

## WEST BENGAL HUMAN RIGHTS COMMISSION

File No. 1131/25/3/2024

### Present

1. Mr. Justice Jyotirmay Bhattacharya - Chairperson
2. Mrs. Justice Madhumati Mitra - Member
3. Mr. Basudeb Banerjee - Member

Petitioner, Abdul Aziz submitted a written complaint to the Commission through Email dated March 29, 2024. In his complaint addressed to WBHRC, the complainant stated that he resides outside West Bengal to earn his livelihood. On 13/3/2024 he visited West Bengal from Kerala. It was his specific allegation that for last few years few persons of their locality have been residing at his residence illegally. On 23/04/2023 those persons tortured him and his family members and drove them out from their residence. Complainant made a complaint with local Parui P.S. regarding the incident as alleged. Subsequently, as per the order of Ld. CJM, Suri, a specific case being Parui P.S. Case No.113/23 u/s 341/323/325/506/34 IPC was started and investigation of that case ended in submission of charge sheet. In his petition of complaint before the Commission, the complainant also stated that he filed a civil suit in the Court of Ld. Civil Judge, Junior Division and that suit was registered as Title Suit No.127/23. On 15/3/2024 was fixed for ex-parte hearing of that Title Suit. Complainant stated that he came from Kerala to his residence on 13/03/2024 for the purpose of that Title Suit. On 14/3/2024 when

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the complainant was at his native place at Sattore village, he was informed by his brother over phone that the opposite parties did not allow his brother to take water from the water tank of his residence. On reaching his residence the complainant found that the opposite parties were assaulting his brother and abusing him with filthy languages. The complainant visited Parui P.S. along with his brother but on duty officer Rabi Chowdhury refused to take complaint of his brother. The said on-duty officer Mr. Rabi Chowdhury called the complainant inside the Police Station (PS) through a Constable. When the complainant entered into the P.S. then he was beaten by the said constable at the instruction of said on-duty officer Mr. Rabi Chowdhury. The brother of complainant Ramim Hossain enquired why the complainant was being assaulted then he was also confined in the lockup by force. The complainant alleged that the incident allegedly took place in the month of Ramjan and both of them were observing fasting and they were not allowed to brake their fasting according to their rituals. The complainant also alleged that at about 10.30 p.m. the on-duty officer in connivance with the accused persons prepared an agreement regarding withdrawal of the cases initiated by the complainant against the opposite parties. The complainant was forced to sign on that agreement under threat that he might be implicated in false cases. Thereafter complainant and his brother were released from Parui P.S. with a warning not to lodge complaint anywhere regarding the alleged incident. Petitioner stated that he became seriously ill due to the torture meted to him at Parui P.S. and as a result on 15/3/2024 he was treated at local Bolpur S.D.



Super Speciality Hospital. Complainant could not appear before the Ld. Civil Judge, Junior Division due to his illness. It was also the allegation of the complainant that he was subjected to continuous threatening by the opposite to implicate him in false cases.

2. On the basis of written complaint of the complainant, the Commission was pleased to call for a detailed report on 05.04.2024 from S.P., Birbhum regarding the alleged grievance of complainant by 22/4/2024. Pursuant to the said direction of the Commission dated 05/04/2024, the S.P., Birbhum forwarded an enquiry report to the Commission vide memo. no. 4136/1(I)/E dated 06/06/2024. From the said report it appears that SDPO, Bolepur conducted an enquiry into the alleged grievance of complainant Abdul Aziz. Enquiry report revealed that one specific case being Parui P.S. case no. 113/23 was registered against Farooq Molla and others and investigation of that case culminated in submission of charge-sheet against the accused persons. From the said enquiry report it also appears that on 14<sup>th</sup> March, 2024 complainant Abdul Aziz and his brother Rahim were involved in scuffling with Aysha Bibi and her sons over a water dispute. Said Farooq Molla and his brother Rahim Hossain were arrested by Debabrata Ghosh u/s 42 Cr.P.C. and Prosecution Report (PR) was submitted against them and on the same day of arrest both of them were released on bail. In his enquiry report, the SDPO, Bolepur has specifically mentioned that there was no evidence of

illegal detention and torture and the allegation against them could not be substantiated.

4. The Commission considered the enquiry report prepared by SDPO, Bolepur which was duly forwarded to the Commission. On scrutiny of the said enquiry report, the Commission observed that the enquiry report was not specifically dealt with the specific allegations made by the complainant against the police personnel of Parui P.S. The Commission also observed that the enquiry report does not mention anything in respect of allegation that the petitioner was forced to sign on an agreement by the police personnel of the said P.S. In his written complaint the petitioner specifically mentioned that due to the alleged torture meted to him by police, he became ill and treated at Bolepur Sadar Super Speciality Hospital on 15<sup>th</sup> March, 2024. As a result of such illegal detention he could not appear before the Court of Ld. Civil Judge, Junior Division where the civil suit was pending. The enquiry did not specifically deal with serious allegations made by the complainant that he was pressurized and compelled to sign on an agreement to withdraw civil suit filed by him against the opposite parties. At the same time the Commission observed that the report as forwarded to the Commission by S.P., Birbhum was very cryptic and remained silent so far as the serious allegations of complainant were concerned. As such, the Commission decided to examine the complainant and the enquiry officer to ascertain the actual state of affairs.



5. On 17<sup>th</sup> September, 2024 the complainant Abdul Aziz was examined by Commission on oath. While deposing before the Commission the complainant stated that he ordinarily resides in Kerala and he visited his residence once in a year, particularly during the month of *Ramzan*. From his deposition, it came out that on 23<sup>rd</sup> April, 2023 when the opposite parties were asked to vacate his premises then the disturbance started. He said that the OPs along with Babar Ali, leader of a political party disturbed them with an object to oust them from their residence and started pressurizing him to transfer his residence in favour of the elder brother and second son of Aisha Bibi. On 23<sup>rd</sup> April, 2023 he along with his brothers were assaulted by them. He further deposed that on 23<sup>rd</sup> April, 2023 they, (four brothers) visited local P.S. at about 9.30 p.m. to lodge complaint and Duty Officer asked them to submit medical examination report. From the statement of the complainant, it came out that instead of lodging an FIR, a GDE was registered as they could not submit medical papers at night. After two or three days they obtained medical papers and sent written complaint along with medical papers to the P.S. by post, but no FIR was lodged. He also deposed before the Commission that he moved the Court by filing an application u/s 156(3) Cr.P.C. and obtained an Order in his favour. Thereafter an FIR against Aisha Bibi, Faruk Molla, Jairul Molla and Hishina Khatun was registered. It was alleged by the complainant before the Commission that after FIR he was threatened by Babar Ali. Thereafter, he left for Kerala. In his statement before the Commission the complainant also

stated that Babar Ali with the help of his supporters closed the cycle repairing shop of his brother forcibly and the said shop was reopened through process of negotiation after six months. From his deposition before the Commission, it also appears that after the incident of 23<sup>rd</sup> April, 2023 he filed a civil suit against the opposite parties for eviction from his residence. On 15<sup>th</sup> March, 2024 that suit was fixed for ex-parte hearing and he came to his residence on 13<sup>th</sup> March, 2024 from Kerala for the purpose of that suit. The complainant also stated that his youngest brother has a workshop for washing the vehicles and water was being supplied from his residence to his shop. On 14<sup>th</sup> March, 2024 the opposite parties assaulted his brother for using water from his residence and they damaged the supply pipe of water to the shop from his residence.

6. While making his statement before the Commission, the complainant stated that he took his brother to Parui P.S. to lodge a complaint. Local P.S. was instructed by Babar Ali to detain them at the PS as Babar Ali had good relations with the P.S. The witness also stated that at first he was standing outside the P.S. and sent his brother to the P.S. then a Constable of local P.S. enquired as to whether he was Babar Ali or not. Then the complainant told his name. Thereafter, he was asked by the said Constable to enter the P.S. According to the statement of complainant, on-duty police officer Rabi Chowdhury abused him and pushed him into the lock-up. From his statement it came out that his youngest brother was also pushed into the lock-up. This witness stated before the Commission that at the



relevant point of time they were observing *Roza* but no arrangement was made for their *IFTER*. He stated that at 8 p.m. they were given one banana and 2/3 dates. This witness deposed that at about 10 p.m., 7/8 party-men visited the P.S. and prepared an agreement on which they were compelled to sign under tremendous pressure. According to this witness life threats were also given to them. From his deposition it also came out that at that time Aisha Bibi, Faruk Molla, Babar Ali, Sk. Sirajul and Sk. Amirul Kaji were present in the P.S. and the witness was compelled to sign on the agreement. Thereafter, at about 11.30 p.m. they were released from the P.S.

7. In response to the queries of the Commission, the witness said that he was treated at Bolepur Sub-Divisional Super Speciality Hospital on 15<sup>th</sup> March, 2024 and he made complaint before the West Bengal Minority Commission regarding the alleged incident. He handed over the xerox copies of documents to the Commission in this regard.

8. During the course of his deposition the witness stated that he took steps regarding his non-appearance before the Court of Ld. Civil Judge, Junior Division, due to his illness. The witness specifically answered to a question of Commission that he made complaint before the Minority Commission regarding the assault on him by Constable as per the instruction of on-duty police officer, Rabi Chowdhury. The witness could not say anything as to whether he was detained by the police in connection with any specific case against him or not.

9. **Witness No. 2 is Shri Rickey Agarwal.** From his deposition it came out that on 30/05/2024 he was posted at Bolepur as SDPO, Bolepur and he joined there on January, 2024. From his statement made before the Commission/ it came out that through Circle Inspector (CI), Bolepur he conducted an enquiry regarding the complaint of Abdul Aziz addressed to WBHRC. He specifically stated that he entrusted CI, Bolepur to hold an enquiry. From his statement, it came out that S.P., Birbhum endorsed the complaint of Abdul Aziz to him to hold an enquiry and he entrusted CI, Bolepur to hold that enquiry on his behalf. During the course of his examination this witness stated that on query from CI, he crossed check the details but he admitted that in the enquiry report he did not mention the same specifically. A specific question was asked to this witness by the Commission as to whether he enquired into each and every allegation of the complainant. In response to this query, the witness answered that he did so to the best of his knowledge. In course of his examination, the witness was asked as to whether he had the knowledge about the allegations which were levelled against the police. This witness admitted that he did not examine the complainant personally. He admitted that he did not examine the medical report relating to the treatment of the complainant. He admitted that regarding the allegation of illegal detention and physical torture on the complainant, he relied on the report of CI and also consulted with the GD entries of the P.S. He stated that he interacted with the officer and the Constable concerned but did not record said interaction in



writing. This witness admitted that either he himself or through CI of Bolepur, he did not enquire into the allegations of the complainant that he was forced to sign on an agreement at the PS. This witness also admitted that his report did not mention anything regarding the allegation of the complainant that he was forced to sign on the agreement at the P.S. During the course of examination, the witness handed over a copy of Prosecution Report (PR) of NCR no. 168/24 dated 14/03/2024 u/s 42 Cr.P.C./290 IPC. While making his statement before the Commission this witness admitted that he derived knowledge regarding the alleged grievance of complainant through the eyes of CI. A specific question was put by the Commission to the witness whether his report as he submitted before the SP, Birbhum, was satisfactory or not and in response to that the witness simply stated that his report was not very comprehensive. No other witness was examined by the Commission.

The complainant, Abdul Aziz approached the Commission making allegations against the police personnel of Bolepur PS. The gist of his allegation may be divided into two parts. The first part of his grievance was that he was subjected to physical and mental torture at the instruction of on-duty police officer, Bolepur PS name Rabi Chowdhury and he was detained in lock-up for a long period.

10. The second part of his allegation relates to forceful obtaining his signature on a 'Compromise Agreement' by the police personnel.

11. In compliance with the direction of the Commission, the S.P., Birbhum forwarded the enquiry report regarding the above mentioned alleged grievances. From the said enquiry report it appears that SDPO, Bolepur, Birbhum conducted the enquiry regarding the grievance of the complainant. From the first paragraph of the said enquiry the SDPO, Bolepur, Birbhum stated as under :-

“With due respect and humble submission, I am writing this to state that in compliance with your instructions, an enquiry has been conducted by CI in c/w the petition of Abdul Aziz s/o Lt. Joynal Abdin Sk. of Sattor PS Panrui, Dist. Birbhum against several individuals and officers of Panrui PS.”

12. The said SDPO, Bolepur, Birbhum was examined by the Commission. The SDPO is an IPS officer. He has been thoroughly examined by the Commission. From the enquiry report which has been forwarded to the Commission by S.P., Birbhum, it appears that the SDPO himself admitted that the enquiry was conducted by CI, Bolepur. That means the authority to enquire into the alleged grievance of the complainant which had been delegated to him (SDPO, Bolepur) by S.P., Birbhum, was sub-delegated by SDPO, Bolepur to CI, Bolepur. In fact from his examination by the Commission, it clearly indicates that the SDPO, Bolepur was not personally involved himself in the matter of enquiry into the alleged grievance. Each and every allegation of the complainant was not enquired into and dealt with. In his complaint, the complainant raised serious issues. One issue relates to unauthorized detention of the



complainant and his brother in police custody and second issue relates to forceful obtaining of the complainant's signature on a 'compromise' in favour of his opponent. Both the grievances were serious in nature and were required to be enquired into thoroughly and a specific report was required to be submitted. In the present case the SDPO, Bolepur appears to be merely a name lender on the enquiry report. That apart, the enquiry report is not complete and specific. He concluded his enquiry report by stating that the allegation of illegal detention and physical torture by the police could not be substantiated from the preliminary enquiry done by CI, Bolepur. On the basis of this portion of his report he was asked a specific question regarding the distinction between the preliminary enquiry and final enquiry. In response to that question the SDPO, Bolepur answered that based on preliminary report final report is prepared. In the instant case no material has been placed on record either by SDPO, Bolepur or CI, Bolepur to show as to who conducted the preliminary enquiry based on which the enquiry report was prepared and further as to whether after preliminary enquiry being held a final enquiry was conducted by SDPO himself. More so, the SDPO, Bolepur admitted that he derived knowledge about the grievance of the complainant through eye of CI of Bolepur. The enquiry report is totally perfunctory and not tenable in law. The role of a responsible police officer in the rank of SDPO is not at all praiseworthy. Grievance or the allegation levelled against the police officer of Bolepur P.S. remains unassailed.

That means the said allegations have not been properly enquired into to assist the Commission to come to a proper conclusion.

13. From the contents of the complaint as well as from the statement made by the complainant before the Commission, it appears that a dispute of civil nature between the complainant and the opposite party regarding the immovable property is going on. The enquiry report also reveals the pendency of civil dispute between the parties.

14. From the copies of PR which was handed over to the Commission by Witness no. 2 the SDPO, Bolepur, it appears that on 14/03/2024 while performing mobile duty at the area, SI Debabrata Ghosh after receiving an information, visited the Panrui Bazar at 20:55 hrs. under Panrui P.S. to look into the matter and found that Abdul Ajj and others were making and creating nuisance at public place and they were brought to Panrui PS and after medical check-up they were released on bail and PR report u/s 290 IPC was submitted against them. The PR itself did not mention anything. The PR simply mentioned that they were arrested as they created nuisance at public place. It appears that on that date the complainant and others were arrested by the police and subsequently they were released on bail. The grievances of the complainant that they were subjected to torture and forced to sign 'Compromise Agreement' were not properly enquired into. We have observed that a civil suit is pending between the parties. The allegation of the complainant is that his signature was obtained on the alleged document in connection



with the said civil suit. The complainant could have raised this issue before Civil Court where the matter was pending. The Civil Court where the suit is pending is competent enough to take decision regarding the validity of alleged compromise, if the alleged compromise is submitted before it.

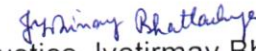
15. In the present case, the Commission, after examining the complainant, is not in a position to come to a definite conclusion that the complainant was subjected to physical and mental torture at police custody and was forced to sign on Compromise Agreement. The complainant has failed to adduce/produce cogent materials to substantiate his allegations in this regard. At the same time, it cannot be ignored that the enquiry as conducted by SDPO, Bolepur is not only perfunctory but also totally unsatisfactory. In view of the above facts and circumstances, the Commission makes the following recommendations :-

16. (a) S.P., Birbhum may be asked to instruct all the police officers subordinate to him, while conducting an enquiry in respect of any matter as per direction of WBHRC to go through the complaint first and enquire into each and every allegation contained in the said complaint and submit a specific report dealing with all the allegations made in the said petition of complaint.

(b) S.P., Birbhum may also be asked while sending enquiry report as per the direction of Commission, must go through the said enquiry report to see whether the said report has dealt with the allegations of the complainant or not.

O.S.D. & Ex-Officio Secretary-in-Charge, 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.

  
Justice Madhumati Mitra  
Member

  
Justice Jyotirmay Bhattacharya  
Chairman

  
Basudeb Banerjee  
Member

Dated, the 13<sup>th</sup> January, 2025.