

Naparajit Mukherjee, IPS (Retd.)

Member
West Bengal Human Rights Commission
Former D.G. & I.G.P., West Bengal



*Pusta Bhawan (2nd Floor)
Sector - 1, Block - D F
Salt Lake, Kolkata - 700 091
Tel. : (033) 2337 7713
E-mail : hrcwb2013@gmail.com
E-mail : mn656m@gmail.com
Fax : (033) 2334 0753*

Ref. No.367/WBHRC/95&1423/SMC/17/19

Date : 12-11-2021

To
Shri H.K. Dwivedi, IAS
Chief Secretary,
Govt. of West Bengal,
'Nabanna', 325, Sarat Chatterjee Road,
Howrah - 711102.

Ref. No.349/1423/25/6/2019 dt.29/09/2021

Recommendation No.01&02/WBHRC/2021-22/1423/Gen/2019

And

Ref. No.350/95/WBHRC/SMC/17 dt.29/09/2021

Recommendation No.03&04/WBHRC/2021-22/95/SMC/2017

I would like to invite your kind attention to the above mentioned memos vide which 2 (two) recommendations have been sent to Govt. of West Bengal addressed to the Chief Secretary under signature of Hon'ble Chairperson alone.

In this connection, as Member of West Bengal Human Rights Commission I have following observations. In view of the fact that the recommendation has been authenticated only by the Hon'ble Chairperson and the dissenting views of the Member has not been communicated to the government in original, my observations are as follows :-

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1. In recommendation no.03 & 04/WBHRC/2021-22/95/SMC/2017 dt.23rd September, 2021 from File No.95/WBHRC/SMC/17 at page 2 complete views and orders of Member has not been quoted by the Hon'ble Chairperson neither the same has been communicated to Government. Further more, he has alleged that the views of Hon'ble Member "are not only biased but also erroneous in law". I consider the use of word "bias" as serious allegation on my intellectual integrity and competence. Such type of comments on the part of Hon'ble Chairperson against his *brother colleague* is uncalled for, unwarranted and preposterous. There is no evidence to proof that I have biased attitude towards a particular group of police officers and no background has been quoted to level such serious allegations against me. I urge the government to take due note of the fact.
2. Traditionally, the dissenting views of the Member who has got every right to differ from the Chairperson's view, is communicated in original with his authentication. Unfortunately, in this case this has not been done as no enclosure has been indicated in the body of the recommendation or in the forwarding letter of Secretary to the Commission. In this connection I would further like to draw attention of the government to the procedure laid down for sending recommendations after enquiry u/s 18 (c)(e) of the Protection of Human Rights Act. As envisaged and decreed in the Act the entire responsibility is of the Commission and not of any individual / person of the Commission. The definition of Commission and its functioning have been clearly enumerated in Section 21 and Section 12 of the Protection of Human Rights Act respectively which will make my contention clear.

The Hon'ble Chairperson has got every right to give his own view rather than making attempt to demolish my point as this is not a Court of Law in which two advocates place their differing views to the Judge and try to demolish each others arguments. Further, in his recommendation he has tried to draw a line between prevention and detection of crime quoting Section 23 of the Police Act. Legally, Section 23 of the Police Act is not applicable to Kolkata Police which is governed by the Calcutta Police Act of 1866. Therefore, his recommendation is erroneous in law. Be that as it may, my contention here is the term prevention and detection of crime are complimentary to each other. In fact, according to criminology and police unless a crime is detected the same cannot be prevented. In the instant case police took prompt action by arresting and charge sheeting criminals for trial. Further more, in my orders (which has not been communicated in full) I have clearly mentioned, quoting from the police enquiry report of Shri Mehtab Alam, ACP, ESD as forwarded by Dy. Commissioner of Police, ESD to the Commission that the perpetrator had earlier been prosecuted in a number of criminal cases including being bound down u/s 107/110 Cr.P.C., which is a preventive section of law under the Cr.P.C. Unfortunately, this point has been totally overlooked and omitted by the Hon'ble Chairperson in his recommendation. He has quoted a number of Hon'ble Supreme Court judgements but contextuality with the instant case has not been matched, therefore, making infructuous. In respect of Recommendation No.01 & 02/WBHRC/2021-22/1423/Gen/2019 sent to you I would like to bring to your notice that my views in original have not been communicated by the Chairperson which is revealed from the lack of mention of the enclosure in the forwarding letter as well as recommendation signed by the Chairperson. You may please consider obtaining the same from the Commission.