



WEST BENGAL HUMAN RIGHTS COMMISSION

PURTA BHAVAN (2ND FLOOR)
BLOCK-DF, SECTOR-I, SALT LAKE,
KOLKATA-700 091
PHONE: 2337-2655, FAX: 2337-9633
E-mail: wbhrc8@bsnl.in

Ref. No. 292/WBHRC/COM/1333/16-17

Date: 17.07.18

Recommendation No 4,5,6 &7/WBHRC/2018-19/COM/1333/16-17

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 21.06.2018 made by the West Bengal Human Rights Commission 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 4(four) months.

Yours faithfully,


Secretary & CEO.

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

File no. 1333/Com/16-17

Present

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

In order to improve the administration of different Homes under Controller of Vagrancy, W.B., and for improving the living condition and rehabilitation of the inmates of those Homes, WBHRC intended to conduct a thorough study of all the matters connected to inmates of Vagrant Homes of W.B.

The Controller of Vagrancy, W.B., was directed to provide various information with regard to vagrant inmates in the state of W.B. Commission received a report from Controller of Vagrancy. Studying that report Commission directed its Investigation Wing to examine different aspects of Vagrant Homes and to undertake a spot verification.

Glaring facts which have surfaced are as follows :-

- a) In some of the Homes inmates are there for almost five decades or even more.
- b) The mentally deficient persons whose cases should have been treated under the provision of Mental Health Care

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 Assistant Secretary
 W.B. Human Rights Commission

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Act have been treated under the Bengal Vagrancy Act, 1943 and those persons from time to time under judicial orders have been sent to the Vagrants' Home resulting in overcrowding.

- c) Proper arrangements are not there for rehabilitation of the vagrants staying in various Homes.
- d) Recently with the help of an NGO proper addresses of some of the inmates of the Homes were ascertained and on that basis the vagrants were reunited with their families.

The Controller of Vagrancy, West Bengal has also in his report pointed out that the West Bengal Vagrants' Act 1943 needs proper amendments to handle the issues currently faced by them. The stagnancy of the vagrants has been seriously affecting the very object of such homes as follows :-

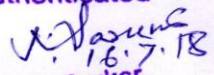
- a) The vagrants in need of help cannot be accommodated in the Homes because they are already over-crowded.
- b) A sizeable number of vagrants are mental patients. They are not getting their proper treatment, in the absence of which rehabilitation is not possible.
- c) There is also lack of proper management. The exercise taken by the two NGOs to interrogate the inmates and to find out their addresses could also have been undertaken by the persons in charge of Management of the concerned Vagrants' Homes.

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The Controller of Vagrancy vide his office memo no. 1265/C.V./3H-01/17 dtd. 24.10.17 submitted a detailed report as regards non vagrants accommodated in Vagrants Homes, the particulars whereof are as follows :-

Name of the Home, Howrah	No. of Non-Vagrant	Cause to mention them as Non-Vagrant	Remarks
Casual Vagrant Home, Howrah	16	Not sent by the empowered Magistrate u/s. 5 of the Bengal Vagrancy Act, 1943.	Copies of Order sheets along with list of inmates of home wise submitted as Annexure IA, IB & IC respectively.
Female Vagrant Home, Uttarpara	13		

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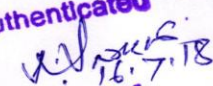
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Special Vagrant Home, Medinipore	01		
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2. The following table will show the number of mentally deficient or ill persons, who should not have been sent to the Vagrant Home, rather they should have been treated under Mental Health Care Act – 2017 and other relevant provisions.

Name of the Home	Name of mentally ill, Mentally retarded and other inmates with mental problems.
Casual Vagrant Home, Howrah	71
Leprosy Vagrant Home, Beliaghata	74
Male Vagrant Home, Petrapole	34
Receiving Centre, Dhakuria	04
New Vagrant Home, Dhakuria	09
Special Vagrant Home, Medinipore	33

Correspondence and communications were made by the Controller of Vagrancy regarding rehabilitation of non vagrants and mentally ill persons.

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The Controller of Vagrancy, W.B., vide his office memo no. 1140/CV/3H-01/17 has expressed amongst others the following views :-

- a) Mentally deficient or ill persons should not have been declared as Vagrants under the Bengal Vagrancy Act, 1943, but should have been treated u/s. 18 of Mental Health care Act, 2017. With access to the Mental Health Care facilities, they could have returned to their normal life.
- b) The Department always tries to rehabilitate the vagrants into the mainstream of the society. They may be reintegrated with their family or may be trained in different handicrafts to make them self dependent, so that they can maintain themselves. For this purpose the vagrants are trained in various trades i.e., Tailoring, Weaving, Carpentry, Black-Smith, preparation of coir mattress, Grazed Pottery, Doll making etc. With these product, Department every year organizes Bhabaghure Mela.
- c) Even the Govt. has engaged 65 able-bodied inmates as cook/cook-mates in the vagrant home.
- d) However, the Bengal Vagrancy Act 1943 is an old Act. With the change of time and change of socio-economic structure, the Dept has taken an initiative to modify the

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existing Act. A committee had been constituted to review the existing Act and give suggestions for its modification. The committee has submitted its proposal.

e)U/s. 18 of Bengal Vagrancy Act, 1943, Controller of Vagrancy is authorized to discharge a vagrant from Vagrant Home. But for non-vagrant this power cannot be exercised.

f)The Dept has taken initiative and requested the Dist. authority and Judicial Dept to strictly adhere to the provisions of the Act, vide no. 4492(38)-SW/2G-06/15 dt. 18.08.2015 and No. 4491(38)-SW/2G-06/15 dt. 18.08.2015.

g)Moreover, additional 3 (three) storied buildings are being constructed in 6 (six) Homes, namely Casual Vagrants Home, Andul; Leprosy Vagrant Home, Dhakuria & Home for Lunatic Vagrant Home, Uttarpara to increase the capacity of Vagrant Homes.

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The Controller of Vagrancy vide his office memo no. 66/CV dt. 18.01.17 submitted a list of Vagrants Homes, under his control, which is as follows :-

Sl. No.	Name of the Homes & Address
1.	Receiving Centre, 153, Sarat Ghosh Garden Road, Kolkata – 78
2.	New Vagrants' Home, 153, Sarat Ghosh Garden Road, Kolkata – 78
3.	Casual Vagrants' Home, 120, Andul Road, Howrah – 3.
4.	Leprosy Vagrants Home, 75/1, Beliaghata Main Road, Kolkata – 700 010
5.	Female Vagrants' Home, 10, Rajmohan Road, Uttarpara, Hooghly – 712258 .
6.	Male Vagrants' Home, Petrapole, Bongaon, 24 Pgs (N), Pin – 743704.
7.	Special Vagrants' Home, Old Jail Buildings, P.O. + Dist. Paschim Midnapur. 8.
8.	Training-cum Production Centre Tantigeria, P.O. + Dist. : Paschim Midnapur, Pin – 721101.

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9.	Home for Lunatic Vagrants' (Male wing) Mahalandi Colony, P.O. : Hazarpur, Nabogram, Dist. Murshidabad, Pin – 742181.
10.	Home for Lunatic Vagrants' (Female wing) Mahalandi Colony, P.O. : Hazarpur, Nabogram, Dist. Murshidabad, Pin – 742181.

The Commission invited Shri Biswanath Chakraborty, Controller of Vagrancy, W.B. on 10.01.18, when the matter was discussed in the Full Bench of the Commission with the said Shri Chakraborty.

Having discussed the matter thoroughly, the Commission makes the following recommendations :

- a) The state agency to take steps, before applying under the provisions of the Bengal Vagrancy Act, 1943, to ascertain whether the person concerned is a mental patient. If there are reasons to believe that the person concerned is or may be a mental patient he should first be produced before the appropriate doctors for examination of his mental condition. Only after being satisfied that the person concerned is not a mental

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patient, an application under the provisions of Bengal Vagrancy Act should be made before the Ld. Magistrate.

- b) A doctor on contractual basis is already there in all the homes. The doctor concerned should give prima facie opinion as regards the inmates who may be in need of mental care. Based on such opinion the home authority should apply for appropriate order to the Court.
- c) At present there is no proper arrangement in all the Homes for rehabilitation of inmates at the Vagrants' Home. Trained persons should be inducted to impart training to the inmates in various trades so that the inmates can be rehabilitated.
- d) The Home authorities should regularly hold interactions with the inmates to find out the names and particulars of their respective family and addresses so that the inmates may be reunited with their families.

The Principal Secretary, WBHRC to communicate the recommendations to the Chief Secretary, Govt. of W.B. and he is requested to communicate action taken report on the above

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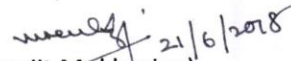
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recommendations to the Commission within a period of 4 months.



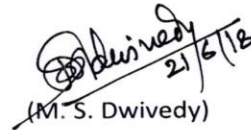
(Justice Girish Chandra Gupta)

Chairperson



(Naparajit Mukherjee)

Member



(M. S. Dwivedy)

Member

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Assistant Secretary
W.B. Human Rights Commission