



WEST BENGAL HUMAN RIGHTS COMMISSION

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Ref. No. 232/WBHRC/COM/693/14-15

Date: 10.6.16

Recommendation No 6,7,8,9,10,11 & 12/16-17/WBHRC/COM/693/14-15

From: Shri Laima Chozah IAS,
Secretary & CEO.

To: The Chief Secretary
Government of West Bengal
NABANNA
325, Sarat Chatterjee Road
Mandirtala, P.O.- Shibpur,
Howrah-711102


Sir,

I am directed to send herewith an authenticated copy of the Recommendations dated 20.05.2016 in connection with an intimation from S.M.M. Home, Liluah, Howrah regarding missing of Laiju Akhtar made by the West Bengal Human Rights Commission alongwith the copies of the enclosures for taking necessary action. 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.

Enclosures: As stated above.

Yours faithfully,


Secretary & CEO.

WEST BENGAL HUMAN RIGHTS COMMISSION
Purta Bhavan, 2nd Floor, Salt Lake, Kolkata – 700 091.

File No. 693/WBHRC/COM/2014-15

Present

- | | |
|-----------------------------|--------------------|
| 1. Shri Naparajit Mukherjee | Acting Chairperson |
| 2. Shri M. S. Dwivedy | Member |


Brief Facts of the Case:

A letter vide Memo No. 637/1(5)/SH dated 27.10.14 was received by the West Bengal Human rights Commission from the Superintendent of S.M.M. Home, Liluah, Howrah intimating escape of one Laiju Akhtar(19 years), daughter of Md. Badsa Sk of Kathaltala, PO&PS- Morolgunj, Dist. Bagerhat, Bangladesh from T.L.J. Hospital, Howrah on 27.10.14 at around 12:45 P.M. West Bengal Human Rights Commission took cognizance of the matter and directed the Commissioner of Police, Howrah Police Commissionerate to cause an enquiry and submit a report to this Commission within four weeks. Similar report was called for from the Director, Department of Social Welfare, Women and Child Development, West Bengal for submission of a detailed report within four weeks

2. The Commissioner of Police, Howrah Police Commissionerate forwarded an enquiry report submitted to him on the above mentioned subject matter by the Assistant Commissioner of Police, Enforcement Branch, Howrah vide Memo No. 3902-E dated 11.12.2015 which was received by the Commission on 14.12.15.

3. In the report, the Assistant Commissioner mentioned that Laiju Akhtar(19 years) was a resident of Vill. Kanthaltala, PO&PS- Morolganj, Dist. Bagerhat, Bangladesh was in safe

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custody of S.M.M. Home, Liluah since 24.06.2014 as per orders of Ld. ACJM Basirhat in connection with Basirhat PS Case No. 836/14 dated 24.06.14 under Sections 14(A)(b) Foreigners Act. Laiju Akhtar was pregnant and under treatment of T.L.J. Hospital with effect from 09.10.14. On 27.10.14 at around 12:45 hrs she absconded from the custody of T.L.J. Hospital. Later, the Home Authority informed the incident at Belur Police Station vide their Memo No. 637/SH dated 27.10.14. The incident was diarized vide GDE No. 1448 dated 28.10.14 and an M.P. Case No. 110/14 dated 28.10.14 was started at Belur P.S. Enquiry was duly conducted on the above mentioned case and the protocol was also followed and the Enquiring Officer sent a prayer to CID, West Bengal for wide circulation of the missing person in CIG- CID, West Bengal and opened a file vide No. 60-2014/4/F(40) dated 19.12.14 on the subject. The O.C. Missing Person Bureau of CID also informed the Information and Cultural Department, Govt. of West Bengal to make a publication about missing inmate Laiju Akhtar in News paper 'Sambad Pratidin' and 'Aajkal Patrika' but no fruitful result accrued.

4. During enquiry, the Enquiry Officer visited Belur PS and consulted PS records and learnt that on receipt of any requisition from S.M.M. Home, Liluah, Belur PS makes a GD Entry and then posts one or two Lady Constables for guarding the inmate at hospital. However, on consultation of Belur PS record it was found that no such requisition was submitted by S.M.M. Home for guarding the escaped Laiju Akhtar. I.O. further intimated on checking records of S.M.M. Home that no such requisition for guarding Laiju Akhtar was received. The Superintendent of S.M.M. Home, however, contended that she verbally intimated Belur P.S. and further claimed that she has sent a requisition to Belur PS but the receipted copy of the said requisition was misplaced and the same could not be traced. The Assistant Commissioner of


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Police, in his report observed that there has been negligent conduct on the part of the S.M.M. Home on the subject matter.

5. The S.M.M. Home Authority forwarded the letter to the Director of Social Welfare on 27.10.2014 vide their Memo No. 637/SH dated 27.10.14 a copy of which was sent to the Human Rights Commission, Principal Secretary, Department of Child Development, D.M., Howrah, Ld. ACJM, Basirhat and the S.D.O, Howrah. In this letter Superintendent of S.M.M. Home mentioned about absconding of Laiju Akhtar on 27.10.14 at around 12:45 hrs from T.L.J. Hospital. It is further mentioned in that letter that at the time of admission to S.M.M. Home, Laiju Akhtar was pregnant and thereafter treated at T.L.J. Hospital. She was sent to the hospital on 27.08.14. for routine check up and was directed to come to the hospital on 23.10.14 but due to some emergency problem she was taken to the hospital on 09.10.14 and was admitted. In this letter it was claimed by the Superintendent of the S.M.M. Home that post admission, Belur PS was informed vide their Memo No. 162/SH/RH dated 09.10.14 requesting for posting guard along with lady guard for guarding the patients and one attendant, namely, Laxmi Bhattacharjee, who was an inmate of the Home, was posted at the hospital for guarding the inmate(patient)
6. The Commission vide its order dated 04.02.15 directed the Commissioner of Police, Howrah to start a specific case in the local PS and report about status of the progress of the case by 10.03.2015. The Commissioner of Police, Howrah, vide Memo No. 984/PG/WBHRC/CP(H) dated 10.03.15 informed that the missing person could not be recovered as yet on which the Commission passed an order dated 27.04.15 to submit a further status report by 10.06.15. Vide its Memo No. 2563/PG/WBHRC/CP(H) dated 24.06.15, Howrah Police Commissioner informed that victim girl could not be traced and the investigation was proceeding and the CID, West Bengal has opened a file in this connection.

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7. The Commission vide its order dated 26.08.15 called upon Commissioner of Police, Howrah to submit a further status report of investigation by 15.10.15 and also directed the Commissioner, Howrah Police Commissionerate to enquire and report as to how the victim escaped from the hospital and whether there was any negligence on the part of the guarding personnel. Vide its Memo No. 3902-E dated 11.12.15 the Commissioner of Police, Howrah forwarded the enquiry report on the subject matter conducted by the Dy. Commissioner of Police(Traffic) in which it was intimated that there was no requisition sent by the S.M.M. Home for guarding Laiju Akhtar, although it was claimed by the Home Authority that a requisition was sent and when asked to show the receipted copy, the Home Authority failed to do so. In this enquiry report, the Commissioner of Police, Howrah also enclosed a letter of the Officer-in-charge, Belur PS dated 28.10.14 written to the Superintendent, S.M.M. Home, Liluah in which he claimed that Memo No. 637/SH/RH dated 27.10.14 of Superintendent, Liluah S.M.M. Home was received by the Belur PS on 28.10.14 at around 1420 hrs in which it was claimed that a female inmate Laiju Akhtar was admitted at T.L.J. Hospital on 09.10.14 and that have had sent a requisition to Belur PS vide your Memo No. 162/SH/RH dated 09.10.14 for posting police guards. The O.C. claimed that on perusal of PS records, no such letter of intimation regarding admission of Laiju Akhtar was received by Belur PS thus he requested the Superintendent, S.M.M. Home to produce a copy of this letter by 29.10.14 positively. Along with this enquiry report a Xerox copy of communication sent by the Superintendent, S.M.M. Home Liluah to Assistant Commissioner of Police, Enforcement Branch, Howrah Police Commissionerate was enclosed in which the Superintendent, S.M.M. Home claimed that vide their Memo No. 162/SH/RH dated 09.10.14 they had informed Belur PS for posting police guard for safety and security of the inmate along with lady attendant of S.M.M. Home. The Superintendent, S.M.M.

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Home admitted that due to official mistake such letter was misplaced so she was unable to submit the copy of this letter. The Commissioner of Police, Howrah specifically submitted that there appears to have been negligence on the part of the S.M.M. Home, Liluah as they did not send any communication to Belur PS for guarding the inmate Laiju Akhtar.

The Commission feels to put on record that no communication or report into the entire matter has been received by the Commission from the Director of Social Welfare Department despite sending notice to him.

Independent Enquiry undertaken by the Investigating Wing of the Commission:

8. The Commission decided to conduct an enquiry through its Investigating Wing vide Commission's order dated 09.03.16 since the S.M.M. Home Authorities had claimed that they had requested Belur PS to post police guards at T.L.J. Hospital when Laiju Akhtar was admitted. However, Belur PS authorities are disputing such claim on the ground that no correspondence was received from the S.M.M. Home for posting of such police guards.
9. In view of this dispute between police authority and the S.M.M. Home authority, the Commission thought it prudent that an independent agency viz; the Investigating Wing of the Commission should undertake a thorough enquiry to come to the conclusion of this dispute.
10. Accordingly, Investigating Wing informed that as per report, OC, Belur PS, three Lady Constables, namely, LC 3954 Nilima Chakraborty, LC-1173 Sulekha Singh and LC-3223 S. Das were posted from Belur PS vide CC No. 3220/14 at T.L.J. Hospital on 27.10.14 the date when Laiju Akhtar escaped from the custody of the hospital. Certified copy of the command certificate was also obtained from Belur PS which refers to GD No. 1162/14 of Belur PS.
11. Furthermore, the Dy.S.P. Investigating Wing of the Commission in his further enquiry report dated 28.03.16 informed the Commission that there was a doubt whether Memo No.

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162/SH/RH dated 09.10.14 was at all issued from S.M.M. Home to Belur PS with respect to guarding the inmate Laiju Akhtar admitted to T.L.J. Hospital, Liluah. Contradictorily the same Memo No. was used with date 06.10.14 with respect to other inmates of S.M.M. Home admitted to T.L.J. Hospital.

12. On examination Smt. Santana Saha, Superintendent and Smt. Kalpana Saha, Asst. Superintendent of S.M.M. Home it surfaced that Smt. Kalpana Saha, Asst. Superintendent had sent a letter to the O.C. Belur PS vide Memo No. 162/SH/RH dated 06.10.14 for guarding of five inmates of her Home admitted to T.L.J. Hospital on 06.10.14. Accordingly, Belur PS arranged guarding of five inmates, namely, Marjina Begum, Putul Begum, Tanima Akhtar, Samsun Nahar and Kashmiri – all BD Nationals.

13. Smt. Kalpana Saha also admitted that she wrote Memo No. 162/SH/RH dated 09.10.14 and in that said letter requested OC, Belur PS for arranging guard of BD National Laiju Akhtar at T.L.J. Hospital, Liluah but she could not produce any office copy of the letter or any supporting documents made in respect to her statement. A copy of the despatch register was collected wherein memo No. 162/SH/RH was given two dates namely, 06.10.14 and 09.10.14. Also there is an overwriting on the date and it appears that “6” has been overwritten as “9”. The Home Authority failed to produce any receipt copy of the Belur PS in respect of letter written by them for guarding the inmate Laiju Akhtar.

14. The report of Dy. S.P. of WBHRC concluded by stating that it was amply clear that the Home Authority did not send any letter to Belur PS in respect of guarding of Laiju Akhtar. This report also included the statement of Smt. Laxmi Bhattacharjee, inmate of the Home who was sent to guard Laiju Akhtar which was recorded by the Home Authority on 27.10.14. In the statement, Laxmi Bhattacharjee claims that she was on duty on 27.10.14 at around 12:45 p.m.

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Laiju suddenly pushed her and ran away from the hospital. She raised an alarm and tried to pursue but to no avail. She also claims that 'Police Didi' was not available nearby. Subsequently, she informed about the escape of Laiju Akhtar to 'Police Didi' and also to the Home Authority. The Dy. S.P. submitted a certified copy of Memo No. 162/SH/RH dated 06.10.14 addressed to the I.C. Belur Police Station for guarding of four patients namely, Kashmira, Samsun Nahar and two others in T.L.J. Hospital.

Action Taken by the Commission:

15. The Commission then decided to examine the following persons under Section 16 of the Protection of Human Rights Act:

- (1) Smt. Santana Saha, Superintendent of S.M.M. Home, (2) Smt. Kalpana Saha, Assistant Superintendent of S.M.M. Home, (3) Dr. Biswajit Roy, the then Superintendent of T.L.J. Hospital, currently Dy. CMOH-1, Cooch Behar, (4) Smt. Laxmi Bhattacharjee, inmate of S.M.M. Home on guard duty, (5) Sri Gobinda Bhattacharya, GDA/Ward Master of T.L.J. Hospital, Liluah, (6) Lady Constable 3054 Nilima Chakraborty, (7) Lady Constable 1173 Sulekha Singha, (8) Lady Constable 3223 Sharmistha Das, (9) O.C. Belur PS Sk. Md Feroze Hossain, during the period of occurrence and currently working as I.C. Madhyamgram PS, (10) Sri Swapan Saha, Inspector-in-charge of Belur PS.

16. Smt. Santana Saha, Superintendent, S.M.M. Home, Liluah was examined on 08.03.16 and re-examined on 11.04.16. In her statement dated 08.03.16 Smt. Santana Saha stated that Laiju Akhtar was admitted to S.M.M. Home, Liluah for safe custody under orders of Ld. ACJM, Basirhat Court and that she was pregnant for which she was admitted to Tulsiram Lakshmidivi Jaiswal (TLJ) Hospital from there Laiju Akhtar absconded at about 12:45 hrs on 27.10.14.

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17. Lakshmi Bhattacharjee, an inmate, was attached to the patient round the clock and the Home used to send meals to her by some other person. Laxmi Bhattacharjee was not an employee but an inmate of the Home. Following the escape of Laiju, Laxmi Bhattacharjee was examined and her statement was recorded but she failed to submit it to the Commission nor did she send the same as an enclosure to her report to the Director of Social Welfare.

18. Superintendent, S.M.M. Home further claimed that on 09.10.14 S.I. "Panja Babu" of Belur PS was informed about the admission of Laiju Akhtar at T.L.J. Hospital and requested to deploy police guard. She also claimed to have sent requisition at Belur PS on the subject matter through some person but did not remember who delivered the requisition letter and that no receipt copy was available. She also failed to inform the Commission when actually she talked to S.I. "Panja Babu" or someone else of Belur PS. She claimed that during admission period of Laiju Akhtar she had verified her condition and treatment.

19. Superintendent, S.M.M. Home was re-examined by the Commission on 11.04.16 as certain matters which come up following independent enquiry by the Commission had to be clarified by her. In her re-examination she stated that Memo Register was being maintained in the Home and following escape of Laiju Akhtar she had gone through the Register. Memo No. 161 dated 05.10.14 has been left blank and she was also aware of the fact and the same was informed to Smt. Kalpana Saha, Asst. Superintendent of the Home who admitted that it was a mistake. She admitted that Memo No. 162 dated 09.10.14 with reference to Laiju Akhtar written just below Memo No. 162 was not desirable which was made by mistake by the Asst. Superintendent. She admitted that Memo No. 162/SH/RH dated 09.10.14 has been inserted in between Memo No. 162 dated 06.10.14 and Memo No. 163 dated 11.10.14. In this respect she informed that no Show Cause Notice was issued to Smt. Kalpana Saha, Asst. Superintendent

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who maintained the Register. She stated that she studied the Memo Register when the O.C. of Belur PS asked her to show the copy of the Memo No. 162 dated 09.10.14 with reference to Laiju Khatoon when she found the above mentioned discrepancy. She also claimed that whenever show cause notice was issued to any employee it is given a Memo No. originating from Memo Register as it has happened with reference to Memo No. 162 dated 05.10.14. She also stated that she learned from Smt. Kalpana Saha, Asst. Superintendent, that the husband of Laiju Akhtar was working in Kerala. She stated that she came to know from Smt. Kalpana Saha that the husband of Laiju had telephoned at S.M.M. Home three days prior to escape from T.L.J. Hospital. That person over phone informed that he had come to know that Laiju was sick and expressed his desire to meet her. Smt. Kalpana Saha requested him to come to Home and meet the officials.

20. Smt. Kalpana Saha, Assistant Superintendent of Liluah S.M.M. Home was examined on 04.04.2016 and her statement was recorded. In her statement she informed that she has been posted there since August 2011 and still working there and that she had written Memo Register pages reflecting date 05.10.14 to 19.10.14. Her statement was recorded by Shri Tarak Chandra Paul, Dy. S.P. Investigating Wing of the Commission who went to S.M.M. Home on 22.03.16 for enquiry regarding the procedure of writing Memo. She informed the Commission that first printed form was filled up and then the Memo No. was put on it from Memo Register. Memo No. 162/SH/RH dated 05.10.14 has been left blank in the Memo Register by her which was by mistake. She also admitted to have inserted Memo No. 162/SH/RH dated 09.10.14 with reference to Laiju Khatoon between Memo No. 162 dated 06.10.14 and 163 dated 11.10.14. She claimed to have enquired from the PS whether they had received Memo No. 162 dated 09.10.14 following information about escape of Laiju Khatoon when the police replied in negative. She,


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however, claimed that the police had deputed a Lady Constable for guarding Laiju Akhtar. No office copy of the said Memo was traced in the Home. She admitted that she inserted Memo No. 162/SH/RH dated 09.10.14 in between Memo No. 162 and 163. She also claimed that Smt. Laxmi Bhattacharjee, an inmate, who was sent to guard Laiju in the hospital, immediately informed her over phone from the chamber of Ward master to the effect that Laiju Akhtar escaped pushing her forcibly when the Lady Constable on duty was in bath room. Memo No. 159/SH/RH dated 05.10.14 was in respect of missing diary issued with reference to other two BD Nationals who had earlier escaped from the Home. Memo No. 160/SH/RH dated 05.10.14 was show cause notice regarding escape of inmates Arati Paul, Champa Das, Maya Das, Mina Das which was given to employees of the Home. She admitted that Laiju Akhtar had informed her that her husband was working as Mason in Kerala and few days prior to her escape from hospital one person claiming to be the husband of Laiju wanted to meet her when that man was informed that Laiju was hospitalized. Smt. Kalpana Saha claimed she had advised telephone caller to come to the Home first and talk to them but the caller did not turn up.

21. Statement of Smt. Laxmi Bhattacharjee, inmate of S.M.M. Home, currently under going training in Sukhanya Home was recorded on 11.04.16. In her statement she admitted that she was deputed to T.L.J. Hospital by S.M.M. Home Authorities on 09.10.14 to look after Laiju Akhtar. Between 09.10.14 and 27.10.14 none came to meet Laiju and Smt. Nilima Chakraborty, lady constable performed guard duty of Laiju Akhtar. Laiju Akhtar absconded from the hospital on 27.10.14 at noon when Laxmi Bhattacharjee was sitting on the bed and Laiju pushed her and ran away in the crowd. Initially Nilima Chakraborty, lady constable, was sitting on a vacant bed but she went away to bathroom and she came 10/15 minutes after Laiju Akhtar escaped. Laxmi Bhattacharjee stated that she informed ward sister about the escape of Laiju to intimate S.M.M.

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Home over her mobile phone. The staff from Home took Laxmi Bhattacharjee back to the Home. She also claimed that Laiju was admitted in the 2nd floor of the hospital and that L.C. Nilima Chakraborty was alone on duty on 2nd floor to guard Laiju Akhtar.

22. Sri Gobinda Bhattacharya, GDA of T.L.J. Hospital was examined on 21.03.16 by the Commission who stated that he was a group 'D' staff and never posted as Wardmaster. He stated that letter of information bearing Memo No. 313 was signed by him as Ward master and that he also put the signature on top right hand corner of the said Memo but he could not recollect why had signed. He also admitted that the details mentioned in the said Memo was not written by him but by someone else and he simply put his signature on request. He could read very little English. He also stated that the sentence "inspite of presence of police guard and home attendant" was not written by him and that he did not know who has written it. He was also asked question who informed about escape of Laiju Akhtar to which he replied he did not remember anything. He simply stated that he has signed the Memo.

23. Dr. Biswajit Roy, presently posted as Dy. C.M.O.H-1, Cooch Behar, erstwhile Superintendent of T.L.J. Hospital was examined by the Commission on 04.04.16 where he stated that he was posted as Superintendent at T.L.J. Hospital from February 2014 to July 4, 2015. He remembered the fact that one inmate of S.M.M. Home admitted to T.L.J. Hospital escaped on 27.10.14 and that Gobinda Bhattacharya was working as GDA(Gr.D) in the hospital. Memo No. 313 of the hospital was shown to Dr. Roy when he stated that Gobinda Bhattacharya was not Ward master and he was not supposed to issue certificate with the stamp of Ward master. On 27.10.14 Dr. Biswajit Roy was present in the hospital but was not informed about the escape of Laiju Akhtar. He also claimed that the inmates of the Home are normally admitted in the 3rd floor in the female ward of the hospital. He stated that no enquiry in respect of escape of Laiju Akhtar


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from the hospital was held and that it was the duty of the sister-in-charge of that ward to inform the Superintendent of the hospital about the escape of any patient. He further claimed that no orders have been issued by him to the effect authorizing Gobinda Bhattacharya to issue such certificate.

24. Lady Constable Nilima Chakraborty was examined by the Commission on 22.03.16 who stated that she was posted at Belur Police Station and assigned duty to guard two female patients admitted to T.L.J. Hospital on 1st floor of the hospital in October 2014 but she failed to remember the exact date. She was issued with command certificate but she claimed that she did not know anything about the patient Laiju Akhtar.
25. Lady Constable Sulekha Singha was examined on 22.03.16 by the Commission where she stated that she was now posted at Nischinda P.S. and has been working there since 2013 till date. She admitted to have performed guard duty at T.L.J. Hospital in the month of October 2014 in respect of two female patients but she could not recollect the names. There were three lady constables for guarding for two lady patients. She also stated that she did not hear the escape of Laiju Akhtar or any female patient on 27.10.14 and none of the two female patients whom they were guarding were pregnant. She stated that they were guarding the patient on the 1st floor of the hospital on that day.
26. Lady Constable Sharmistha Das was examined on 22.03.16 by the Commission when she stated that she was posted at Detective Department of Howrah Police Commissionerate. On October 2014 she was posted at Shibpur Police Lines. She had performed guard duty at T.L.J. Hospital in October 2014 along with L.C. Nilima Chakraborty and L.C.Sulekha Singha in respect of guarding two female patients admitted at T.L.J. Hospital from S.M.M. Home. She has not heard anything about Laiju Akhtar.


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27. Inspector Shri Swapan Saha, now posted as Inspector-in-charge, Belur PS was examined on 16.03.16 where he stated that he had joined that post with effect from February 1,2016. Regarding the procedure adopted by the PS he stated that on receipt of requisition from S.M.M. Home authorities, GD Entry was made and command certificate issued to the guard deployed in the hospital. On verification of documents of Belur PS on 27.10.14 it was found that three Lady Constable were issued CC for guarding duty at T.L.J. Hospital and they were L.C. Nilima Chakraborty, L.C. Sulekha Singh and LC S. Das. He stated that there was no G.D. Entry in the PS about escape of Laiju Akhtar on 27.10.14. Sk. Md. Firoz Hossain was the I.C. of Belur PS from 02.03.14 to 01.02.16 when the incident took place.

28. Sk. MD. Feroze Hossain, Inspector of Police, now posted as I.C. Madhyamgram PS was examined by the Commission on 21.03.16 when he stated that he was posted as I.C. Belur PS on 09.10.14 and had left the PS on 01.02.16 on transfer. He stated that he had not received any requisition from T.L.J. Hospital(located in his jurisdiction) for guarding Laiju Akhtar. No G.D. Entry was thus made. He stated that three lady constables were deployed for guarding two other inmates admitted in the hospital but not for Laiju Akhtar. He admitted that he had received the information about escape of Laiju Akhtar both from the T.L.J. Hospital as well as S.M.M. Home. Lady Constable deployed for guarding other patients, however, did not inform him about the escape of Laiju. He submitted to the Commission an E-mail, "marked-I" dated 21.03.16 in which it is mentioned that vide Memo No. 162/SH/RH dated 06.10.14 of S.M.M. Home Liluah which has cross reference of Belur PS G.D. Entry No. 360 dated 07.10.14 had sent a requisition to Reserve Inspector, Howrah Police Line to arrange lady constable for round the clock safety and security in respect of Mojahid Moral, Tania, Morgina, Putul Begum, Sowal at T.L.J. Hospital on 07.10.16 till their release.

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Findings of the Commission:

29. Following examination of the reports of the Commissioner of Police, Howrah, report of Superintendent, S.M.M. Home, Liluah, Howrah, report submitted by the Dy. S.P. Investigating Wing of the Commission, examinations of above mentioned witnesses, the fact findings of the Commission was as follows:

30. It is a fact that Laiju Akhtar, BD National on orders of the Ld. ACJM, Basirhat Court was admitted to S.M.M. Home, Liluah under safe custody sometime in June 2014 which refers to Belur PS G.D.E No. 836/14 dated 24.06.14 under Section 14(A)(b) Foreigners Act. Next date of submission of report was 24.07.14 from the O.C. Basirhat PS and as per order sheet of Ld. ACJM, Basirhat, Putul Begum, Laiju Akhtar, Masuda Begum, Sufia Begum, Salega Begum and Sabiya Begum and Sabeya Khatoon were shown as victims, apart from that Md. Roni, Rafikul Gazi, Idris Ali and Manchur Ali were arrested as traffickers. The Ld. ACJM directed the I.O. of the case to submit report on 26.06.14 and explain as to why some BD Nationals have been shown as accused persons and some of them shown as victims. He directed the victims to be placed in safe custody of S.M.M. Home, Liluah. Accordingly, Laiju Akhtar was admitted to S.M.M. Home and subsequently she was treated for her pregnancy at T.L.J. Hospital. She was sent to T.L.J. Hospital again on 09.10.14 on account of her pregnancy related problem where from she escaped on 27.10.14. It was ascertained during the fact findings that one inmate of the Home, Smt. Laxmi Bhattacharjee was placed round the clock for guarding Laiju Akhtar in the hospital and the Home authorities insisted that they had informed the Belur PS to post police guard for guarding Laiju Akhtar but could not produce any proof to this claim when the Belur PS authorities disputed the same. It however, came to light that a person claimed to be the husband of Laiju Akhtar was already in Kerala and had contacted the Home authorities, Smt. Kalpana Saha, Asst. Superintendent that he was eager to meet Laiju as she was sick. This incident happened 2/3 days prior to her escaped and that the Asst. Superintendent, Kalpana Saha had asked the telephone caller to come and meet at the Home.

31. Facts and circumstances leading to her escape is very fuzzy as Laxmi Bhattacharjee was the only person by her side when she escaped from the 2nd floor of T.L.J. Hospital. Laxmi Bhattacharjee claims that one lady constable Nilima Chakraborty was with her (at the time of her escape Nilima Chakraborty was in bathroom) but from the statement of Nilima Chakraborty it is amply clear that she was performing guard duty of some other inmates admitted in T.L.J.

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Hospital in the 1st floor. Laxmi Bhattacharjee had informed the matter to the Sister-in-charge of the ward who latter intimated the S.M.M. Home and also the Belur PS.

32. It is rather surprising that the Superintendent of the Hospital Dr. Biswajit Roy, who was present in the hospital premises during the escape was not informed anything about such a serious incident. It is further surprising that a group 'D' staff in the rank of GDA was signing as Ward master and issuing intimation about the escape to police and Home authorities without the knowledge of Superintendent. This speaks volume of negligence and mal administration in the hospital. However, according to the admission of the Superintendent no internal enquiry was ordered to ascertain the facts and circumstances of the escape which was again a very negligent conduct on the part of the Superintendent.

33. The Commission came to the conclusion that the S.M.M. Home authorities both the Superintendent Smt. Santana Saha and the Assistant Superintendent Smt. Kalpana Saha indulged in manipulation of records as revealed from their statements as well as the Memo Register of S.M.M. Home, certified copy of which is placed before the Commission. It is very clear that Memo No. 162/SH/RH dated 09.10.14 was first written with reference to Laiju Akhtar scored off again the same Memo No. with over- writing date was inserted and issued to O.C. Belur PS with reference to five inmates. Again, the same Memo dated 09.10.14 was written as 'do' be issued with reference to Laiju Khaton. The fact findings enquiry come to the conclusion that this was inserted between Memo No. 162 dated 05.10.14 and 163 dated 11.10.14. The Home Authorities conducted a simple enquiry without trying to fix any responsibility. The Superintendent of the Home did not issue any show cause notice to Smt. Kalpana Saha, Asst. Superintendent who indulged in manipulation in Memo Register. Claim of Home Authorities to have issued a requisition letter to O.C. Belur PS for guarding Laiju is totally false and untrue and they could not produce any office copy of the said Memo and their Memo Register shows falsification and manipulation. The practice of deputing an inmate of the Home for guarding another inmate is very wrong as it gives a chance of escape to both of them.

34. The Commission lastly come to the conclusion that there is a lurking suspension of connivance on the part of the Home Authorities for the escape of Laiju Akhtar since the telephone caller claiming to be the husband of Laiju Akhtar wanted to meet her 2/3 days prior to her escape and that he contacted Smt. Kalpana Saha, Asst. Superintendent. Smt. Kalpana Saha had shared this information with Smt. Santana Saha, Superintendent. Right course of action at

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this stage would have been to inform the O.C. Belur PS & the Hospital Authorities to prevent her escape but this information was not shared with anybody and everybody was kept in the dark.

35. CID, West Bengal has already taken up this case as the Commission has directed the CID authorities to start a case and investigate deeply into the matter to ascertain any possibility including of trafficking related issue with this escape and involvement of any authorities in this incident.

Recommendations of the Commission:-

36. The Commission makes the following recommendations in this respect:

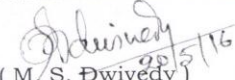
- I) Departmental enquiry to be started against Smt. Santana Saha, Superintendent of S.M.M. Home, Liluah, Howrah and Smt. Kalpana Saha, Assistant Superintendent of S.M.M. Home, Liluah, Howrah for their negligent conduct and manipulation of office records.
- II) An explanation be called for from Gobinda Bhattacharya, GDA as to how he issued certificate of intimation about escape of Laiju Akhtar as he on his own admission had signed the printed Memo written by somebody else without any authority.
- III) An explanation be called from Md. Feroze, the then O.C. Belur PS to the effect as to why he simply recorded an MP case when he received intimation about escape of Laiju Akhtar instead of recording a case under Section 224 IPC.
- IV) The Commission recommends that a S.O.P. may be drawn up by the Health Department that what should be done following escapes of such custodial inmates from the hospital. However, separate Wards -both male and female should be constructed in the hospital for custodial prisoners.
- V) The practice of deputing inmates for guarding other inmates should be immediately stopped by the Home Authorities
- VI) The Commission also recommends that the DG-CID, West Bengal should thoroughly enquire into the case already registered in this connection and try to unearth any trafficking angle & connivance of Home/Hospital authorities in the escape of Laiju Akhtar.

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VII) The Director of Social Welfare is not submitting any report of WBHRC despite notice. Appropriate administrative action in this regard be taken.

37. The Chief Secretary Govt. of West Bengal is requested to communicate an action taken report on the above recommendations to this Commission within 4(Four) months time.


(M/S. Dwivedy)
Member


(Naparajit Mukherjee)
Acting Chairperson

20/5/2016

Dated, 20th May, 2016

Encl: A) Report of S.M.M. Home to Director, Social Welfare Department
B) Report of Commissioner of Police, Howrah.
C) Report submitted by the Dy.S.P., Investigating Wing of WBHRC.
D) Copy of Memo Register of S.M.M. Home
E) Copy of Command Certificate issued to Belur PS.
F) Copy of E-mail of O.C. Belur PS to Reserve Inspector, Howrah

SDB

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