



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. 762/WBHRC/COM/85/16-17

Date: 7.9.18

Recommendation No 14,15,16,17 & 18/WBHRC/2018-19/85/COM/2016-17

From: Shri Laima Chozah IAS,
Secretary & CEO.

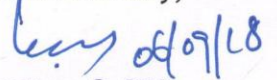
To: The Chief Secretary
Government of West Bengal
NABANNA
325, Sarat Chatterjee Road
Mandirtala, P.O.- Shibpur,
Howrah-711102

Sir,

I am directed to send herewith an authenticated copy of the Recommendations dated 24.08.2018 made by the West Bengal Human Rights Commission alongwith 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 4(four) months.

Yours faithfully,


Secretary & CEO.

WEST BENGAL HUMAN RIGHTS COMMISSION

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

File No. 85/WBHRC/COM/2016-17

Present

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

A Telecom Message dated 19th May, 2016 was received from the Officer-in-Charge, Noapara Police Station, intimating custodial death of Saumik Das @ Roni, son of Dinu Das, resident of 203, Ichapore Bapuji Colony, PS-Noapara, North 24-Parganas. The said Saumik was declared brought dead by the Medical Officer of Bhatpara S.G. Hospital on 18th May, 2016.

2. An order dated 27.05.2016 was passed directing the Commissioner of Police, Barrackpore Police Commissionerate to cause an enquiry and to submit a report. The Director of Child Rights and Trafficking, West Bengal was also directed to file a detailed report.

3. Under the cover of a letter dated 17.10.2016, Commissioner of Police, Barrackpore forwarded a report dated 06.10.2016 submitted by Sri Sajal Kanti Biswas, Asstt. Commissioner of Police-II, Barrackpore Division. Paragraphs 1 & 2 of the report dated 06.10.16 disclose the facts and circumstances under which the deceased Saumik was arrested and his subsequent death. Paragraph 1 of the report reads as follows :

“ The actual fact is that on 18.08.16 at about 12:15 hrs. SI Tarun Chakraborty of Noapara PS along with C/896 Manik Ghose, C/2237 Rangum Biswas of Noapara PS in course of their scheduled duty on the basis of reliable source information conducted raid at East Land area and arrested (i) Soumik Das @ Roni (20) S/O Dinu Das of 203 Ichapur Bapuki Colony, PS- Noapara, Dist. North 24-Pgs (ii) Sourav Kor (19) S/O Santanu Kor of 20 No Rail Gate, Ichapur Mayapally, PS-Noapara, Dist. North 24-Pgs and (iii) Sayan Halder

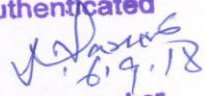
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Assistant Secretary
W.B. Human Rights Commission

(14) S/O Sashi Halder of Ichapur Kalitala, PS-Noapara, Dist. North 24-Pgs, U/S 34-V-61 Police Act and seized there plastic glasses containing 'liquor' and three kolky containing 'GANJA' from the possession of the accd persons, as per seizure list duly signed by available witness. After seizure SI Tarun Chakraborty issued arrest memo against the above accused persons on spot and provide the information regarding the arrest of the above noted accused persons to their intimates. Then all the accused persons were brought to Noapara Police Station and handed over to the duty officer Cadet SI Golam Murtaja Ali for safe custody in well and good condition and they again left for scheduled patrolling duty. The entire fact diarized in Noapara PS GDE no. 1156 dt: 18/05/16."

Relevant part of paragraph 2 of the report reads as follows:

" On 18/05/16 at about 15:00 hrs Soumik Das @ Roni and his two Co-accused Sourav Kor and Sayan Haldar said the table duty officer that they want to go toilet for nature's call. After getting clearance by table duty officer Sourav Kor and Sayan Haldar went to toilet (situated at PS lockup) and come back their place being guarded by L/C 704 Ratna Adhikary after that accused Soumik Das @ Roni went to toilet and after spending some time he came out from toilet and felt sick. Being asked by his co-accused as well as the duty officer Soumik Das @ Roni stated that he took acid at the toilet situated PS Lockup. After knowing the incident the table duty officer instantaneously arrange for shifting the accused Soumik Das @ Roni at Bhatpara State General Hospital where the attending doctor declared him brought dead. This reference to Noapara PS GDE No. 1157 dt. 18/05/16. And the entire episode happened under the full coverage at CCTV camera which are placed at the officer of table duty officer, in front of I/O Room and in front of sentry post of Noapara PS. Footage should be forwarded before Hon'ble Commission, if ordered."

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4. It also transpires from the aforesaid report that disciplinary proceedings were started against the Arresting Officer SI Tarun Chakraborty and LC/704 Ratna Adhikary who at the relevant point of time was performing sentry duty in the concerned Police Station.

Departmental Proceedings was also initiated against the O.C. of Noapara Police Station Sri Subhabrato Ghosh.

5. The Post Mortem Report is that the death was due to ingestion of some corrosive substance. The report of the Forensic Science Laboratory dated 04.08.16 discloses the results of examination of the viscera of the deceased Soumik as follows:

“Phenol(Carbohic acid), corrosive and poisonous in nature, has been detected in the viscera said to be of deceased Soumik Das @ Roni. Phenol has also been detected in the contents of the exhibit marked B&C”.

6. Magisterial enquiry was made by Sri Sanjay Naskar, Judicial Magistrate, Barasat. He, after examining the evidence, expressed the following views:

“During the course of inquiry, I found no foul play involved on the part of police personnel which could likely have caused the death of the subject, but I found the following omission on the part of police personnel:

1. *S.I. Tarun Chakroborty or the duty officers at the relevant time did not get the subject medically examined prior to taking him to police station.*
2. *No official communication was made to the family members of the subject stating his arrest and reason or ground of arrest.*
3. *The subject was confined in the screening room, not in the police lock up and there was no C.C.T.V. coverage in the said screening room. The accused deserved to be remained under the surveillance of C.C.T.V. coverage when they were taken into police station.*
4. *The A.S.I. Tapas Ranjan Das took the subject from the P.S. premises, but he gave a false statement to the Dr. Sachi Prasad Basu to the effect that the subject was unknown and picked up from the road. No official communication was made to the family members of the subject informing them about his event*

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of death either by the A.S.I. Tapas Ranjan Das or the duty officer of the Noapara P.S.

5. The subject got the bottle of acid or corrosive substance either from the screening room of the P.S. where he was confined or from the police lock up. The bottle of acid or corrosive substance should not be placed in such a place where the accused could have easy access.

In the result, I am of the view that death was due to the ingestion of some corrosive substance, ante mortem in nature and the chemical nature of corrosive substance may be ascertained after obtaining chemical examination report. I find no physical torture or custody violence over the subject which could likely have caused his death. I also found no foul play, involved on the part of police personnel which could likely have caused the death of the subject."

7. The Commission by its order dated 03.10.2017 directed the S.I. Tarun Chakraborty and the O.C. Sri Subhobrata Ghosh to appear before the Commission for personal hearing. Both of them appeared on 24.11.2017 and recorded their statement.

8. S.I. Tarun Chakraborty during his examination stated inter alia as follows:

" I arrested Soumik Das @ Roni on 18.05.16. I handed over the arrestee Soumik Das to Cadet S.I. He was the duty Officer, at that time, at Noapara Police Station. I arrested the deceased and the others under Section 34 of Police Act without ascertaining whether the aforesaid Section was made applicable to the territorial jurisdiction of Noapara PS by any notification issued by the Government.

Departmental Proceedings started against me are still continuing. I prepared an Arrest Memo in respect of the arrest of Soumik Das and others. No official intimation as regards arrest of deceased Soumik Das was sent to the members of his family.

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I did not offer bail on PR bond. I had offered bail on the basis of surety which they were unable to procure. It is a fact that the relatives of the deceased were not informed about the arrest.”

9. Sri Subhobrata Ghosh, the then O.C. of Noapara P.S. stated inter alia as follows:

“Departmental proceeding was initiated against me under D.P. no. 26/2016 which has now ended with a recommendation of application of a black mark. An appeal preferred by me is still pending. D.P. was started against me on the ground of lack of supervision. According to the finding arrived at, a Cadet S.I. should not have been given table duty.

It is true that the deceased was arrested in a non cognizable offence. It is also true that no information as regards his arrest was given to any of his family members. The deceased could have been released on a P.R. Bond but no such facility was given to him.

I have not checked or verified whether there is any Govt. notification for application of Section 34 of Police Act within the territorial jurisdiction of Noapara P.S.”

10. From the aforesaid discussions it would appear that the report dated 6th October, 2016 prepared by the Asst. Commissioner of Police, Barrackpore contains incorrect information – (a) that information as regards arrest of the deceased and others was given to their intimates. Both the arresting officer and the officer-in-charge admitted that such information to his relatives was not given. (b) It also contains an incorrect information that the entire episode happened under the full coverage of C.C.T.V camera. It appears from the report of the Judicial Magistrate that the deceased was kept in the screening room where there was no C.C.T.V camera.

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The following conclusion may safely be drawn in the facts and circumstances of this case:

- (a) Arrest under Section 34 of Police Act was made without ascertaining whether the aforesaid Section was notified to be applicable to the territorial jurisdiction of Noapara Police Station.
- (b) The arrestees including the deceased Soumik could have been released on PR Bond, since the alleged offence allegedly committed was a non-cognizable one and was also bailable still the arrestees were not released. No attempt was made to make any legal aid available to them either.
- (c) Even information as regards arrest as mandatorily required to the family members of the arrestee was not given. As a result thereof the family members of the deceased arrestee had no occasion to bail him out which might have saved his life.
- (d) There was utter negligence on the part of the officers manning the Police Station in the matter of surveillance over the activity of the arrestees including the deceased which made it possible for the deceased to access acid "either from the screening room of the Police Station where he was confined or from the Police lock up".
- (e) There was a failure on the part on the officers manning the Police Station to take care so that the arrestee did not harm himself.
- (f) The attempt on the part of ASI Tapas Ranjan Das to suppress the fact before Dr. Sachi Prasad Basu that the incident had happened inside the Noapara P.S. is significant.
- (g) Even the information that Saumik had died was not given to his family members according to the Judicial Magistrate.

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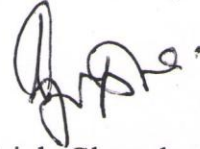
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11. In the aforesaid facts and circumstances the Commission makes the following recommendations:

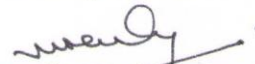
- i. The Commission recommends a compensation of Rs. 2, 00,000/- (Rupees two lakhs) only to be given to the parents of the victim of custodial death, namely, Saumik Das @ Roni, son of Dinu Das, resident of 203, Ichapore Bapuji Colony, P.S.Noapara, Dist-North 24 Parganas.
- ii. The Commission further recommends that a direction be issued to all O.C.s of Police Station both in West Bengal and Kolkata Police areas that no corrosive substance like acid, phenyl should be kept in toilets attached to lockup in order to prevent detained persons from consuming such substance for committing suicide etc.
- iii. A direction may further be issued that persons arrested under 34-V-61 of Police Act should not be detained in the Police Station or lockup as it is aailable section and should be released immediately on bail.
- iv. S.I. Tarun Chakraborty admitted before the Commission that he was not aware of the fact whether the place of occurrence (where the victim/accused was arrested) was notified by the Government being covered u/s 34-V-61 of the Police Act. Therefore, the Commission recommends that the Director General of Police should take steps so that copies of notification under Section 34 of Police Act are made available to the Police Stations to which the aforesaid Section has been made applicable.
- v. Final results of departmental enquiry against Shri Subhobrata Ghosh, the then O.C. of Noapara P.S. and S.I. Tarun Chakraborty be intimated to the Commission within three months time. The Commission also recommends departmental proceedings against A.S.I. Tapas Ranjan Das who suppressed the facts and made a false statement to Dr. Sachi Prasad Das to the effect that the victim was unknown and was picked up from the road. Further, the said ASI failed to inform the family members about the death of the victim. He also failed to inform the same to the duty officer of the Police Station.

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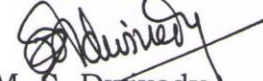
12. Principal Secretary, WBSHRC to communicate the recommendation to the Chief Secretary, Govt. of West Bengal and he is requested to communicate an action taken report on the above recommendations to this Commission within a period of 4(Four) months.



(Justice Girish Chandra Gupta)
Chairperson



(Napanarajit Mukherjee)
Member

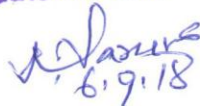


(M. S. Dwivedy)
Member

Dated, 24th August, 2018 .

Encl: 1. Report of ACP-II, BKP Divn. dt. 06.10.16 .
2. Magisterial Enquiry Report.

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