

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.2105/WBHRC/Com/13-14

P r e s e n t

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

A report was received on 21-3-2014 from Joint Commissioner of Police (Crime), Kolkata Police to the effect that on 15-3-2014 around 21.55 hrs. one Guddu Sardar @Surya Sardar (20 years) son of Mathar Sardar, Vill-Khariberia, Uttar Gouripur, P.S.Bishnupur, Dist – South 24 Parganas was arrested in connection with Thakurpukur P.S. Case No.90 dt.15-3-2014 u/s 379/114 IPC. On pursuant to his statement a gold chain weighing about 10 grams was recovered by police. Guddu Sardar was produced before Ld. ACJM, Alipore on 16-3-2014 and remanded to police custody till 21-3-2014. Guddu Sardar was lodged in P.S. lockup around 6.30 hrs. on 16-3-2014. At about 17.45 hrs. the accused Guddu went to wash room located inside the P.S. lockup to attend call of nature. Around 18.05 hrs. the lockup duty constable called the accused Guddu Sardar since there was partial power cut in the Police Station including the lockup but failed to get any response. The duty constable entered the lockup wash room and found that Guddu Sardar was hanging from an iron ventilator net by means of torn piece of a blanket. Immediately, he raised an alarm and with the help of other police personnel

the accused was brought down by cutting the ligature and removed to Vidyasagar State General Hospital where he was declared “brought dead” around 18.35 hrs. The family members of the deceased were immediately informed of the incident. Mathor Sardar, father of the deceased and his other son Chandra Sardar identified the dead body of Guddu Sardar at the hospital. The Joint Commissioner of Police in his report further mentioned that magisterial inquest, post mortem examination and other formalities as per law were being conducted. Subsequently, on 15th May, 2014 copies of post mortem report, inquest report, FSL’s spot visit report were submitted by Joint Commissioner of Police (Crime), Kolkata to the Commission.

2. The Commission examined the post mortem report which stated that death was a result of hanging, ante mortem in nature when the Commission vide its Memo dt.11-11-2014 directed Joint Commissioner of Police (Crime), Kolkata Police to (a) fix up responsibility for negligence, (b) whether there was any CCTV coverage in the lockup? The Jt. Commissioner of Police (Crime) submitted entire report vide his Memo No.2046 dt.17-12-14 in which details of his enquiry, reply to the queries of Human Rights Commission and action taken against the police officers responsible for their alleged negligence as well as copy of Ld. Judicial Magistrate (1st Class), 4th Court, Alipore inquest report were submitted (as enclosure). In his report the Joint Commissioner of Police (Crime) mentioned that following prayer to Ld. ACJM, Alipore a judicial enquiry u/s 176 Cr.P.C. was conducted by Shri Pukar Pradhan, Ld. Judicial Magistrate (1st Class), 4th Court, Alipore. The Ld. J.M. opined that “in view of

the above stated facts and as per statement of Dr. Sujesh Biswas, who conducted post mortem of the accused Guddu Sardar and the statement of the witnesses I find that there was no such custodial torture or any external influence and foul play regarding death of accused Guddu Sardar. Although, there are some discrepancy in statement of I.O. and his negligence of not informing the relative of the arrestee after his arrest which is a mandatory requirement as per guidelines of Hon'ble Supreme Court of India." The report of Joint C.P. (Crime) further stated that departmental proceedings were initiated against S.I. Supradipmoy Mukherjee vide departmental proceeding no.28 dt.31-3-2014, ASI 15130, Dilip Kr. Barman vide D.P). No.29 dt. 31-3-2014, Constable 19665, Bharat Tudu vide D.P. No.30 dt.31-3-2014 and Constable 461 Uttam Kumar Ghosh vide D.P. No.31 dt.31-3-14. All the charged officers pleaded guilty for their negligence during the departmental proceedings hence the charges regarding negligent conduct were established. S.I. Supradipmoy Mukherjee of Thakurpukur P.S. was awarded punishment reducing one increment for a period of two years without any future effect, ASI Dilip Kr. Barman was awarded punishment withholding increment of pay for two years without effect of future service benefits. His period of suspension between 28.03.14 to 09.06.14 was confirmed. Constable Uttam Kr. Ghosh was fined Rs.1500/- . The report further stated that the lockup was under CCTV coverage excepting for the wash room where the accused Guddu Sardar hanged himself. As such, no such footage could be given to Human Rights Commission.

3. The Commission further examined the matter on 14-09-2015 and felt that disciplinary action has already been initiated by superior authorities of Kolkata Police against the officers responsible for negligence. Punishment was also awarded for their misconduct. In spite of punishment awarded to recalcitrant police officers by the Department, the Commission, in the given facts and circumstances, considers it expedient to award compensation which is yet to be settled and quantified. Therefore, the Commission decided to summon the following four police personnel (i) Shri Supradipmoy Mukherjee, Retd S.I. of Police, (ii) Shri Dilip Kr. Barman, ASI of Police, (iii) Shri Bharat Tudu, Constable and (iv) Shri Uttam Kr. Ghosh, Constable for examination u/s 16 of the Protection of Human Rights Act as their position was being prejudiced.

4. All the four police personnel appeared before the Commission on 08-10-2015 and their statements were recorded.

S.I. Supradipmoy Mukherjee admitted that following arrest of Guddu Sardar on 05-3-2014 he did not comply with provision of Section 41B and section 51A Cr.P.C. for which departmental proceedings was initiated and he was awarded punishment stopping two increments without any future effect. He paid the amount of two years increment to the Department as he was to retire from service on 31-3-15.

ASI Dilip Kr. Barman, currently attached to Haridevpur P.S. stated that on 15.3.14 he was on Seresta duty at Thakurpur P.S. when Guddu

Sardar was arrested. On 16.3.14 Guddu Sardar was produced before the Ld. Court and remanded to police custody. He was brought to Thakurpukur P.S. around 4.30 p.m. Accused Guddu Sardar hanged himself inside the police lockup on 16.3.14. A departmental proceeding was initiated against him and annual increment was withheld for two years without affecting future pay. He was suspended from 28-3-14 to 09-6-14 which has been confirmed.

Constable 461 Uttam Kr. Ghosh stated that he was posted at Thakurpukur P.S. On 16.3.14 he was on duty when Guddu Sardar committed suicide inside police lockup. A departmental proceeding was drawn up and he was fined Rs.1500/-. Constable 19665 Bharat Tudu, currently posted in Thakurpukur P.S. stated that on 16.3.14 he was there on lockup duty when Guddu Sardar hanged himself. A departmental proceeding was drawn up and annual increment was stopped for a period of three years.

Findings of the Commission :

The Commission meticulously went through the report submitted by Jt. C.P.(Crime), the FSL inspection report, the enquiry report of Ld. Judicial Magistrate, 1st Class as well as the departmental actions taken by Kolkata Police authorities and awarding of punishment to the negligent police officers. The Commission has come to the conclusion that there was definite negligence on the part of the police officers-in-charge of lockup and this incident could have been prevented. Further provisions of section 41B and section 51A of Cr.P.C. were not complied with by the arresting officer Sub

Inspector Supradipmoy Mukherjee. In fact, the Commission is constrained to observe that there are instances of police officers still not following this mandatory provision of law prescribed u/s 41B and u/s 51A Cr.P.C.

Recommendation :

- i. Since the negligence of (i) Shri Supradipmoy Mukherjee, Retd S.I. of Police, (ii) Shri Dilip Kr. Barman, ASI of Police, (iii) Shri Bharat Tudu, Constable and (iv) Shri Uttam Kr. Ghosh, Constable has been proved as a result of departmental enquiry and other enquiries associated with the death of Guddu Sardar as well as failure to comply with the provisions of section 41B and section 51A of the Cr.P.C., the Commission recommends that a compensation of Rs.50,000/- (Rupees fifty thousand) only be paid to the next of kin of deceased Guddu Sardar.
- ii. From the photograph submitted by the FSL spot enquiry report the condition of the wash-room of lockup appears to be very poor and there are projecting iron rods etc. with the ventilator giving ample opportunity to accused persons either to escape through ventilator or commit suicide. The Commission suggests the Commissioner of Police, Kolkata Police to examine replacing ventilators in wash rooms by exhaust fans located high up on roof which will obviate such possibilities.

iii. Lastly, The Commission appreciates the action taken by the Commissioner of Police, Kolkata in initiating D.P.s and awarding punishment to the negligent officers. The same may please be communicated to him for publication in Kolkata Police Gazette.

Sd/-

(N. Mukherjee)
Acting Chairperson

Sd/-

(M. S. Dwivedy)
Member

Date: 15/10/2015