

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.04/SMC/2022

Shri Naparajit Mukherjee - Member

A news item appeared in the Telegraph daily dt. July 3, 2022 captioned "LAMP POST CLAIMS LIFE OF ANOTHER SCHOOLBOY". According to the news-item, a 13 year old boy, was electrocuted after he touched the lamp post at Narkeldanga area on Saturday evening while he was going back to his home. The news item claimed that the victim's name was Md. Farzan. There was a short spell of rain in the evening as a result of which there was some water logging in and around the lamp post. According to the eye witnesses account, as reported in the media, the incident occurred at 6.30 p.m.

2. The West Bengal Human Rights Commission took suo motu cognizance of the matter and called for a report from the Commissioner, Kolkata Municipal Corporation.
3. The Commissioner, Kolkata Municipal Corporation, vide his memo no.Con/com/76/WBHRC/2022-23 DT.01/8/2022 forwarded the enquiry report conducted by a team of engineers, namely, D.G.(E&L) K.M.C., Dy. Chief Engineer (E) and Executive Engineer (E)LTG/Zone-II, Br.-IV, KMC. According to the report, the incident occurred on 02/7/2022 at Raja Raj Narayan Street., Narkeldanga. At the place of incident, a mini pole without any light fitting was located near a water tap. On the adjacent wall, number of sockets with temporary wires was found hanging in the tap. The sockets and PVC pipes indicated that pump was

installed to suck water from the tap by hooking electrical power from the pole. According to the report the incident occurred at 5 p.m. when it was raining heavily and the passage was water logged. The victim, according to the report, was electrocuted by the un-protected wires. The report insisted that the incident occurred at 5 p.m. when K.M.C. lights are not put on. Therefore, there was no power. They added the K.M.C. lighting and electricity department regularly inspect the street lighting system etc. to ensure safety of the citizens.

4. The W.B.H.R.C. examined the report and found it unsatisfactory for which it sought further clarification from the Kolkata Municipal Corporation on following issues :

(a) According to the report the engineers during their enquiry found evidence of hooking at the spot from the KMC pole. However, there is no mention whether criminal cases were registered under Electricity Act of 2003 and that the items were seized.

(b) It sought a clarification as to exact time of incident since media report suggested that the incident occurred at 6.30 p.m. while the K.M.C. reported it to be 5 p.m.

(c) From the report, there was an admission on the part of K.M.C. that there was hooking from the pole for running of water pump. Thus, the W.B.H.R.C. wanted to know categorically whether the K.M.C. has awarded any compensation to the victim of electrocution.

5. In reply the K.M.C. Commissioner vide his memo no.Con/Com/04/WBHRC/2022-23 dt.September 1, 2022 informed the Commission that there is no provision under KMC Act, 1982 to seize electrical gadgets from the site of occurrence of the incident. It further insisted that the incident occurred at 5 p.m. but did not quote the names of witnesses. It categorically denied that the hooking occurred from K.M.C. power source.

6. Since there was lot of discrepancies in the second report of Commissioner, K.M.C., the W.B.H.R.C. decided to call for reports from Executive Director, C.E.S.C. specially to clarify the ownership of the electrical pole. The Executive Director, C.E.S.C. vide his memo no.ED(DS):7460 dt.October 11, 2022 informed the Commission that the street light post was owned by KMC installed, operated and maintained by the K.M.C. since the responsibility of CESC was limited to underground supply of electricity to poles. Further, there was a discrepancy in the name of the victim which according to the CESC's report was Fyzan Ahmed (13 years), son of Md. Fakiruddin, resident of 1/A, Raja Raj Narayan Street, Kolkata – 700009.

7. In view of contradiction between reports of CESC and K.M.C. over this incident the Commission entrusted the Dy.S.P., Investigating Wing of WBHRC to ascertain the exact name of the victim boy, obtain the post mortem report, U.D. Case report etc. from Narkeldanga P.S. The Dy.S.P., Investigating Wing informed vide his report dt.02/11/2022 that the actual name and address of the deceased was Farzan Ansari (male 13 years), son of Fakruddin of 17/2/H/2, Canal West Road, P.S.Narkeldanga, Kolkata-700009. In this connection, the post mortem report was obtained which clearly stated that the victim died due to electrocution. The report of State Forensic Science Laboratory (SFSL) as submitted by the Dy.S.P. was examined in which it is evident that the concerned electrical post was being used for tapping electricity and there was no "earth connection". The SFSL concluded that bare portion of one live wire touched the metallic pole which caused accumulation of electrical charge on the pole. The victim came in contact with the pole and was electrocuted since the pole was not having any "earthing facility". The police reported that while enquiry from the victim's parent they stated that family members of the deceased could learn that at 18.00 hrs. on 02/7/2022 they heard about the incident. Thereby, they (parents) confirmed that incident occurred around 1800 hrs.

8. Findings of the Commission:

After examining the reports of the Kolkata Municipal Corporation, C.E.S.C., Dy.S.P., Investigating Wing, WBHRC and that of Narkeldanga P.S. and State Forensic Science Laboratory, the Commission concluded that :-

- (i) There was hooking of electricity from the pole of K.M.C. for the purpose of running water pumps, used to draw water from water taps.
- (ii) The pole, belonging to Kolkata Municipal Corporation was not maintained properly as it had no "earthing facility" (as revealed from S.F.S.L. report).
- (iii) The K.M.C. itself admitted of hooking electricity from the pole.
- (iv) The victim boy, Farzan Ansari died as a result of electrocution from the ill-maintained pole of the K.M.C. as revealed from post-mortem.
- (v) The K.M.C. had given an excuse that it did not have power under Kolkata Municipal Corporation Act to start cases. In fact, u/S 135 of Electricity Act, 2003 empowers Kolkata Municipal Corporation to lodge F.I.R.s for theft of electricity with the police authorities for taking appropriate legal steps. In the opinion of the Commission, the K.M.C. should have lodged an F.I.R u/S 135 Electricity Act, 2003 over theft of electricity, which it failed to do so.
- (vi) An excuse has been given by Kolkata Municipal Corporation that incident occurred around 5 p.m., at which time electrical lights are not put, on thereby there was no circulation of electricity in the pole. This fact has been negated by report of State Forensic Science Laboratory

which clearly stated that due to contact of ill-installed P.V.C. wires, used for hooking, there was accumulation of electrical charge in the pole which was further aggravated as there was no "earthing". Secondly, the victim's parents stated to the police that the incident was reported to them around 6 p.m. and their house is located near the place of occurrence.

9. In view of above, the Commission concluded that the electrocution occurred from the K.M.C. pole which was very badly maintained with no "earthing" and there was hooking of electricity from the pole. The K.M.C. lighting department did not properly inspect the poles and also failed to register case of theft of electricity u/S 135, Electricity Act, 2003. Thus, the negligent conduct is very evident.


In view of above, the Commission recommends that

- (A) Compensation to the tune of Rs.300000/- (Rupees three lakhs) only be awarded to Fakruddin father of deceased, Farzan Ansari of 17/2/H/2, Canal West Road, P.S.Narkeldanga, Kolkata – 700009.
- (B) The Kolkata Municipal Corporation is recommended to start case u/S 135 Electricity Act, 2003 whenever they find hooking of electricity from their poles, as a measure of deterrence as well as to prevent theft of electricity.
- (C) Proper inspection of electricity poles with "earthing" should be carried out on a regular basis by electricity department of Kolkata Municipal Corporation.

Special Secretary, W.B.H.R.C. is directed to send copy of the recommendations to the Chief Secretary, Govt. of West Bengal. Chief Secretary, Govt. of West Bengal should inform the Commission about the action taken or proposed to be

taken on the recommendations within a period of 3 (three) months from the date of receipt of this communication.

Ld. Registrar, WBHRC is directed to upload the recommendations in the website.


(N. Mukherjee)
Member
07/7/2022

Encl : (I) Two reports of Commissioner, K.M.C.
(II) Report of Executive Director, CESC
(III) Report of Dy.S.P., I.W., WBHRC with enclosure
including S.F.S.L.'s report.