar should be completed at the earliest and the result informed to the Commission.
- ii. A sum of Rs.5000/- (Rupees five thousand) only may be deducted from the salary of the S.I. Raja Sarkar and paid as compensation to Alamgir Kabir @Rintu, s/o. Lt.Samsuddin Mondal, Vill. & P.O.Birpur, P.S.Nakashipara, Dist-Nadia and the same be informed to the Commission.

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iii. The Commission appreciates the fact finding report of Shri S.M. Azim, Dy.S.P.(D&T), Nadia and requests that the same may be published by D.G.P., West Bengal in West Bengal Police Gazette.

iv. The Commission also appreciates the initiative taken by Shri Sabhyasachi Raman Mishra, IPS, Supdt. of Police, Nadia in taking firm departmental action against S.I. Raja Sarkar.

v. The Commission request the Home Department that a message may please be sent to all the O.C. of Police Stations through Director General of Police that such illegal acts of detention should not be done which led to gross violation of Human Rights.

7. The action taken report on the recommendations may please be intimated to the Commission within a period of four months.

N. Mukherjee
23/2/2015
(N. Mukherjee)
Acting Chairperson

M.S. Dwivedy
23/2/15
(M.S. Dwivedy)
Member

Encl : Copy of petition and copy of report of
S.M. Azim, D.S.P.(D&T), Nadia

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Lc
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West Bengal Human Rights Commission
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