

West Bengal Human Rights Commission,
Bhabani Bhavan, 2nd Floor, Alipur, Kolkata – 700 027.

File No. 08/WBHRC/Com/13-14

P r e s e n t

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| 1. Mr. Justice Asok Kumar Ganguly | Chairperson |
| 2. Mr. Justice N. C. Sil | Member |
| 3. Mr. S. N. Roy | Member |

On 11.04.2013, the Commission took suomotu cognizance of the incidents in which a large number of outsiders carrying the TMCP flags forced open the gates of the Presidency University (hereinafter the University) and indulged in acts of vandalism in the premises of the said university. Taking suo moto cognizance, the Commission directed the Commissioner of Police to cause an enquiry and submit a report within 2 weeks.

The Commission also constituted a special team consisting of Prof. Amal Mukhopadhyay, a former Principal of Presidency College and a respected educationist to hold an enquiry and submit a report to the Commission. Shri Annapaye E, IPS, S.P. of the Commission was also directed to assist Shri Mukhopadhyay in the said enquiry.

In connection with the said enquiry which was held by the Commission, several persons were examined. The Commission examined the following persons:-

- A) Shri Surajit Kar Purakayastha, IPS, Commissioner of Police,
- B) Shri Siddharata Dutta, O/C , Jorasako P.S.,
- C) Shri Sadhan Ch. Singha, S.I. of Police, Jorasako, P.S.
- D) Kartick Ch. Ghosh, constable, Jorasako P.S. , and also

E) Dr. Prabir Das Gupta, the Registrar of the University.

The Commission took into consideration the deposition of these witnesses and also a subsequent report of the Commissioner of Police dt. 22.07.2013. The Commission has also taken the report and the connected materials and the findings which have been submitted by Shri Mukhopadhyay on 27.05.2013.

From a conjoint consideration of the aforesaid materials, the Commission finds that on 10.04.2013 the said University was peacefully conducting its teaching and on that day a selection of a member of the faculty of Geography of the University was going on in the chamber of the Vice Chancellor in the presence of several experts from outside. The classes were also going on peacefully. Around 1 O' clock a group of outsiders carrying TMCP flags and shouting slogans assembled at the main gate of university which was kept locked that time. On that day at about 11 A.M., the Registrar of the University had an information that a procession of some students would pass in front of the University and there was an apprehension that the processionists might try to enter the campus of the University. Immediately the Registrar gave a telephonic call to the O.C. Jorasako P.S. asking for some additional force to protect the gate of the University and the Registrar was informed by the O.C. that there was sufficient police force to tackle the situation and no further force would be necessary but the Registrar was informed by the O.C. that the gate should be kept locked. Accordingly the gate was locked. At about 1 P.M. when the Registrar was in the room of the Vice Chancellor he received a phone call from the O.C. that the procession which was coming from Amherst street might enter the University campus. To that the O.C. was informed by the Registrar that the gate had been locked and he requested the O.C. to take steps to prevent the processionists from entering the campus.

Thereafter the Registrar came out of the Vice Chancellor's room to receive a call on his cell phone when he heard a tremendous hue and cry coming from the gate and he rushed to the gate to find that the processionists had broken open the gate and entered the University campus. Then he found some of the processionists even got hold of some of the students of the University and dragged them towards the gate. The Registrar tried to come to the ground floor along with other members of the office staff and also the Controller of Examination in trying to cordon off the main entrance of the campus and prevent the processionists from entering further inside. The Registrar's evidence is that after shouting slogans for some time the processionists left the University campus.

This version of the Registrar has virtually been corroborated by the Commissioner of Police and also by the S.I. of Police, Shri Sadhu Ch. Singha who was on the spot. Sadhu Ch. Singha deposed that two of the processionists were trying to scale the university gate and were trying to tie the TMCP flags on the gate. At that time, Arun Hazra, one of the processionists shouted that he was injured on his head. However, S.I. said that he did not see anybody pelting any stone or brickbat towards Arun Hazra. S.I. corroborated that the students broke the lock of the gate and forcibly entered the campus of the University. After entering the campus they started damaging the posters, photographs and banners kept in memory of Sudipta Gupta and were shouting slogans against the SFI.

His evidence is that they were chased out of the campus by the police. By that time a second group of processionists numbering about 100 came and entered the University campus. That time the S.I. was alone in the said campus with two constables. Seeing the forceful entry of such a large number of processionists, the S.I. rang up the O.C. for further force. The processionists went inside the University campus but nobody was arrested.

The S.I. deposed before Prof. Amal Mukhopadhyay that there was no order for arrest even though the unruly mob forcibly entered the University premises by breaking the lock and was shouting slogans and using abusive languages towards the SFI. Accordingly to him such incident continued for an hour.

In the evidence of Kartick Chandra Ghosh, the Constable of Jorasanko P.S., the narration of incident was virtually the same.

The evidence of Shiddharta Dutta, the Officer-in-Charge of Jorasanko Police station apart from reiterating the basic facts narrated by other witnesses, also stated that on the day i.e. 10.04.2013, the Registrar of the University rang him up five times calling for police help and that the processionists carrying TMCP flags were adamant on entering the University premises despite request to the contrary by police personnel and they entered the premises by breaking open the gate of the University which was about 8 feet in height and at a point of time when the University campus was peaceful and classes were going on. Even then no arrest was made from the spot when the incident took place. He also deposed that he did not see anyone throwing from the University any brick bat towards the processionists. He also deposed that after entering the University the unruly processionists shouted slogans and damaged banners and posters inside the campus. Another group of processionists carrying TMCP flags also forcibly entered the University premises and he found them under portico of the University similarly shouting slogans and damaging posters and banners and at that time the first group of processionists joined the second group. He also deposed that of those processionists some of them might have gone to damage the Baker Laboratory. Such incidents of rampage and lawlessness went on for 30 minutes.

The report submitted by Professor Amal Mukhopadhyay with video recording (hereinafter the said report) has given a more detailed account of the incidents which happened on 10. 04. 2013. Professor Mukhopadhyay

conducted the enquiry in a manner which appears fair and reasonable to us and followed the necessary safeguards in holding the enquiry. In fact Professor Mukhopadhyaya was holding the enquiry on behalf of the Commission and was assisted by Mr. Annapan, the S.P. of the Commission.

The Commission, having regard to the pressure on it, cannot always hold the enquiry itself. In such cases, the Commission in our view, can entrust the enquiry to such authority or person, as it may think appropriate. This power of the Commission is incidental to its functioning as it has the duty to protect the human rights of the people of the whole State as effectively as possible. Of course such power has to be exercised reasonably and on good faith. In this case, Professor Mukhopadhyay, whose credentials as an educationist are impeccable, has been chosen by the Commission and in view of his long association with Presidency College, which later on became the University, Professor Mukhopadhyay has done a commendable job, despite facing some non-cooperation from the police at some stage and it was a love's labour for him. The Commission deeply appreciates the work done by Professor Mukhopadhyay.

Professor Mukhopadhyay has examined various persons including Professor Rajat Kanta Roy, the Emeritus Professor of History of the University, Professor Malabika Sarkar, Vice Chancellor of the University, various other teachers like Professor Debashruti Roy Chowdhury, Professor Debajyoti Konar, Professor Souryadeep Mukherjee and Dr. Somak Roy Chowdhury, Head of the Department of Physics of the University. In all , Professor Mukhopadhyay, in trying to hold a detailed enquiry and which he did, examined in the course of two days about 44 persons, apart from the police personnel whom he examined later .

His findings are that at the time of the alleged incident, the situation in the University was peaceful and no provocation came from the University. These two findings tallied with the version of the police. However, Professor

Mukhopadhyay gave details of the slogans which were raised by the processionists and from which it appears that they were angry with the SFI supporters in view of some incidents which happened in Delhi in which the Hon'ble Chief Minister of West Bengal was allegedly obstructed. Professor Mukhopadhyay also held in the course of enquiry that one Shri Partha Bose, a Corporation Councilor of TMC was found standing with the unruly processionists who wanted to break open the University gate. From the video footage shown to Professor Mukhopadhyay and the statement of Constable Sanjit, he came to hold that no brickbat was thrown from inside the University. The injury on the head of one of the processionists was caused by the fall of a brick which was on the gate when that person was trying to climb on the gate to tie the TMCP flag on it.

About the assault on the students by the unruly processionists, it was said in the report that Debarshi Chakraborty and Bibaswan Basu, two PG students were beaten in the east facing front of the Portico. About these incidents, it was stated in the report :

“Debarshi Chakrabarty and Bibaswan Basu, two PG students, narrated before the Enquiry Committee how they were beaten up in the east facing front of the Portico by the intruders after they had infiltrated into the campus. All the students and the staff who were eye witnesses, including the Vice Chancellor and the Registrar, confirmed it. Debarshi’s injury was more serious. The Vice Chancellor said that she saw him profusely bleeding with a swollen face.”

The report also found how two of the processionists entered the M.Sc, Physics lab and smashed a portrait of Albert Einstein, recently hung on the

occasion of the visit of former President APJ Abdul Kalam. They broke a chair inside the collapsible gate and glass panes of the laboratory door with a bent iron rod.

In the electronic media these destructions at the Physics Lab of the University were also shown. In the Physics lab, a student, Sayan Chakraborty, who was discussing something with Professor Pradip Mukherjee, was beaten up and was ultimately saved by his teacher. This was also corroborated by Dr. Somak Roy Chowdhury, Head of the Physics Department of the University and who was an eminent Physicist. About the attack on Sayan, the specific finding is –

“On the basis of deposition of Dr. Somak Roy Chowdhury, Physics Head, Sayan Chakraborty (Physics M.Sc. 2nd Semester) who suffered blows and Bodhiswatta Swar (Physics M.Sc. 2nd Semester) who was in the Lab and saw Sayan being attacked, two outsiders came to the Physics Lab. One of them, carrying a bent iron rod, used it to break a chair, a portrait and the glasses of the door of the Lab. The other went straight to Sayan and forcing him to lie on a table having an instrument (the name given above) gave him blows. Meanwhile Prof. Pradip Mukherjee came to the spot.”

Professor Mukhopadhyay’s finding is also that a javelin was brought from outside by the intruders but was not used and was left behind by them while leaving the University premises. The girl students were chased by the processionists and were targeted with lewd comments was also stated in the

report. The comments were so demeaning that the Dean of the students who appeared in the enquiry before Professor Mukhopadhyay could not, with tears in her eyes, even utter them before Professor Mukhopadhyay.

In the background of these facts which are virtually appearing from the records, several questions crop up for our consideration.

The human rights of the students certainly include the right to continue their studies in a peaceful atmosphere and the University authorities are also entitled to run the institution without being disrupted by such acts of hooliganism leading to destruction of their properties and leading to a total anarchy in the campus which posed a serious threat to the life and limbs of its students, teachers and members of the non-teaching staff. Both the Vice Chancellor and the Registrar of the University expressed their serious concern about police inaction in the enquiry before Professor Mukhopadhyay.

The Hon'ble Chancellor of this University, the Governor of West Bengal, offered profound apologies in His Excellency's address, telecast in the electronic media, that His Excellency could not protect the prestigious seat of learning from wanton acts of vandalism. There was a shock wave among all the right thinking people of this state and also outside, finding that the security and sanctity of this great centre of excellence has become so vulnerable as to be invaded at will by a group of rampaging students even in the presence of the police.

The dignified stand of the Hon'ble Chancellor over the whole incident of vandalism in the said University is not a happy commentary on the role of the police in maintaining law and order in educational institution.

Police was informed before the incident, in the course of the incident and police was present throughout the incident when the processionists went berserk in the University campus destroying properties, shouting slogans, assaulting students, chasing girl students at will for about an hour. Strangely enough no arrest was made even though the local Police Station was at a distance of less than one kilometer.

As far as we understand the law, an act of criminal trespass appears to have been committed. This is a cognizable offence. Inflicting bleeding injury on the head of a student with an iron rod is certainly not a friendly gesture and is also a cognizable offence. All these offences were committed with impunity by the intruders and the police was inactive. Any ordinary man of normal prudence will think that the police was inactive only because the processionists were carrying flags of TMCP which is the students' wing of the party in power.

Thus there is a failure of democratic norms of governance and a violation of human rights. Both are inextricably connected. In this sordid scenario, the Police Commissioner in the course of his evidence before the Commission on 04.07.2013 deposed that in his opinion there was no major lapse on the part of the police but he promised to have the matter looked into once again by the department. Then by a communication dated 22.07.2013, the Commissioner of

Police sent to this Commission a report reviewing the role of police officers on duty during “the alleged vandalism in the premises of Presidency University on 10.04.2013”. In that report it has been stated:

“On perusal of Lalbazar Control Room and Jorasakho PS General Diary extracts, it is clear that Insp Siddartha Dutta OC Jorasakho PS did not keep the Control Room informed of the developments in the Presidency University premises. He also did not depute sufficient force at the gate of the Presidency University although the Registrar expressed his apprehension. As per Police arrangement he as OC was supposed to escort the TMCP processions within his jurisdiction which he failed to perform effectively.”

In that report it is admitted that OC Jorasakho Police Station did not depute sufficient police force at the gate of the University even though he was informed by the Registrar and he failed to perform effectively. However, the Commissioner of Police felt that the OC succeeded in preventing a major clash. So he was only reprimanded.

In our opinion a major clash did not take place as the students of the University did not retaliate and were effectively controlled by their teachers. They were at the receiving end throughout the incident. The students of the University and their teachers displayed remarkable restraint in the face of grave provocation. They must be complimented on that. We do not think that for non-escalation of the situation, the Officer-in-Charge, Jorasakho Police

Station deserves any credit. He miserably failed to discharge his duties possibly because he found that the rampaging students belong to the TMCP, the students wing of the party in power.

The police is duty bound under the law to arrest persons who are committing cognizable offences regardless of their political affiliation. This police has miserably failed to do and also failed to maintain law and order in the University premises as it was at the mercy of the intruders. This was the real situation.

Some criminal cases have been initiated but they are still pending in investigation for the last six months. The Commission does not want to interfere with the same. The Commission only expects that after a fair and quick investigation of the cases, the matter will come to its logical end.

Under these circumstances, the Commission is constrained to recommend that –

- (a) The State Government should formulate suitable guidelines for dealing with the cases of unlawful activities by the students in educational institutions. Even though law is clear, such guidelines are required to be made as police often fail to discharge their duties according to law to tackle unlawful activities by students in educational institutions. This has resulted in serious erosion of values and vitiated the atmosphere in many educational institutions of the State. Instances of lawlessness by students are on the increase and these things must be curbed not only to

protect the human rights of innocent students and helpless teachers but also to maintain the purity and sanctity of these institutions. It must be remembered that the existing infrastructures in our educational institutions are inadequate and we can ill afford to deplete them further. Education is the most cardinal factor in social development and without education all other rights are like wrights in water. Those guidelines be framed by the State Government within two months from the date of communication of the order.

(b) In so far as the inaction of the Officer-in-Charge of Jorasanko Police Station is concerned, the Commission refrains from making any recommendation as he has already been reprimanded by the higher authorities.

The State Government is requested to inform this Commission about the action taken on the basis of the recommendation as stated in (a) above within a period of two months from the date of communication.

sd/-
(S. N. Roy)
Member

sd/-
(Justice N. C. Sil)
Member

sd/-
(Justice Asok Kumar Ganguly)
Chairperson

Dated Kolkata, the 22nd October, 2013.

SDB

Comments of the State Government will be uploaded as and when received.

Sd/- (22/10/2013)
(J. Sundara Sekhar)
Secretary & CEO