

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.11/SMC/22

Date : 10/04/2023

1. Mr. Justice Jyotirmay Bhattacharya - Chairperson
2. Mrs. Justice Madhumati Mitra - Member
3. Mr. Naparajit Mukherjee - Member

A news item appeared in Ananda Bazar Patrika dt.07/9/2022 captioned "অপহরণের পরে দুই কিশোর খুন, পুলিশের গাফিলতিতে ফ্লোভ। মর্গে দেহ জানতই না পুলিশ" In the news item it was stated that two male persons, namely, Atanu Dey and Abhisek Naskar were reported missing and the matter was reported to the police. Later on, it was ascertained that these two boys were murdered and that their dead bodies were recovered 13 days ago and was kept in a morgue of a government hospital. The W.B.H.R.C. took suo motu cognizance and called for a report from Commissioner of Police, Bidhannagar Commissionerate.

2. The matter was duly enquired into by Dy. Commissioner of Police, Airport Division, Bidhannagar Police Commissionerate and report submitted to W.B.H.R.C. vide memo no.601/CP/BDN/C dt.12/9/2022. This report was duly examined by the W.B.H.R.C. which, inter alia stated that on 24/8/2022 a

complaint was received at Baguiati P.S. by one Biswanath Dey alleging that on 22/8/2022 around 1500 hrs. his son Atanu Dey (16 years) and nephew Abhishek Naskar (10 years) left home with one Satyendra Chowdhury (30 years) of Netaji Pally, Jagatpur, P.S.Baguiati but did not return home. The complainant suspected that Satyen Chowdhury had kidnapped the minor boys over which Baguiati P.S. Case No.335/22 dt.24/8/2022 u/s 363/365 IPC was started by I.C. Kallol Kumar Ghosh and S.I. Pritam Singh was designated as the I.O. of the case. The report detailed the steps taken by the I.O. including sending photographs of the victims for publication in Criminal Intelligence Gazette (C.I.G.) of C.I.D., West Bengal. The report further stated that accused person, namely, Abhijit Bose was arrested and on the basis of confessional statement the vehicle used for crime was seized. He further stated that both the victims were killed on 22/8/2022 i.e. on the date of abduction for which prayers were sent to Ld. Court for adding Section 302/201/364A/120B/34 IPC. Three other accused persons were also arrested. Later, on 06/9/2022 the dead body of Avhishek Naskar was identified by the family members at Barasat Hospital morgue which refers to Haroa P.S. U.D. Case No.25/22 dt.25/8/2022. The report concluded that Inspector Shri Kallol Ghosh (I.C., Baguiati P.S.) and I.O. S.I. Pritam Singh were suspended on 07/9/2022 for negligence and delay in investigation and the case was handed over to C.I.D., West Bengal on 07/9/2022. The report itself was

found to be quite contradictory in nature as the W.B.H.R.C. felt that when the investigation was going on smoothly and the accused persons were arrested, dead bodies recovered then what is the need for suspending both the I.C. and the I.O. and transferring the case to CID, West Bengal. Therefore, the West Bengal Human Rights Commission sought clarification on this report on following points :-

(a) When did the incident actually take place and what time and what date Biswanath Dey (father of the victim) lodged complaint with police.

(b) After perusing case diary report be sent what steps I.O. took regarding recovery of victims and (c) Dates on which the messages were issued to Police Station for tracing victims, date of communication to C.I.D., West Bengal for C.I.G. publication and that whether information published in missing persons portal. Further, a report was also called from Commissioner of Police, Bidhannagar about negligence on the part of police (as reported in the news item) regarding dead bodies of victim laying in the morgue for nearly two weeks but the police took no action. Further, role of the supervising A.C.P. in giving instruction/supervision of this case was also sought for.

3. A further report was submitted to WBHRC by Commissioner of Police, Bidhannagar vide his memo no.697 dt.13/10/2022 in which he forwarded (without comments) report of Dy. Commissioner of Police, Airport Division, Bidhannagar

Police Commissionerate. This report was once again examined and it was found unsatisfactory as replies were not given to the issues raised by the Commission as mentioned earlier. It reiterated more or less whatever has been stated earlier for which the Commission observed that the report was unsatisfactory and this time sought clarification on certain specific points which are as follows :-

(a) The West Bengal Human Rights Commission was not satisfied with the reply that Baguiati P.S. Case No.335/22 was registered on 24/8/2022 while the actual incident took place on 22/8/2022. Reasons for this delay of two days which supporting reference were called for. (b) Dy. Commissioner of Police in her report failed to give any reference of case diary regarding process of investigation and also failed to mention the exact date with reference to G.D. entries when photographs of victims were sent for CIG publication. (c) No clear reply was given about the role of ACP as supervising officer. Further, reasons for suspension of the I.C. Kallol Ghosh and I.O. Pritam Singh and handing over the case to CID were not clarified. A point wise reply was sought from C.P., Bidhannagar Police Commissionerate by November 4, 2022.

4. Accordingly, Commissioner of Police, Bidhannagar submitted a further report to W.B.H.R.C. vide no.776 dt.10/11/2022 in which he forwarded without comments the report of Dy. Commissioner of Police, Airport Division dt.07/11/2022.

5. This time a point wise reply to our previous queries was submitted by the D.C.P. Regarding point no.1 of query dt.28/9/2022 the exact date and time of the incident as mentioned by the complainant was 1500 hrs. of 22/8/2022 while the FIR was lodged on 24/8/2022 at 1605 hrs. vide Baguiati P.S. G.D.E. No.1373 dt.24/8/2022. The reasons for delay have been mentioned in the F.I.R. by the complainant itself. The report admitted that for CIG publication of photographs of the two victims were sent on 30/8/2022, which entails a delay of eight days from actual incident and six days from the actual lodging of FIR (24/8/2022). Regarding the role of supervising ACP it mentioned that time to time various instructions were issued to the I.O. and I.C. of the P.S. Regarding the action taken by police after the victim's father received threatening ransom call on whatsapp was clarified in this report. It mentioned that on 24/8/2022 one cousin of Atanu Dey, namely, Suraj Mondal informed that one Priya, reported girl friend of Atanu Dey, had informed him of receiving whatsapp message from unknown number demanding money. On 30/8/2022 the said Priya @ Suparna Chakraborty was traced at Haringhata P.S. and duly interrogated. This entailed a delay of six days from which the matter was reported by Suraj Mondal and tracing out of Suparna Chakraborty.
6. Regarding reasons for the case being handed over to CID, West Bengal no cogent logic was forwarded. Lastly, the report admitted that there were lapses

on the part of the I.O. and I.C., Baguiati P.S. over non-pursuing of Email message from Mlnakhan P.S. dt.23/8/2022 was checked later and the death of two missing boys were confirmed. Subsequently, both the dead bodies were identified at Hospital morgue which created an adverse impact on the families of the deceased.

7. The W.B.H.R.C. also examined copy of FIR no.335/22 dt.21/8/2022 u/s 363/365 IPC complainant, Biswanath Dey sent as an annexure of the D.C.P.'s report dt.07/1/2022 forwarded by C.P., Bidhahnagar dt.10/11/2022. The W.B.H.R.C. found that in the signed report of the complainant addressed to O.C., Baguiati P.S. the date mentioned at the top of the F.I.R. has been clearly over written from 23/8/2022 to 24/8/2022. There was no signature to authenticate this overwriting. There by going sufficient reasons to doubt tampering with legal documents.

8. The W.B.H.R.C. decided to call for Dy. Commissioner of Police, Airport Division, Bidhannagar Police Commissionerate and supervising officer of Baguiati P.S. for examination by the W.B.H.R.C. u/s 16 of the P.H.R. Act on February 22, 2023. They both appeared before the WBHRC and Commission recorded their statements.

9. Ms. J. Mercy, IPS, Dy. Commissioner of Police, Airport Division who submitted enquiry report to WBHRC gave her views regarding lapses on the part

of I.O. and I.C., Baguiati P.S. She stated that after perusing the CD she got to know that on 25th they had received GPS date of the App Car travelling towards Basanti High Way and on 23rd August (wrongly recorded in the statement as 23rd November) received Email message from Minakhan P.S. with photographs of dead body of one victim boy. She admitted that report for CIG publication was sent to C.I.D., West Bengal on 30th August, 2022. She had not clarified, in her report to WBHRC, the reasons for this delay. No explanation has been given in the case diary for this delay. She admitted that if the O.C. and I.O. of Baguiati P.S. were sincere then on 24/8/2022 when father of victim, Atanu Dey came to Police Station for lodging F.I.R. the photograph of dead body of Atanu Dey could have been shown for identification. She admitted that in her report she did not mention the date on which I.O. took up the case for investigation nor did she mention the date and time when photographs of missing boys and messages were sent to all concerned to trace them out. She further admitted that there was delay in sending report for CIG publication and admitted that in the written complaint of the complainant date was over written from 23rd to 24th after perusing the complaint.

10. Statement of Shri Surajit Dey, Asstt. Commissioner of Police, Airport Division was recorded on 22/2/2023 where at he recorded that he got intimation of lodging of FIR over phone and he gave instructions to I.O. and I.C. of the

Police Station. He added the victim, Atanu Dey was in the habit of playing "free fire game" and collected money and had developed a habit of spending the same. The instructions given by him were recorded in the case diary. He admitted that on 23/8/2022 Minakhan P.S. recovered one dead body refers U.D. Case No.25/22 dt.23/8/2022 and that photographs were sent for identification to all Police Stations. He admitted that the date of written complaint was over written to 24/8/2022 by altering 23/8/2022 and the same was not authenticated by the complainant. Lastly, he admitted that if the photograph of the dead body were shown to the complainant on 24/8/2022 itself then they could have identified the victim.

11. Statement of Smt. Sima Das, Lady Sub-Inspector of Police, Baguiati P.S. was recorded on 22/2/2023 as she was the recording officer of the complaint of Biswanath Dey. She admitted to the fact that on 24th August, 2022 she was posted as Lady S.I. of Baguiati P.S. and that on this date Biswanath Dey had lodged a written complaint regarding missing of his son. She stated that the normal practice is after receipt of written complaint, in case of any overwriting, the complainant is asked to put his signature on the over written portion. The Lady S.I. admitted, after going through the written complainant, that it was a fact that the date was overwritten and that it does not bear any signature of any person. The witness further stating that she had brought this matter to the notice

of the complainant for necessary authentication but as the complainant was severely upset, he could not do so and the witness did not insist on the same.

12. The W.B.H.R.C. examined Shri Biswanath Dey and his statement was recorded on 16/3/2023. He stated to the WBHRC that on 22nd August, 2022 both his son, Atanu Dey and nephw, Abhisek Naskar went missing for which he made thorough search but could not trace them. On the following day i.e. 23rd August, 2022 he went to New Town P.S. for lodging complaint when the latter told that they had no jurisdiction over the area. They were directed to Baguiati P.S. and on the afternoon of 23rd August, 2022 a written complaint was lodged. On that day, he alleged, that the Police Station did not make any entry regarding the missing information and the same was registered on 24th August, 2022. He identified signature on the written complaint and stated that he did not over write the date of lodging of the complaint. He further stated that no photograph of any dead body was shown to them on August 23, or August 24, 2022 during their visit to Police Station. After 15 days Baguiati P.S. called family members to the P.S. and shown photographs of the dead body from which it was confirmed.

13. Statement of Shri Tapan Aguan, Circle Inspector of Police, Haroa was recorded on 16/3/2022 by the WBHRC. He admitted to the fact that on 25/8/2022 he was in-charge of Haroa and Minakhan Police Stations as Circle Inspector and that on August 25, 2022 S.I. Bappa Mitra was the O.C. in-charge of Haroa P.S.

Regarding recovery of dead bodies of the victims he stated that on August 25, 2022 one Uday Mondal informed Lawgachi Beat House that an unidentified dead body was floating in No.5 Chutki Bheri Fishery. The S.I. Barun Roy recovered the dead body and sent it to Haroa Rural Hospital and informed Haroa P.S. on which Haroa P.S. U.D. Case No.25/22 dt.25/8/2022 was started and case entrusted to ASI Fyaz Ali for enquiry. Photographs of the dead body were taken at the time of recovery and on the same day it was sent through email to Missing Persons Bureau, Kolkata Police, C.I.D., West Bengal as well as to all Police Stations of West Bengal including Baguiati P.S. On 06/9/2022 Hari Naskar, father of deceased, Abhisek Naskar identified the dead body which was kept in Basirhat Morgue from 25/8/2022 to 06/9/2022.

14. Statement of S.I. Bappa Mitra was recorded on 22/3/2023 who corroborated with the statement of Inspector, Shri Tapan Aguan. He added that the report was collected on 06/9/2022 after perusing the matter and had come to know that the cause of death was homicidal. The photographs of the recovered dead body were sent to all concerned on 25/8/2022, date of recovery.

15. Statement of ASI Fyaz Ali, the Investigating Officer of U.D. Case No.25/22 dt.25/8/2022 was recorded on 22/3/2023 where at he detailed the steps taken by him during investigation which was found by the WBHRC to be satisfactory. He added although, he had sent copies of photographs of the unidentified dead body

to all concerned including Baguiati P.S. on 25/8/2022 itself he did not receive any response. He went to the hospital on 03/9/2022 for collecting the post mortem report but the same was available on 06/9/2022. The dead body was identified by Hari Naskar, father of the victim on 06/9/2022.

Findings :

16. On perusal of the three separate reports dated 10.09.2022, 11.10.2022 and 07.11.2022 addressed to the Commissioner of Police, Bidhannagar Police Commissionerate by Dy. Commissioner of Police, Airport Division along with annexed documents including a copy of FIR, post-mortem report and statements of witnesses namely Ms. J. Mercy, Dy. Commissioner of Police, Airport Division, Bidhannagar Police Commissionerate, Smt. Sima Das, Lady Sub-Inspector of Police of Baguihati P.S., Shri Surajit Dey, Assistant Commissioner of Police. Airport zone, Shri Biswanath Dey, the father of one of the victims viz. Atanu Dey, Shri Tapan Aguan, Circle Inspector of Harwa P.S., Shri Bappa Mitra, Officer-in-Charge of Haroa P.S. and Shri Fyaz Ali, Assistant Sub-Inspector of Police of Haroa P.S. recorded by the West Bengal Human Rights Commission as well as the materials placed on record, the following facts have been emerged :-

17. Two minor boys namely Atanu Dey and Abhisekh Dey went missing on and from 22nd August of 2022 (as it appears from the copy of the FIR

lodged by Shri Biswanath Dey, father of the victim Atanu Dey and from the statement of Biswanath Dey made before the Commission);

18. On 23rd August, 2022 Minakha P.S. recovered the dead body of one person and started U.D. P.S. Case no. 25/2022 dated 23.08.2022 and sent the photographs of the said dead body to all police stations of West Bengal for identification (as it appears from the statement made by Shri Surajit Dey, Assistant Commissioner of Police, Airport zone who was the supervising Assistant Commissioner of Baguihati P.S. case no. 335/2022);

19. On 23rd August, 2022 Shri Biswanath Dey, father of the victim Atanu Dey and maternal uncle of the victim Abhisekh Naskar visited Baguihati P.S. and informed the police in writing about the missing of the boys (as it appears from the statement made by Shri Biswanath Dey before the Commission);

20. From the copy of the formal FIR as well as written complaint it appears that Baguihati P.S. case no. 335/2022 was started on 24th August, 2022 (as it appears from the formal FIR and the written complaint of Shri Biswanath Dey);

21. Written complaint of Shri Biswanath Dey indicates the date of lodging complaint was overwriting (copy of written complaint);

22. In her statement before the Commission Smt. Sima Das, the lady Sub-Inspector of Police of Baguihati P.S. admitted that the date of lodging

FIR was overwriting and overwriting portion does not bear any initial or signature of any person. (The statement of witness no. 2 Smt. Sima Das.);

23. On 25th August, 2022 Haroa P.S. received one dead body with history of drowning and started Haroa P.S. U.D. case no. 25/2022 dated 25.08.2022 and the photographs of the dead body were sent to all police stations of West Bengal for identification through e-mail (the statements made by witness no. 5 Shri Tapan Aguan, witness no. 6 Shri Bappa Mitra, O.C of Haroa P.S. and Shri Faiz Ali, the Enquiry Officer of Haroa P.S. U.D. case no. 25/2022 dated 25.08.2022).;

24. From the materials placed on record as well as the statements made by the witnesses before the Commission, it appears that two dead bodies were recovered on 23rd August, 2022 and 25th August, 2022 by Minakha P.S. and Haroa P.S. respectively and both the police stations sent the photographs of the dead bodies to all concerned including all police stations of West Bengal (as it appears from the statements of witnesses.);

25. In his statement before the Commission Shri Biswanath Dey, the father of the victim Atanu Dey stated that during his visit to Baguihati P.S. on 23rd August, 2022 and 24th August, 2022 they were not shown any photographs of any dead body or missing person for identification. He has specifically stated that after 15 days Baguihati P.S. called his family

members at P.S. and then they were shown the photographs of the dead body.

26. From the statement of the witnesses it is clear that the photographs of the dead bodies in connection with Minakhan P.S. U.D. Case no.25/22 dated 23rd August, 2022 and Haroa P.S. U.D. Case no.25/22 dated 25th August, 2022 were sent to all Police Stations including Baguiati P.S. If the Investigating Officer was sincere and responsible to perform his duty then the photographs of the dead bodies could have been shown to the family members of the missing boys and then the dead bodies could have been identified much earlier;

27. The materials placed on record clearly indicate that the Investigating Officer was performing his duty in a perfunctory manner and there was total negligence of duties to find out the missing boys as it appears in the statement made by Ms. J. Mercy, Dy. Commissioner of Police, Airport Division, Bidhannagar Police Commissionerate. In her statement she has clearly stated that in the instant case there was delay in sending the report for CIG publication. In her statement she also admitted that if the O.C and I.O. of Baguiati P.S. case no. 235/22 were sincere then on the same day i.e. as on 24th August 22 when the father of Atanu Dey visited the P.S. for lodging FIR then the photographs of the dead body of Atanu Dey could have been shown to the family members of

the victim boy, Atanu Dey for identification. (Statement of Ms. J. Mercy, Dy. Commissioner of Police, Airport Division);

28. The dead body in connection with Haroa P.S. U.D. case no. 25/2022 dated 25th August, 2022 was identified by Shri Hari Naskar, the father of victim Abhisekh Naskar on 06.09.2022. Though the dead body was recovered on 25th August, 2022 and the photographs of the dead body were sent to all police stations of West Bengal on the same day but the dead body was kept in Basirhat Morgue from 25th August, 2022 to 6th September, 2022 (as it appears from the statement of witness no. 5, the Circle Inspector of Haroa P.S.) If the I.O. of the Baguiati P.S. was sincere then the photographs of the dead body which were sent to Baguiati P.S. through e-mail on 25.08.2022 could have been shown to the family members of the missing boys much earlier. This can be considered as dereliction of duties on the part of the I.O.

In this connection it would not be out of place to mention the statement of Shri Tapan Aguan, Circle Inspector of Haroa to the effect that Haroa P.S. did not receive any information regarding missing of two boys in connection with Baguiati P.S. case no. 335/2022 till September 6, 2022. That means I.O. of Baguihati P.S. case no. 335/2022 did not take any effective step to search out the missing boys.

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29. After examining reports submitted by the Dy. Commissioner of Police, Airport Division annexed documents including copy of FIR, post mortem report and statement of all the witnesses as mentioned above the WBHRC has come to the conclusion that the incident occurred on 22/8/2022 and the victim's father lodged complaint on 23/8/2022 at Baguiati P.S. but in order to cover up the delay someone at the Police Station deliberately over wrote the date from 23/8/2022 to 24/8/2022 without authentication from the complainant. The recording officer, LSI Sima Das admitted to the fact that the date was over written and she had requested the complainant to correct the date or authenticate the same, but for some vague reasons it was not done. However, Shri Biswanath Dey, the complainant emphatically stated that he had given the date as 23/8/2022 and that someone, other than him had overwritten the same. Thus, needle of suspicion is pointing towards LSI Sima Das for making such over writing / alteration without authentication for reasons best known to her. This being a misdemeanor has to be investigated by the department properly and action taken against the LSI Sima Das who was the recording officer. It is also clear that there was negligence on the part of I.C. Baguiati P.S. as well as I.O. S.I. Pritam Singh in properly investigating the case and also establishing identity of the victim when the photographs of the dead bodies were sent to Baguiati P.S. by Email on

25/8/2022 itself. On the contrary, there was a delay of over 12 days when the victim's father could identify the dead body at Basirhat Morgue on 06/9/2022. On the whole the WBHRC has come to the conclusion that the entire investigation was done in a very shoddy and lackadaisical manner causing immense pain and misery to the family members of the victims. Furthermore, there was deliberate move to change the date of lodging of F.I.R. from 23/8/2022 to 24/8/2022 there by attempting to justify police action. Unfortunately, this overwritten date was not authenticated by any one and the complainant denied to have done the same by himself. This itself is a serious negligence and misdemeanor on the part of the Police Station authorities.

30. In view of above, the West Bengal Human Rights Commission makes following recommendations :

(i) A sum of Rs.200000/- (Rupees two lakhs) each be awarded as compensation to each of the victim's father, namely, Biswanath Dey and Hari Naskar.

(ii) The I.C. Kallol Kumar Ghosh and I.O. S.I. Pritam Singh are reported to have been suspended and departmental action initiated. The W.B.H.R.C. should be informed the results of departmental action.

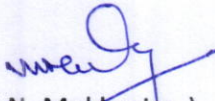
(iii) The Enquiring Officer, Ms. J. Mercy, IPS, Deputy Commissioner of Police, Airport Division of Bidhannagar Police Commissioerate should be directed to

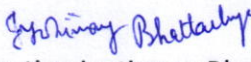
conduct enquiries accurately and truthfully thereby excluding scope for W.B.H.R.C. to seek repeated clarification.

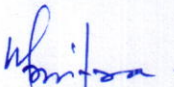
(iv) Departmental proceedings be drawn up against Lady S.I. Sima Das under whose watch the F.I.R. No.335/22 dt.24/8/2022 was recorded and the date was altered / over written from 23/8/2022 to 24/8/2022 without any authentication. The results of departmental proceedings against Lady S.I. Sima Das be communicated to the West Bengal Human Rights Commission.

31. 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


(Justice Jyotirmay Bhattacharya)
Chairman


(Justice Madhumati Mitra)
Member

Encl : 1. Newspaper report of Ananda Bazar Patrika dt.07/9/2022.
2. Enquiry reports submitted to WBHRC by Dy. Commissioner of Police,
Airport Division of Bidhahnagar Commissionerate.