



WEST BENGAL HUMAN RIGHTS COMMISSION

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Ref. No. *1024/WBHRC/COM/529/2014-15*

Date: *12.09.15*

Recommendations No. 25,26 & 27/14-15/WBHRC/COM/529/14-15

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 10.03.2015 made by the West Bengal Human Rights Commission alongwith the copies of complaint and enquiry report in connection with a complaint of Shri Abdul Gaffar, Vill- Gazinagar. P.O.-Dhulian, P.S.- Shamsherganj, Dist- Murshidabad. 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

Laima Chozah
11/09/15

Secretary & CEO

o/c

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.529/WBHRC/Com/2014-15

Present

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

A petition was received from Abdul Gaffar, Vill.Gazinagar, P.O.Dhuliyon, P.S.Samserganj, Dist-Murshidabad on 02.9.2014 by the West Bengal Human Rights Commission to the effect that he prayed for taking action against atrocities of Samserganj P.S. This petition was printed in the letter head of Jangipur Loksabha Trinamool Yuva and the petitioner claimed that he is an observer of Trinamool Yuva. This petition enclosed a copy of medical report issued in the name of petitioner by Medical Officer of Anupnagar B.P.H.C. dt.15-8-2014. A receipt copy of Samserganj P.S. GDE No.456/14 dt.10-8-2014 and a copy of petition of one Jayeda Bibi addressed to O.C., Samserganj P.S., Dist-Murshidabad dt.10-8-2014.

2. The brief facts of the petition of Abdul Gaffar is as follows. Abdul Gaffar, s/o. Md. Jalauddin, Vill.Gazinagar, P.O.Dhuliyon, P.S.Samserganj, Dist – Murshidabad stated that a dispute for possession of a room attached to dwelling house of one Jayeda Bibi wife of Asraful Hoque of Vill.Housenagar, P.O.Tinpakuria, P.S.Samserganj, Dist-Murshidabad and Saidul Islam, s/o. Based Ali, Vill.Khodabandpur, P.O.Arjunpur, P.S.Farakka, Dist-Murshidabad was going on for

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some time. On 09.8.2014 around 9 a.m. an altercation took place between above mentioned two persons which led to a clash. Jayeda Bibi lodged a written complaint with Sasmserganj P.S. which was diarised vide G.D.E. No.456/14 dt.10/8/2014 but no enquiry was made and Jayeda Bibi met the O.C. and requested him to conduct the enquiry but the latter did not give any importance. Jayeda Bibi requested Abdul Gaffar, being an observer of Trinamool Yuva under 9, Jangipur Loksabha Constituency who took up the matter and met O.C., Samserganj P.S. and requested the latter to conduct enquiry immediately. On request of Abdul Gaffar, O.C. entrusted the matter to one I.O. Probir Das for investigation and this Probir Babu went to the spot around 9.30 p.m. on 12/8/2014. He separately took Jayaeda Bibi to a place and requested her to pay Rs.20,000/- and when Jaydea Bibi refused she was intimidated by Probir Babu. On 12/8/14 around 10 p.m. Probir Babu called Abdul Gaffar from his mobile no.9734850222 and as instructed by the I.O. Abdul Gaffar along with Md. Ajmal of Duliyan who is another observer of Trinamool Yuva met O.C., Samserganj twice at the P.S. but the latter was not available. On 14/8/2014 around 8 p.m. the two met I.O. Probir Babu when the latter asked for Rs.3000/-. When O.C., Samserganj P.S. came out of his room then the two officers beat Abdul Gaffar as well as Md. Ajmal mercilessly, dragged them out of the place and threw them on the road. They also told that they would break legs and hands and suggested to bring senior political leaders, if they could. Subsequently, as Abdul Gaffar suffered pain he went to Anupnagar BPHC for treatment a copy of which is enclosed. Abdul Gaffar thus, requested for relief by way of action against officers of Samserganj P.S.

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3. West Bengal Human Rights Commission took due cognizance and requested D.I.G., Murshidabad Range for an enquiry and report by 12/10/2014. The matter was duly enquired into by Shri Robin Murmu, Dy.S.P., Border, Murshidabad and forwarded through Supdt. of Police, Murshidabad and D.I.G., Murshidabad Range to the Human Rights Commission. The D.S.P. in his report stated that he enquired into the matter locally, contacted the complainant, Abdul Gaffar and also met Md. Dilwar Hossain, Azmal Seikh and examined them thoroughly. He also enquired from the lady, namely, Jayeda Bibi, w/o. Asraful Hoque who informed that she had given her house on rent for purpose of business @ Rs.900/- p.m. on contract basis for four years to one Md. Saidul Islam. It was agreed upon that after four years the contract/agreement would come to an end and vacant possession of the house would be delivered. But Md. Saidul Islam refused to do so and on 09-8-2014 threatened as well as assaulted Jayeda Bibi. On 10.8.2014 Jayeda Bibi lodged a complaint at Samserganj P.S. vide G.D.E. No.456/14 dt.10/8/2014 and A.S.I. Probir Das (wrongly mentioned as S.I. in the enquiry report, actually he is A.S.I.) was entrusted with the task of enquiry into the matter by O.C. of the P.S. Accordingly, ASI Probir Das enquired and submitted Prosecution Report No.928/14 dt.12/8/14 against Saidul Islam. The said P.R. was also submitted against Jayeda Bibi u/S 107/116 Cr.P.C. The report of Dy.S.P. further states that Saidul Islam was not arrested by police. At this, the petitioner, Abdul Gaffar became furious, came to the Police Station along with Dilwar Hossain of T.M.C. and made hue and cry and threatened the P.S. staff. At this, ASI, Probir Das being insulted drove them out and pushed them out from the P.S. by the staff of P.S. for his (Abdul Gaffar) rough behaviour. Abdul Gaffar (a party member of T.M.C.) felt pain on his neck and went

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to Anupnagar BPHC on 15/8/2014 at 9 p.m. for treatment. Dr. Indranil Naskar of B.P.H.C. treated him and prescribed medicines. This is the main version of the enquiry report conducted by Shri Robin Murmu, D.S.P., Border, Dist- Murshidabad.

4. On examination of the enquiry report submitted by the Dy.S.P., the Commission came to a conclusion that ASI, Probir Das had physically assaulted and pushed the complainant, Abdul Gaffar and Dilwar Hossain when they went to P.S. for reporting that the police did not take appropriate action on the complaint of Jayeda Bibi. It appeared to the Commission that there was not only prima facie negligence on the part of ASI Probir Das for taking prompt action on a complaint but that of physical assault of Abdul Gaffar, a TMC party member. The Commission thus, decided to consider summoning ASI, Probir Das to the Commission for examination u/s 16 of the Protection of Human Rights Act.

5. The ASI, Probir Das duly appeared before the Commission on 26/2/2015 and he was examined and his statement under his signature was recorded. ASI, Probir Das stated that he was currently posted in Sagardighi P.S., Dist-Murshidabad and in the month of August, 2014 he was an ASI of Samserganj P.S. One Jayeda Bibi, w/o. Asraful Hoque lodged complaint with police against Saidul Islam. It was recorded under G.D.E. No.456/14 dt.10.8.2014. Jayeda Bibi had rented out one premise to Saidul Islam for a period of four years but after expiry of the said period Saidul Islam did not hand over the vacant possession of the premise nor had he paid any rent. On 09.8.2014 an altercation took place between Jayeda Bibi and Saidul Islam. Jayeda Bibi lodged complaint with Samserganj P.S. that she had been assaulted and threatened by Md. Saidul Islam. The matter was recorded under G.D.E. No.456/14

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and entrusted to ASI, Probir Das for enquiry by O.C. ASI stated that he had not demanded Rs.20,000/- from Jayeda Bibi and also admitted that he had called Abdul Gaffar on 12.8.2014 over his mobile phone to Police Station around 10 p.m. The witness clarified that on 10.8.2014 Jayeda Bibi came to P.S. along with Abdul Gaffar for lodging complaint which was recorded under G.D.E. No.456/14 dt.10.8.2014. After recording G.D. entry, Abdul Gaffar insisted that the police should immediately go to the place of occurrence and conduct enquiry. He was making such request repeatedly for which the ASI became suspicious that Abdul Gaffar might have taken some money from Jayeda Bibi. When the ASI went to the house of Jayeda Bibi he enquired from Jayeda Bibi as to how much money she had paid to Abdul Gaffar in the name of police. Then she disclosed that she had paid Rs.3000/- (Rupees three thousand) to Abdul Gaffar. Abdul Gaffar was called to the PS. by ASI Probir Das under instruction of O.C., S.I. Subrata Mazumder. Abdul Gaffar came to the Police Station on a later date and threatened the ASI, Probir Das as to why Saidul Islam was not arrested. ASI claimed in his statement that Abdul Gaffar also threatened to make "his wife a widow" and he would "kill the ASI." Being infuriated by such threats of Abdul Gaffar, the ASI touched the back and asked Abdul Gaffar to leave the P.S. ASI, Probir Das further stated that he had not made any G.D. entry regarding such threats allegedly issued by Abdul Gaffar nor has taken any legal steps against him but narrated the incident to the OC. The O.C. Subrata Mazumder also did not ask to take any action against Abdul Gaffar. The ASI stated that he submitted P.R. against both Jayeda Bibi as well as Md. Saidul Islam but did not arrest either of them. However, in the Prosecution Report attached in column no.9 the person operating computer in the P.S. had wrongly recorded "arrest memo, bail

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bond" attached herewith. The ASI did not rectify the mistake by putting his signature on the P.R. on 12/8/2014. The ASI claimed he had not pushed Abdul Gaffar out of the P.S. and has not enquired into the matter of medical treatment of Abdul Gaffar in Anupnagar BPHC on 15/8/2014.

Findings :

The Commission carefully went through the petition submitted by Abdul Gaffar and Jayeda Bibi in which the medical report was also attached. The Commission examined the enquiry report of Shri Robin Murmu, D.S.P., Border, Murshidabad and also the statement of Shri Probir Das, ASI of Police recorded on 26/2/2015 at the Commission. The Commission is of the view that a dispute over vacation of premises of Jayeda Bibi was going on between herself and Md. Saidul Islam as there was contract between the two for a period of four years following which the latter was supposed to vacate the premises which he did not do. There was an altercation between two of which both parties were involved. Subsequently, Jayeda Bibi lodged G.D. entry no.456/14 dt.10.8.2014 at the P.S. The police was reluctant initially to conduct enquiry but on intervention of Abdul Gaffar who is an observer of T.M.C. went to the place of occurrence for enquiry. The allegation about ASI Probir Das of demanding Rs.20,000/- from Jayeda Bibi could not be substantiated but there is a claim made by ASI Probir Das that Jayeda Bibi had allegedly given Rs.3000/- to Abdul Gaffar for pursuing her case with the police. This goes to show that there was definite reluctance on the part of the police to conduct a fair enquiry on the G.D.E. of Jayeda Bibi for which she had to take the assistance of political persons as the police instead of conducting enquiry was more interested in ascertaining monetary transaction. Later on Prosecution Report u/s 107/116

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Cr.P.C. was submitted by ASI Probir Das dt.12/8/2014 making Jayeda Bibi and Saidul Islam both accused and requesting the S.D.E.M. to bound them down. However, this Prosecution Report was submitted in a very casual manner as the ASI himself admitted that in column no.9 it has been mentioned that arrest memo, bail bond attached whereas in column no.4 of the same P.R. it is mentioned that no arrest has been made. ASI tried to pass on the blame to the computer operator but the same is not acceptable as both the ASI and O.C. have signed P.R. while submitting it to the Court of Ld. S.D.E.M. Such callousness on the part of ASI goes to show the inefficiency and incompetence of the police functioning.

On examining the other relevant documents including enquiry report of the Dy.S.P., medical report as well as the statement of ASI Probir Das, the Commission is of the view that initially the Police Station was reluctant to take any action on G.D.E. of Jayeda Bibi but on insistence of Abdul Gaffar who appears to be a influential person, ASI Probir Das enquired into the matter in a very casual way and also submitted a P.R. in a very indifferent manner making both the parties as accused and not arresting Saidul Islam. This caused lot of consternation to Abdul Gaffer who was pleading the case of Jayeda Bibi with the police and when he came to the P.S. he might have used some strong words. The police apparently, physically pushed Abdul Gaffar out of P.S. though they denied. The medical report attached with the petition goes to show that Abdul Gaffar suffered pain on right side of occipital region for which he was given pain killers like Ibruphen etc. Further, ASI Probir Das on his own statement admitted that he neither recorded any G.D. nor took any legal action for the alleged threats and abusive language used by Abdul

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Gaffar against him in the P.S. He could not give a satisfactory answer why did not do so while he admitted that the matter was discussed with the O.C. but apparently, the O.C. also did not insist on such legal action. This only goes to show that there was definite fault on the part of the police in form of assaulting Abdul Gaffar for which they did not aggravate the matter by initiating legal action. The Commission is of the opinion that there was negligence on the part of the police in conducting enquiry about the allegations of Jayeda Bibi against Saidul Islam and when Abdul Gaffar intervened in the matter he was physically assaulted and driven out of the P.S. as the latter had spoken strong words about police inaction in the Police Station.

Recommendation :

The Commission makes following recommendations :

- i. A departmental proceeding may be initiated against ASI Probir Das for his misbehaviour and assaulting Abdul Gaffar in the Police Station driving him out from the P.S. when the latter came to the P.S. complaining of inaction on the part of police in conducting the enquiry.
- ii. A sum of Rs.5000/- (Rupees five thousand) only may be deducted from the salary of ASI ProbirDas and paid as compensation to Abdul Gaffar for physical assault on him.
- iii. The D.G.P. is requested to instruct all O.C.s of Police Stations to behave properly with complainants in spite of severe difficult situation. Herein it is suggested by the Commission that training on soft-skills may be imparted to the

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Police Station staff on the issue of dealing with members of public who come to lodge complaints and air grievances against police.

iv. The Commission request that an action taken report may be submitted within a period of four months.

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N. Mukherjee 10/3/2015
(N. Mukherjee)
Acting Chairperson

M.S. Dwivedy 10/3/15
(M.S. Dwivedy)
Member

Encl : Petition of Abdul Gaffar with copy of his Medical Report,
petition of Jayeda Bibi to O.C. of Samserganj P.S.,
report of Dy.S.P. along with all enclosures.