

## WEST BENGAL HUMAN RIGHTS COMMISSION

File No.506/WBHRC/Com/2008-09

and No.25/WBHRC/IW/12-13

### P r e s e n t

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

A news item appeared in 'Bangla Statesman', a daily published from Kolkata on 20-8-2008 that one Manik Mondal was illegally detained in the lockup for five days and thereafter he was shown arrested in another case. It was stated in the said news item that Manik Mondal was severely assaulted at his house by some members of public, alleging that he was involved in trafficking of two persons, Partho Bose and Vishsa Das of that locality. Then police visited the spot and brought Manik Mondal to Berhampore P.S. where he was illegally detained in the police lockup till 15-8-2008 without any case or complaint against him.

2. Krishna Mondal, wife of Manik Mondal had repeatedly visited Berhampore P.S. for the release of Manik Mondal. But S.I. Subrota Sarkar had only abused and insulted them stating that Manik Mondal would not be released till the missing two persons returned home and did not even send the seriously injured Manik Mondal for medical treatment. It was further

alleged that said S.I. of Police did not even allow his wife to give medicine to Manik and did not register any case on the oral complaint of Krishna Mondal against the assailants of Manik Mondal. On 13-8-2008 the alleged missing persons, who had actually gone to Ranchi on their own, returned home. On 14-8-2008 morning, the above persons along with their parents visited Berhampore P.S. and informed S.I. Subrota Sarkar that Manik Mondal was not at all involved in the matter. Even then S.I. Subrota Sarkar did not release Manik Mondal. At his instance, police framed Manik Mondal in a false case and forwarded him to the Court. Krishna Mondal, wife of Manik Mondal also submitted a written complaint to the Supdt. of Police, Murshidabad for taking action against those responsible for assaulting her husband and for his illegal detention in Berhampore P.S. lockup from 10-8-2008 to 15-8-2008.

3. The Commission took cognizance of the complaint and directed the S.P., Murshidbad to cause an enquiry into the matter. The Supdt. of Police forwarded the enquiry report of Dipnarayan Goswami, Addl.S.P. of Murshidabad who conducted an enquiry into the matter. The Commission considered the enquiry report of the Addl.S.P. and found that the report was utterly perfunctory and did not deal with the allegations mentioned in the news paper report. In view of the unsatisfactory report of the Addl.S.P., Dipnarayan Goswami, the Commission directed the then ADG & IGP of this Commission to conduct a fresh enquiry into the matter and submit report.

4. The report submitted by D.G. & IGP of the Commission confirmed all the allegations made in the news paper report, as enumerated above in paragraphs 1 and 2.

5. D.G.'s report also confirmed that at the instance of S.I. Subrata Sarkar, S.I. Kartick Maji had falsely shown the arrest of Manik Mondal in Berhampore P.S. Case No.394/08 dt.14-8-2008 u/s 341/323/325/308/34 IPC though he was not at all involved in the said case and was not even an FIR named accused person. The said case was registered by S.I. Subrata Sarkar on the suo motu complaint of S.I. K.C. Majhi on the allegation that some people had severely beaten up an alleged motor cycle thief. S.I. Ratan Chowdhury, I.O. of the case had forwarded Manik Mondal to the Court on 15-8-2008 in said case. Manik Mondal got bail from the Court after spending about a month in jail. S.I. Bastab Kr. Pal, the next I.O. had submitted charge sheet in the case u/s 341/323/147/148/149 on 31-3-2009 against Manik Mondal and others. The case is subjudice.

6. It was further stated in the report of the D.G.P. that Krishna Mondal, wife of Manik Mondal had submitted a written complaint to S.P., Murshidabad for taking action against those responsible for assaulting her husband and for his illegal detention in Berhampore P.S. lockup from 10-8-2008 to 15-8-2008. The complaint was received in the S.P.'s office on 18-8-2008. But no case was registered on the said complaint.

7. The D.G. & I.G.P. of the Commission in his report finally concluded that for the illegal detention of Manik Mondal, a poor hawker, in

Berhampore P.S. lockup from 10-8-2008 night to 15-8-2008 morning and for falsely implicating him in Berhampore P.S. Case No.394/08 dt.14-8-2008 in which he was not at all involved, the following police officers of Berhampore P.S. are responsible :

1. S.I. Subrota Sarkar (now I.C., Chakdah P.S.) for illegal detention etc. of Manik Mondal.
  2. S.I. Kartick Ch. Majhi (now S.I. Doulatabad P.S.) for illegal arrest of Manik Mondal.
  3. S.I. Ratan Kr. Chowdhury (now S.I. Murshidabad P.S.), I.O. of the case, for forwarding Manik Mondal to the Court.
  4. S.I. Bastab Kr. Pal (now S.I. Chakdah P.S.) next I.O. for submitting charge sheet in the case against Manik Mondal.
  5. Shri Arun Kr. Das the then I.C. of Berhampore P.S. (since retired) under whose supervision, the above illegal detention, arrest etc. of Manik Mondal in a false case took place.
8. The Commission considered the report of D.G. & IGP and decided to examine the following police officials :

- i. S.I. Subrata Sarkar, presently posted at Chakdah P.S.
- ii. S.I. Kartick Maji presently posted at Doulatabad P.S.
- iii. S.I. Ratan Kumar Chowdhury presently posted at Murshidabad P.S.
- iv. S.I. Bastab Kr. Pal presently posted at Chakdah P.S.
- v. Arun Das the then I.C. of Berhampore P.S.

9. S.I. Subrata Sarkar the then S.I. of Police of Berhampore P.S. appeared before the Commission on 26-2-2013 and was examined. He admitted that he had drawn up the concerned F.I.R. on the order of the then I.C. Arun Das and S.I. Kartick Maji was the Arresting Officer. It was the duty of the duty officer to get Manik Mondal examined medically and he did not remember who was the duty officer. Statements given by Krishna Mondal and neighbour, Rupa Roy were brought to the notice of the witness. He stated that all these allegations were not correct. He further submitted that all the allegations made against him in the report of D.G. & I.G.P., WBHRC were not correct. He also stated that he did not understand why the complaint was made against him before the Commission.

10. S.I. Kartick Maji the then S.I. of Police of Berhampore Town P.S. gave his evidence before the Commission on 26-2-2013. He admitted that he read the report of DG&IGP of the Commission and he did not dispute the contents of the report of the D.G. Then he said that no illegal detention of Manik Mondal happened in this case. He admitted that he submitted a suo motu complaint to the I.C. of the P.S. after arrest of Manik Mondal. The F.I.R. which was lodged by him did not include Manik Mondal's name.

11. S.I. Bastab Kr. Pal who was posted at Berhampore Town P.S. stated in his evidence before the Commission that he became the I.O. at the final stage and he simply submitted the charge sheet under the instruction of the then I.C. Arun Kr. Das and all the materials were finalized by S.I. Ratan Chowdhury, the previous I.O. of the case.

12. Arun Kr. Das, the then I.C. of Berhampore P.S. did not appear before the Commission in spite of notices issued on several occasions. He was first asked to appear before the Commission on 24-11-2011 then on 22-12-2011 subsequently on 31-1-2012 and 06-3-2012 and 30-3-2012. Finally, he appeared before the Commission on 15-5-2012. He was the I.C. of Berhampore P.S. at the relevant point of time. He pleaded in his evidence that he has received several notices to appear before this Commission. But he could not appear due to his illness as he had been suffering from blood sugar. He admitted that on 10<sup>th</sup> August, 2008 when the alleged occurrence took place he was the I.C. of Berhampore P.S. and he could not remember anything about the alleged incident of illegal detention of Manik Mondal in Berhampore P.S. and his illegal torture in the lockup. Arun Das was again examined on 26-2-2013. He admitted that suo motu complaint given by Kartick Maji was converted as F.I.R. under his instruction. He also admitted that the name of Manik Mondal was not there in the F.I.R. He further stated that he had not issued any order for the arrest of Manik Mondal and for putting him in the lockup. He also stated in his evidence there is no such rule that the O.C. of the Police Station is to be informed regarding every arrest.

13. S.I. Ratan Kr. Chowdhury, the then S.I. of Berhampore (Town ) P.S. did not attend the Commission on the date specified for hearing on an intimation. The Commission after considering the evidence of the witnesses

and materials on record dispensed with his further appearance in the matter.

14. From an analysis of the evidence of the witnesses and other materials on record, it is clear that Manik Mondal, a poor hawker, was arrested by the police in the evening of 10-8-2008 and illegally detained in the police lockup till 15-8-2008 without any cause and complaint against him. He was not provided medical treatment for his bleeding injuries which he received prior to his arrest. He was even denied the medicines brought by his wife. The three police officers I.C. Arun Kumar Das, S.I. Subrata Sarkar and S.I. Kartick Maji were found responsible for gross violation of Human Rights of Manik Mondal, a poor hawker.

15. The conduct of the then I.C. Arun Kumar Das is most reprehensible and deserves serious condemnation. He chose not to appear before the Commission on as many as five occasions and finally appeared only when he retired from service, perhaps thinking that he would no longer be subjected to any penal action. The explanation given by him in his evidence before the Commission for his non appearance on five dates on the ground of illness due to blood sugar deserves to be dismissed with contempt. He also denied all the allegations against him but admitted that under his instruction the F.I.R. was drawn by Subrata Sarkar in Berhampore P.S. Case No.394/08 dt.14-8-2008. He also admitted that Manik Mondal was not named in the F.I.R. He also gave misleading evidence before the Commission that the O.C. of a Police Station is not required to be informed regarding any

arrest made by the Police Station. Thus, all along he tried to shirk his responsibility for gross violation of Human Rights of Manik Mondal.

16. S.I. Subrata Sarkar also denied all charges against him but the Commission is not convinced and there is no reason why Krishna Mondal, wife of Manik Mondal and her mother, Puspa Mondal and a neighbour, Rupa Roy, gave evidence before the investigating team of the Commission about the illegal detention, misbehaviour and other misdeeds on the part of S.I. Subrata Sarkar. The D.G. & I.G.P., WBHRC in his report also concluded that S.I. Subrata Sarkar was liable for illegal detention and other acts of misdemeanour as already mentioned in his report.

17. S.I. Kartick Maji was an interesting witness. He first admitted in his evidence that he had no dispute regarding the contents of the D.G.'s report. But on after thought he stated that there was no illegal detention of Manik Mondal in this case. From his demeanour and evidence, the Commission is inclined to hold that the first part of the evidence when he stated that he did not dispute the contents of the D.G.'s report was correct.

18. Accordingly, the Commission after careful consideration of the facts and circumstances of the case and materials on record hold that S.I Arun Kumar Das, S.I. Subrata Sarkar and S.I. Kartick Maji are all responsible for gross violation of Human Rights of Manik Mondal, a poor hawker.

19. Accordingly, the Commission recommends that

- i. immediate disciplinary proceedings be initiated against S.I. Subrata Sarkar and S.I. Kartick Maji.



- ii. Government should explore the possibility of initiating departmental action against Arun Kumar Das, although he is now retired, since he appears to be the main culprit in this case of sordid violation of Human Rights of Manik Mondal.
- iii. Compensation to the tune of Rs.50,000/- (Rupees fifty thousand ) only be provided to Manik Mondal, a poor hawker for his illegal detention and mal-treatment in the police lockup and mental trauma caused to the detainee and his family.
20. The Government should intimate the Commission about the action taken or proposed to be taken on the recommendations within a period of two months from the date of communication.

Sd/-  
( S.N. Roy )  
Member

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

Sd/-  
( Asok Kumar Ganguly )  
Chairperson

Date: Kolkata, the 8<sup>th</sup> April, 2013

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

Sd/- (08/04/2013)  
(J. Sundara Sekhar)  
Secretary & CEO