

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.146/25/24/2022

Shri Naparajit Mukherjee - Member

A petition was received on transfer from National Human Rights Commission u/S 13(6) of Human Rights Act, 1993 of one Smt. Arati Munda, wife of Lt.Narayan Munda, resident of Mujnai Tea Garden, P.O.Mujnai, P.S.Madarihat, Dist – Alipurduar. The contention of the petitioner was that on 13/5/2022 her daughter, Smt. Manisha Munda (21 years), around 6 in the evening was attacked by a wild elephant and she received multiple injuries. She claimed that the incident occurred in RanGalibajna Mouja, Dangpara area when she and her fiance, Mangaldip Roy were together since they were about to be married. Subsequently, being attacked by a wild elephant was shifted to Siliguri for medical treatment. She also stated that 5/6 months earlier her son Sibraj Munda (16 years) was attacked by a wild elephant in his house and had lost his life. In that case, the Forest Department gave compensation and gave the petitioner a job as Home Guard. The petitioner, further claimed that her daughter, who was the victim of elephant attack was currently very ill and staying in her house but no compensation was being given to an illiterate adivasi person for attack and receiving injuries from a wild elephant.

2. The West Bengal Human Rights Commission took cognizance of the matter and called for a report from District Magistrate, Alipurduar. The District Magistrate forwarded the report of Range Officer, Madarihat Range addressed to B.D.O., Madarihat Birpara block vide his memo no.261/MDT-28 dt.20/9/2022 in which he claimed that the incident took place in forest area and as per existing rules and regulations the victim or his / her legal heirs were not eligible for any

compensation. The report was duly forwarded by the B.D.O. to the District Magistrate and A.D.M.(G) vide his memo No.473/2022 dt.23/9/2022 forwarded the matter to W.B.H.R.C. without offering any comments.

3. The West Bengal Human Rights Commission duly examined the petitioner, Arati Munda and report received from the D.M., Alipurduar. The Commission found that the report was unsatisfactory, very cryptic and lacked in such basic details as exact place of occurrence of the incident, date and time of the incident and examination of the petitioner along with her statement. In view of such unsatisfactory report from the D.M., ^{dx} The Commission directed Supdt. of Police, Investigation Wing of W.B.H.R.C. to enquire into the matter thoroughly and submit its report. The Investigation Wing of W.B.H.R.C. duly conducted the investigation and submitted its report along with photographs of the place of occurrence.

4. The report has confirmed about the incident in which Manisha Munda, daughter of Smt. Arati Munda received severe injuries as result of elephant attack on 13/6/2021 AT ABOUT 19.30 hrs. She was initially admitted to Birpara Hospital, thereafter to North Bengal Medical College and Hospital, Siliguri on 14/6/2021 at 4 a.m. The medical papers suggested that the nature of injuries were grievous "Pancreatic injury with splenic laceration (Gr.II) on a case of Blunt ^{dx} Trauma abdomen following elephant attack". She was admitted for 30 days from 14/6/2021 to 13/7/2021 in the hospital and was bed ridden for 1½ months. She needs surgery and further medical treatment for complete recovery but due to economic distress she is unable to do so. The incident occurred when Manisha Munda, resident of Mujnai Tea Garden, No.7 Line, P.O.Mujnai went with her fiancé, Mongaldip Roy on his motorbike from her house to reach Mongaldip's house at Rangalibajna. On the way she requested Mongaldip to stop by the road side to relieve herself. The

motorbike was stopped on the road side near Dhumchi forest. It was further ascertained during enquiry that this place was utilized for training purposes by boys seeking recruitment in army and that the place is known as Beldanga. There was no warning sign placed at the place of occurrence that it was a restricted forest area and no fencing and forest guards were placed there. While she was reliving herself, suddenly an elephant appeared and attacked her on which she fell unconscious. She was later rescued by Mongaldip Roy, who took her to Birpara Hospital, followed by North Bengal Medical College and Hospital on 14-6-2021. The victim informed that she was feeling severe pain in abdomen, hip and leg. She further mentioned that she had learnt from her mother, Arati Munda who is also the petitioner that some Forest Beat Officer unofficially gave Rs.5000 /- for medical treatment post incident but no receipt or signature were taken. She further claimed that her brother, resident of same locality had died some time back and her mother Arati Munda had received a compensation of Rs.2.5 lakhs and a service of Home Guard. Mongoldip Roy, resident of Uttar Rangalibajna, Alipurduar was examined who confirmed the statement of Manisha Munda. He further stated that his motorbike was also damaged during the incident. He further added that there was no warning board, watch tower, fencing at the place of occurrence and that he could not identify whether the place is inside or outside the forest. This locality is used for physical exercise by youngsters preparing for army service examination and is known as Beldanga. He also stated that local adivasi regularly fish in Garganda river which is adjacent to the place of occurrence but were never prohibited by the forest guards.

5. Arati Munda, the petitioner was duly examined when she authenticated her petition submitted to N.H.R.C. dt.31/7/2021. She confirmed whatever she mentioned in her petition and stated that currently she was working as a Home Guard in Alipurduar as well as compensation of Rs.2.5 lakhs was given to her following death of her son by elephant attack.

Findings of the Commission :

6. The claim made by Arati Munda of the incident of elephant attack on her daughter on 13/6/2021 was established. Further, she received grievous injuries and was admitted to North Bengal Medical College and Hospital for over a month was established by the hospital records. The nature of her injuries received were quite serious and needed surgery. It was also established during enquiry that the victim belongs to an extremely poor adivasi family of Mujnai Tea Garden under P.S.Madarihat, Dist – Alpurduar. It was also stated that unofficially a sum of Rs.5000/- was given to the petitioner Arati Munda for treatment of her daughter by the Forest Beat Officer but there are no records of the incident. Furthermore, the local Police Station did not make any G.D.E. about the incident and the Forest ^{Beat} ~~Be~~ or Range Officer has no records of the incident. The Range Officer claims that the incident occurred inside the forest area which makes the victim ineligible for compensation as per existing Govt. orders. When asked, the Forest Range Officer failed to produce any G.O. to that respect. Section 26 (D) of Forest Act, 1926 envisages prosecution for trespassing into the reserved forest area. In case if the incident had occurred inside a forest area, question remains why the Range or Beat Officer did not prosecute them under the Forest Act, on the contrary, initially gave them Rs.5000/-for medical treatment, as claimed. The place of incident was established as Beldanga, where there is no sign board, watch tower, fencing, demarcation to the effect that it was a reserve forest area and that trespassers would be prosecuted. There was no independent witness to establish whether the incident occurred inside the forest or by the road side as claimed by both the victim and Mongaldip Roy, the sole witness of the incident. It was further established that adivasi people regularly visited that area for fishing in Garganda river thereby utilizing the provisions of Section 3 (Forest Rights) of Scheduled Tribes and other

Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Furthermore, it has been repeatedly asserted by the witnesses during enquiry that this place was utilized by the local boys for training for recruitment in army services. Such evidence clearly shows that the place of occurrence is regularly frequented by the locals and that the forest officials never prohibited anybody from doing so or prosecuted anybody under the Forest Act. Thus, the assertion of Range Officer that the incident occurred inside the forest is extremely doubtful and without any basis. Further, in case, the forest authorities had such information they should have prosecuted all such violators which they have so far failed to do. It is, thus, established that the incident of elephant attack had occurred by the road side as claimed by the victim and Mongoldip Roy for which the victim suffered for long with grievous injuries, making her eligible for compensation.

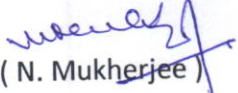
Recommendation of the Commission :

The Commission recommends that

- i. A sum of Rs. 2.5 lakhs (Rupees two and half lakhs) only should be given to Smt. Manisha Munda, daughter of Smt. Arati Munda resident of Mujnai Tea Garden, P.O.Mujnai, Dist – Alipurduar for wild elephant attack causing grievous injury and admission in hospital for over one month.
- ii. The District Magistrate and D.F.O. should take note of the fact that the prohibited areas of the forest should be duly fenced, warning sign placed against trespassing and of danger from wild elephant attack in order to alert local residents from such dangers.
- iii. Local O.C. should invariably diarise such Elephant-attacks since in this case it was a Medicolegal case being referred from Birpara Hospital where victim was admitted for treatment. Supdt. of Police, Alipurduar and O.C., Madarihat P.S. should be cautioned for such failures.

Special Secretary, W.B.H.R.C. is directed to send authenticated 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, W.B.H.R.C is directed to upload the recommendations in the website.


(N. Mukherjee)
Member
10/11/2022

Encl :

- i. Petition of Arati Munda
- ii. Report of D.M., alongiwth enclosing report of Range Officer
- iii. Report of Dy. S.P., Investigation Wing, WBHRC along with all enclosure.