WEST BENGAL HUMAN RIGHTS COMMISSION

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Ref. No. 1706/WBHRC/Gen/841/17 Date: 09.02.18

Recommendation No 07/17-18/WBHRC/841/GEN/2017

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 31.01.2018 in connection with the complaint of Shri Samir Sikdar made by the West Bengal Human Rights Commission alongwith 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 three months.

Yours faithfully,
8/2/18
Secretary & CEO.

Enclosures: As stated above.

WEST BENGAL HUMAN RIGHTS COMMISSION

Purta Bhavan, 2nd Floor, Salt Lake, Kolkata – 700 091.

File No. 841/WBHRC/GEN/2017

Present

1. Justice Girish Chandra Gupta — Chairperson
2. Shri Naparajit Mukherjee — Member
3. Shri M. S. Dwivedy — Member

Smt. Barsha Roy (Sikdar) lodged a criminal complaint under Sections 498A/406/323/34 IPC against Sri Samir Sikdar, Amit Sikdar, Malati Sikdar, Manab Mitra, Sona Moni Mitra which was registered on 19th February, 2017 by Barrackpore Women P.S case bearing No 18/17. On 3rd March, 2017, the petitioner Sri Samir Sikdar, Smt. Sona Moni Mitra and Smt. Malati Sikdar surrendered before the Ld. ACJM, Barrackpore and obtained bail. The petitioner thereafter appeared before the Women Police Station at Barrackpore on 3rd March, 2017 and furnished the surrender slip. After the petitioner had left the Women PS he was repeatedly contacted over his mobile phone by Smt. Shyamali Sarkar, LSI of Barrackpore Women PS. She wanted to know why did the petitioner surrender before the Court without informing her; why did he approach the Lawyer, he had engaged, rather than approaching her. She also took the mobile number of the Lawyer engaged by the petitioner. She also disclosed that she would have arranged a Lawyer at a cheaper rate.

On 6th March, 2017, the said LSI Shyamali Sarkar again called the petitioner at 06:14 P.M. over his mobile phone and threatened him of dire consequences. Narrating the incident a complaint dated 08.03.2017 was lodged by Sri Samir Sikdar with the Commission.

2. The Commission by its order dated 23rd March, 2017 called for a report from the Commissioner of Police, Barrackpore. A report prepared by the ACP, Enforcement Branch, Barrackpore Police Commissionerate dated 23rd June, 2017 was forwarded by the Commissioner of Police, Barrackpore under the cover of his letter dated 27th June, 2017 to

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N. C. Sarkar
Assistant Secretary
W.B. Human Rights Commission

the Commission. The Asstt. Commissioner of Police, Enforcement Branch in his report dated 23rd June, 2017 reached the following conclusion:-

> "The I.O. accepted that she talked with him about case matter. The petitioner disclosed that he has no knowledge about English and he signed on said petition as per direction of Ld. Advocate. But it is fact that I.O. talked with the petitioner over her mobile after surrendering accd persons. Don't know why I.O. talked with him from her mobile. I think that the I.O. talked with the petitioner with some illegal motive. Though I.O. previously visited the PO, examined witnesses etc. I think that it was not needed I.O. to talk with petitioner over her mobile in several times."

3. Considering the report dated 23rd June, 2017 an order was passed by the Commission directing the LSI Shyamali Sarkar to appear for examination under Section 16 of the Protection of Human Rights Act, 1993. She appeared on 5th January, 2018 with a Lawyer. She submitted a prayer to allow her Lawyer Sri Laltu Mitra of Barrackpore Court to remain present during the examination/hearing. Such prayer was allowed.

4. During her examination she admitted "I have called Samir Sikdar on his Mobile twice or thrice time. I have not recorded in the case diary that I have contacted the accused Samir Sikdar over mobile phone."

"I had talked to the accused Samir Sikdar over my Mobile to find out as to why his daughter-in-law had initiated a case against him and others. I also talked to the accused Samir Sikdar over my Mobile to find out whereabouts of the other accused persons. I have also suggested Sri Samir Sikdar over my Mobile for surrendering the other accused persons before the Ld. Court."

5. Why did the complainant lodge the complaint against Samir Sikdar and others should appear from the complaint itself. Further light on that aspect of the matter may be thrown by her witnesses and not by the accused. Neither is an accused likely to divulge the whereabouts of the co-accused nor can he be expected ordinarily to be instrumental in the surrender of other accused persons unless he is assured of a favourable order.

6. The explanation furnished by the LSI Smt Shyamali Sarkar which allegedly led her to call the petitioner is not only not believable but is also a pointer of a possible nexus between the police, the Lawyer and the accused which is strengthened by the fact that Sri Laltu Mitra, Ld. Advocate is known to the LSI Shyamali Sarkar for the last 14 years, the fact that he accompanied Smt. Sarkar while she attended the Commission for examination under Section 16 of Protection of Human Rights Act, and the admitted fact that Smt. Sarkar had

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asked the petitioner to surrender the co-accused persons. The LSI, it is probable in the facts of the case, wanted the petitioner to surrender the co-accused in Court through her Lawyer. When the petitioner did not agree to that proposal she is likely to have threatened the petitioner of dire consequences. This exercise on the part of the LSI Smt. Shyamali Sarkar is bound to seriously undermine the rule of law.

7. In view of the aforesaid, the Full Bench of the Commission makes the following recommendation:

A. Disciplinary Proceedings should be initiated against the LSI Shyamali Sarkar.

8. Principal Secretary, WBSHRC to communicate the recommendation to the Chief Secretary, Govt. of West Bengal and he is requested to communicate an action taken report on the above recommendation to this Commission within 3(Three) months.

(Justice Girish Chandra Gupta)
Chairperson

(Naparajit Mukherjee)
Member

(M. S. Dwivedy)
Member

Dated, 31st January, 2018.

Encl: 1. Report dated23.06.17 of the ACP, Enforcement Branch, Barrackpore.
2. Complaint of the Petitioner Sri Samir Sikdar
3. Application made by Smt. Shyamali Sarkar to allow her Lawyer to remain present at the hearing dated 5th January,2018
4. Statement of Smt. Shyamali Sarkar.

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Assistant Secretary
W.B. Human Rights Commission