

**WEST BENGAL HUMAN RIGHTS COMMISSION****File No.04/SMC/2023****Present**

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

A news item published in Ananda Bazar Patrika dt. January 10, 2023 entitled “ ময়না তদন্তে আসা পাট দেহ কর্মশালায়, অভিযোগ আর জি করে ”

On the basis of this news item West Bengal Human Rights Commission took suo motu cognizance on 10/1/2023 and called for a detailed report from Principal Secretary, Health and Family Welfare Department, Govt. of West Bengal by January 31, 2023. The news item reported that from the R.G. Kar mortuary 05 (five) dead bodies were allegedly sent to E.N.T. Department prior to conducting post mortem on those dead bodies. On their toes tags containing serial numbers were tied. The news item further alleged that initially the Head of the Department, Forensic Medicines and Toxicology (FMT) Department, Dr. Somnath Das had refused permission to a request by E.N.T Department to supply such dead bodies for seminar but the new H.O.D. of Forensic Medicines and Toxicology Department, Dr. Probir Chakraborty, when approached, agreed to the same and sent such bodies to E.N.T. Department for conducting seminar.

2. Initial enquiry conducted by a committee consisting of Prof. (Dr.) Bulbul Mukherjee, Dean of Students' Affairs, R.G. Kar Medical College and Hospital, Prof. Dr. Apurba Biswas, Professor, Dptt. of FMT, R.G. Kar Medical and Dr. Tridib Mustafi, Addl. Medical Supdt., R.G. Kar Medical College and the report was forwarded to the West Bengal Human Rights Commission by Dy. Secretary, Health and Family Welfare Deptt., Govt. of West Bengal. The WBHRC received the same enquiry report on 29/3/2023. In this report it was stated that the dead bodies were sent for E.N.T. workshop after obtaining verbal consent from jurisdictional police personnel and concerned parties of deceased. Also, post-facto written permission of jurisdictional police authorities were obtained later. The report averred that consent not having been taken before sending such bodies for E.N.T. workshop stood null and void. The report also claimed that the workshop was organized only to show external anatomy and no such techniques were used which might cause any obstacle during post mortem examination. It also stated that the persons attending the workshop are not used to deal with dead bodies so they are not used to the environment in mortuary. They might fall sick in such an environment. On the whole the enquiry committee concluded that verbal consent of jurisdictional police authorities as well as written post-facto permission were sought from police on the issue and that no technique were used / performed on such cadavers so as to make the job of Autopsy Surgeon difficult.

The West Bengal Human Rights Commission did not accept this report of the enquiry committee and sought clarification from authorities on the following points :

- (a) Why prior written permission of relatives of deceased person and police authorities were not taken,
- (b) It was claimed that post-facto written permission of police had been taken but no date and/or dissection of authorities were mentioned and
- (c) A legal point was raised that without permission of the Courts if the dead bodies are shifted for workshop etc. it might lead to tampering of evidence.

3. A further report to the queries of West Bengal Human Rights Commission was submitted through Dy. Secretary, Health and Family Welfare Deptt., Govt. of West Bengal to W.B.H.R.C. on 12/6/2023 by Dr. Prabir Kumar Chakraborty, H.O.D., Deptt. of Forensic Medicine and Toxicology, (F.M.T) R.G. Kar Medical College and Hospital through Principal, R.G. Kar Medical College and Hospital, Kolkata.

This report reiterated that the dead bodies received in police morgue are actually in custody of jurisdictional police authorities and that prior oral consent of respective jurisdictional police authorities was obtained. Subsequently, written consent and permission was also obtained from respective jurisdictional police authorities. The report stated that consent of relatives of deceased are not required when the bodies are in custody of police authorities for which due permission has been obtained from such police authorities. It also stated that for purposes of effective training and



education of students it was necessary to use dead bodies. It also stated that the dead bodies were used for external anatomy and no techniques were used which might cause damage. The W.B.H.R.C. again was not satisfied with the second report submitted by the R.G. Kar Medical College and Hospital authorities as it was not clarified as to permission from which jurisdictional police authority, date and time of seeking such permission were obtained. It was decided to call for details of programme schedule of the seminar as well as list of participating dignitaries in the seminar. The same was duly sent to the WBHRC and WBHRC received the same on 09/8/2023. The workshop related to endoscopic sinus surgery was organized as part of Golden Jubilee State Conference of A.I.O.B, 2020-23 in collaboration with E.N.T Department on 06/1/2023 at Dissection Hall of the Anatomy Department of R.G. Kar Medical College and Hospital. There were total number of 37 participants; all doctors included Dr. Indra Nath Kundu, H.O.D., Department of E.N.T., R.G. Kar Medical College and Hospital and Dr. Haradhan Borah, Superintendent of A.I.O.B. The participants came from various Medical Colleges and Hospitals. The programme schedule stated that there was a session between 09 a.m. to 11.30 a.m. and 12 noon to 2.30 p.m. followed by another session from 03 p.m. to 5.30 p.m. which related to hands on dissection.

4. Further, analyzing the two reports of enquiry committee as well as the programme schedule the WBHRC decided to summon M.S.V.P., R.G. Kar Medical College and Hospital, Dr. Prabir Chakraborty, Prof. of ENT and HOD,



R.G. Kar Medical College and Hospital, Dr. Indra Nath Kundu, HOD, ENT Department, R.G. Kar Medical College and Hospital as well as O.C., Tala P.S. for examination u/s 16 of the PHR Act.

5. Dr. Sanjay Vashisth, M.S.V.P., R.G. Kar Medical College and Hospital appeared before WBHRC on 23/8/2023 and his statement was recorded. He stated that he did not organize any seminar or workshop but attended such seminars or workshops when organized. He added that he did not have any role in organizing endoscopic sinus surgery held in the college (R.G. Kar Medical College and Hospital) on 6<sup>th</sup> January, 2023. He added that the Head of Department, E.N.T approached Principal for required permission which was endorsed to H.O.D., F.M.T. for action. He further stated that the programme schedule conveyed to West Bengal Human Rights Commission by him was obtained from Dr. Indranath Kundu, H.O.D., ENT Department. He also informed WBHRC that the H.O.D., FMT was involved in organizing such seminar. He stated to the WBHRC that he was not present when the 05 ( five ) cadavers were being used for demonstration / dissection during the seminar.

6. Prof. Dr. Prabir Kumar Chakraborty, H.O.D., Forensic Medicine and Toxicology was examined on 23/8/2023 and his statement was recorded. He stated that he had received request letter from E.N.T Department to provide cadavers for purposes of workshop. After informing police personnel verbally and seeking oral permission of Tala Police Station, he provided 04 (four) cadavers from the mortuary which had been sent for post mortem

examination. He could not name the police personnel from whom he had obtained oral permission. He had learnt from the previous HOD that oral permission was taken from the police personnel. He produced a letter to the WBHRC dt.6<sup>th</sup> February, 2023 seeking police permission. Copy of the same was taken on record by the WBHRC. The letter of Dr. Prabir Kumar Chakraborty addressed to O.C., Tala Police Station which was forwarded by the Principal, R.G. Kar Medical College and Hospital on 06/02/2023 was received at Tala P.S. on 07/3/2023. The wording of the letter, when examined, appears to be an intimation of using cadavers from the morgue for workshop on 05/1/2023 by ENT Department rather than seeking permission for use of such dead bodies for ENT workshop. When asked why such letter was sent to police authorities on 06/2/2023 when the seminar had already been held on January 06, 2023, the witness informed that he had told his higher authorities who took the ultimate decision. He further claimed that post-facto police permission was obtained but the same could not be produced for the present. He clarified that the jurisdictional police authorities was Tala Police Station. He admitted that he did not seek permission of relatives of such cadavers used for purpose of workshop though, the same was mentioned in the enquiry report of R.G. Kar Medical College and Hospital dt.24<sup>th</sup> May, 2023. He claimed that he was not sure who took verbal consent of relatives of such cadavers. He informed WBHRC that after conducting inquest report he selected such of those cadavers where no foul play was suspected and had sent only such of them for the

workshop. He could not throw any light on actual technic use on such cadavers during the workshop on Endoscopic Sinus Surgery as he was not present during this period.

7. Inspector, Shri Saikat Neogi, O.C., Tala Police Station under Kolkata Police was examined by WBHRC on 29/8/2023 and his statement was recorded. He stated that on 05/06 January, 2023 he was posted as O.C., Kasba P.S. and Inspector, Arun Kr. Dey was posted as O.C., Tala Police Station. He claimed that he did not have any personal knowledge of the incident on January 05/06, 2023 at R.G. Kar Medical College and Hospital but on February 7, 2023 he had received an application from Prof. Dr. Prabir Kumar Chakraborty, HOD, FMT for purpose of sending cadavers to ENT workshop. On receiving such application he informed his superiors including Commissioner of Police, Kolkata who were of the opinion that such permission could not be given by police authorities. This included prior or post-facto permission. As such, no action was taken on such an application as the police had no authority to grant oral permission for such purposes.

8. Statement of Dr. Indranath Kundu, HOD, ENT, R.G. Kar Medical College and Hospital was recorded on 29/8/2023 where he stated that a workshop on Endoscopic Sinus Surgery was organized under his supervision at R.G. Kar Medical College and Hospital on 05/1/2023 after seeking permission of Principal at the Anatomy Department. He stated that the programme schedule submitted to the WBHRC earlier was correct and the same was organized between 09 a.m. to 5.30 p.m. in which 12 dead



bodies/cadavers were used. Eight bodies were obtained from Anatomy Deptt. while four secured from Forensic Medicine Deptt. He could not confirm whether such dead bodies were brought from the morgue of R.G. Kar Medical College and Hospital despite fact that Dr. Prabir Kumar Chakraborty, HOD, FMT had informed to the WBHRC accordingly. He added that the workshop related to endoscopic inspection of nose and para-nasal air sinuses and its demonstration. Minimum dissection through nasal cavity was conducted in course of such demonstration and that basic hand instruments were used. He averred that during such procedures of dissection there was no question of loss of continuity of body tissues and its destruction plus damaging of dissected tissues causing addition or deletion of bodily evidence.

9. On 4<sup>th</sup> September, 2023 the Commission received one complaint from Dr. Somnath Das, Ex. Head of the Department, Forensic Medicine and Toxicology of R.G. Kar Medical College and Hospital, Kolkata. After receipt of the said complaint, the Commission opined that a detailed enquiry report may be obtained regarding the complaint of Dr. Somnath Das and as such Addl. S.P. of Investigation Wing of WBHRC was asked to submit a detailed report in this regard. At the same time, the Principal Secretary, Health and Family Welfare Department, Govt. of West Bengal was asked to submit a detailed report. The gist of the allegation of complainant, Dr. Somnath Das, Ex. HOD, Forensic Medicine and Toxicology of R.G. Kar Medical College and Hospital, Kolkata was that he had received the request from the Association of Otolaryngologists of India, West Bengal Chapter to perform a workshop on

the dead bodies coming for the purpose of post mortem examination on 21<sup>st</sup> December, 2022. Copy of the said letter was annexed to the complaint of Dr. Somnath Das. From the said document no.1 it appears that Dr. Snehasis Barman, Honorary Secretary, AOI, West Bengal requested Dr. Somnath Das, HOD, Deptt. of Forensic Medicine, R.G. Kar Medical College and Hospital to provide cadavers for their upcoming cadavers workshop on Rhinology as per the assurance given by him.

10. In his complaint, Dr. Somnath Das also alleged that the entire event was an issue of bigger conspiracy done by Principal, R.G. Kar Medical College and Hospital, Dr. Sandip Ghosh and Dr. Debasis Som, Demonstrator, Deptt. of Forensic Medicine, R.G. Kar Medical College. It was further alleged by Dr. Somnath Das in his complaint that the Head of the Department of ENT, R.G. Kar Medical College requested the then HOD, Forensic Medicine ( Dr. Somnath Das) to give some dead bodies for their forthcoming workshop on fundoscopic sinus surgery under banner of the Association of Otolaryngologists of India, West Bengal Chapter. In his complaint, Dr. Somnath Das stated he assured to give some dead bodies for the workshop which were either unclaimed (post mortem already done and ready to be dispose of) dead bodies or donated dead bodies for academic purpose through the Anatomy Department. Dr. Somnath Das alleged in his complaint that society was asking for fresh dead bodies coming medico legal autopsy then he clearly wrote the note of rejection on the invitation letter as referred in document no.1 on 21/12/2022 annexed to his complaint

addressed to WBHRC. To fulfill the unethical demand Dr. Prabir Chakraborty was pressurized by Principal, R.G. Kar Medical College and Hospital to be released on 21/12/2022 from Bankura Sammilani Medical College, whose transfer was issued earlier. Dr. Prabir Chakraborty was given the assignment order of HOD illegally even before the charge was handed over by Dr. Somnath Das. Document no.3 is the copy of the order where from it appears that Dr. Prabir Kumar Chakraborty, Professor, Deptt. of FMT is hereby instructed to act as the Head of the Department of FMT in addition to his normal duties with immediate effect until further order. It was the further allegation of Dr. Somnath Das that he was pressurized to sign the charge hand over form on 30/12/2022. It was revealed that a letter was given by HOD, ENT of R.G. Kar Medical College and Hospital to the Principal, again requesting for the fresh dead bodies coming for autopsy to be used in workshop. Document no.5 was annexed to the letter of complaint of Dr. Somnath Das where from it appears that a request for at least six fresh bodies was made for the purpose of workshop organized by Deptt. of ENT, HOD, ENT to the Principal, R.G. Kar Medical College. On 5<sup>th</sup> January, 2023 all the known dead bodies were sent for workshop. Document no.6 and 6A annexed to the complaint of Dr. Somnath Das mentioned the names of the dead body. From document no.6A annexed to the complaint of Dr. Das it appeared that on 5<sup>th</sup> January, 2023 the dead bodies of five persons, namely, Prafulla Kundu, Knai Lal Dhar, Prasanta Kumar Das, Joypal Mahato and Pransanta Bag were sent for the workshop. In his complaint, Dr. Somnath



Das stated that the post mortem reports which were submitted and uploaded in the Lalbazar portal on 10<sup>th</sup> January, 2022 and the photocopy of those post mortem reports received by the patient parties clearly stated that there was post mortem injuries over the facial part (amounting to disfigurement) of all the dead bodies and were consistent with insertion of instruments into the paranasal sinuses. Dr. Somnath Das alleged that the post mortem report confirmed that all the dead bodies had gone for the workshop were manipulating illegally violating the Human Rights of dignity of dead persons. It was specifically alleged by Dr. Somnath Das in his petition of complaint that the Principal further tried to manipulate post mortem reports, as he was aware that the injuries have revealed in them and he called up mortuary in charge, namely, Mr. Manoj Mallick and threatened him by making a written complaint to the HOD, Forensic Medicine against the Principal through his incumbent. Document 13 read with 13A and Document 14 annexed to the petition of complaint of Dr. Das are submitted in support of the above allegations.

11. From the petition of complaint of Dr. Somnath Das, it further appears that one of the patient parties had given a written complaint to the Hon'ble Chief Minister i.e. Document No.15.

12. On 18/9/23 our I.W. team submitted report as per the direction of the Commission. On perusal of the said enquiry report it appears that during the course of enquiry our Investigation team examined Prof. (Dr.) Somnath Das,

HOD, Forensic Medicine and Toxicology, Bankura Sammilani Medical College who was the Ex. HOD, Forensic Medicine and Toxicology, R.G. Kar Medical College. While making his statement before our Investigation Wing, Dr. Das admitted that he filed a petition of complaint with supportive documents to WBHRC.

13. Dr. Das made statement before our Investigation Wing and his said statement corroborated the contents of his petition of complaint addressed to WBHRC. He specifically stated that on 5<sup>th</sup> January, 2023 the dead bodies bearing no.28, 29, 30, 31 and 32 were sent at the workshop and which were duly received by Dr. Debabrata Das, Asstt. Prof., ENT of R.G. Kar Medical College and handed over to Dr. Debasish Som, Demonstrator of Forensic Medicine, department of the said Medical College. Documents No.5 and 6 annexed to the petition of complaint of Dr. Das corroborated his statement in this regard. Dr. Das also stated that after conclusion of workshop activities, post mortem examination of those dead bodies were done on 05/1/2023 without knowledge of the deceased parties. Document No.7 is the copy of the P.M. Register which corroborated that the post mortem of the five dead bodies was conducted on 05/1/2023. From the enquiry report of our Investigation Wing it appears that Dr. Somnath Das who made complaint to the Commission managed to collect the p.m. examination report of four dead bodies out of five dead bodies which were used in the workshop before their post mortem examination. The numbers of those four dead bodies were 36, 34, 39 and 45. The copies of p.m. report of those four deceased have been

annexed at page nos.204 to 207 of the enquiry report of our Investigation Wing. All the above mentioned post mortem reports clearly indicated that abrasion 0.1" nasal mucosa just above the both nostrils. Both the abrasions are yellowish in colour and post mortem in nature. While making his statement before Investigation Wing of WBHRC, Dr. Somnath Das stated that on 05/1/2023 an unknown dead body was present in the morgue as noted in the Post Mortem Register but the hospital authority did not use the said dead body in workshop. Fresh dead bodies lying for autopsy were used in the workshop. In his statement, Dr. Das alleged that on 11<sup>th</sup> January, 2023 Principal, R.G. kar Medical College tried to manipulate the post mortem reports of the dead bodies which were used in the workshop and pressurized Monaj Mallick, Morgue Attendant to write something in the Register but he denied on the ground that the post mortem reports had already been downloaded in the web portal. Monaj Mallick was threatened by the Principal as alleged by Dr. Das in his statement before the Investigation Wing of the Commission. Dr. Das in his statement stated that P.M. Register was not present in the morgue and there was a chaos in the morgue as the new dead bodies could not be registered for want of P.M. Register. It appears that Dr. Das lodged one G.D. Entry regarding missing of P.M. Register with Tala P.S. on January 11, 2023 at 16.19 hrs. Thereafter, on return of P.M. Register from the office of the Principal he wrote the true incident that the p.m. reports had already been submitted. Morgue Attendant, Monaj Mallick narrated the incident addressed to HOD, FMT, R.G. Kar Medical College and



the same was forwarded by Dr. Somnath Das to Director of Medical Education, Swasthya Bhawan, Govt. of West Bengal for taking necessary action. During his statement before the Commission Dr. Das stated that one Abhijit Karmakar relative of the deceased, Pransanta Kumar Das (whose body was used in the workshop before p.m. examination submitted a letter before the Hon'ble Chief Minister, West Bengal regarding the mal-practice opted on behalf of R.G. Kar Medical College authority). Dr. Das specifically stated that Dr. Sandip Ghosh, Principal, R.G. Kar Medical College, Dr. Prabir Kumar Chakraborty, HOD,FMT of the said Medical College are responsible for the incident dt.5<sup>th</sup> January, 2023. He also stated that Dr. Debabrata Das Associate Professor of ENT Department who received the dead bodies for the workshop on behalf of ENT Department was required to be verified.

14. Our Investigation Wing recorded the statement of Manoj Mallick, Morgue Attendant, R.G. kar Medical College and Hospital. From his statement, it appears that he used to maintain all post mortem related Registers of morgue as Gr.D Clark. From his statement it appears that on 04/1/2023 HOD, FMT of the said Medical College, namely, Dr. Prabir Kumar Chakraborty informed him verbally to come to the morgue on 5<sup>th</sup> January, 2023 early and as such he came early on 5<sup>th</sup> January, 2023 and Dr. Prabir Kumar Chakraborty selected five numbers of dead bodies which were kept for post mortem examination and directed him to send those dead bodies to Anatomy Deptt. Accordingly, he sent those dead bodies to Anatomy Deptt. to Sambhu Mallick (Dome). On the same day at about 2 p.m. Sambhu Mallick

again brought back those dead bodies to the Forensic Department and thereafter the post mortem of those dead bodies were completed. He also stated that he received post mortem reports of those dead bodies on 10/1/2023 afternoon and on 10/1/2023 while he was preparing for making entries of the post mortem report in the P.M. Register he found that the P.M. Register was missing from his office. This witness stated that he came to learn that Asst. Prof. Dr. Soumyabrata Panja of the Deptt. of FMT took the P.M. Register from the morgue to the office of Principal, R.G. Kar Medical College. In his statement before our Investigation Wing Shri Monaj Mallick, Morgue Assistant stated that Dr. Sandip Ghosh, Principal called him in his office. Dr. Sandip Ghosh and Dr. Soumyabrata Panja noted in the P.M. Register that the post mortem of dead bodies bearing nos.34, 35 and 36 had not yet been submitted

15. Dr. Debabrata Das, Asst. Professor, Deptt.of ENT, R.G. Kar Medical College was also examined by our Investigation Wing. He stated before our Investigation Wing that a surgical workshop on endoscopic sinus surgery was held on 05/1/2023 and for that purpose on 30/12/2022, HOD, ENT Deptt. Dr. Indra Nath Kundu applied in writing for dead bodies before the Principal, R.G. Kar Medical College who referred the said letter to Dr. Prabir Chakraborty, HOD, FMT of the Medical College and Dr. Chakraborty allowed the prayer. This witness corroborated the statement of Dr. Somnath Das in this regard and the authenticity of the document no.5 as produced by Dr. Somnath Das in support of his allegation. In his statement before the

Investigation Wing of the Commission, Dr. Debobrata Das corroborated the allegations made by Dr. Somnath Das by stating that on 5<sup>th</sup> January, 2023 five dead bodies being serial nos. 28, 29, 30, 31, 32 were sent from Deptt. of FMT to Anatomy Dissection Hall and those bodies were received for the purpose of Workshop. He stated that the permission of sending the dead bodies to the workshop were given earlier by the concerned authority so he thought that the bodies were handed over to him after observing all rules and directives of the Government. From his statement he came out that the next to keen of the five dead bodies were not present in the workshop during dissection at the Dissection Hall of the Anatomy Deptt. of R.G. Kar Medical College and Hospital.

16. Our Investigation Wing also recorded the statement of Dr. Soumay Brata Panja, Asstt. Prof., Department of FMT, R.G. Kar Medical College and Hospital. From his statement it came out that the workshop of ENT Department took place on 05/1/2023 and few dead bodies were used at that workshop. He expressed his ignorance as to whether all legal procedure had been observed by the hospital authority during the workshop. He admitted that on 11/1/2023 the Principal, R.G. Kar Medical College asked him to bring the P.M. Register, accordingly he along with Prof. Dr. Apurba Biswas had been to the office of Principal with P.M. Register. The Principal checked the Register and found few p.m. reports were not submitted till 11/1/2023 at 2 p.m. and as per the direction of Principal he made notes at the P.M.



Register and signed thereafter Dr. Apurab Biswas and Principal put their signatures.

17. The Investigation Wing of the Commission examined Dr. Abhijit Karmakar . He is the nephew of deceased Prasanta Kumar Das whose dead body was used in the workshop on 05/1/2023 before post mortem examination. In his statement before our Investigation Wing the witness stated that his uncle, Prasanta Kumar Das was seriously injured due to road traffic accident on 26/12/2022 and he was taken to local hospital for treatment and thereafter he was referred to R.G kar Medical College and Hospital for better treatment. His uncle expired at R.G. kar Medical College and Hospital. P.M. examination was conducted on the dead body of his uncle on 5<sup>th</sup> January, 2023 along with four other dead bodies which were used for nasal dissection purpose in a medical workshop at the said Medical College before p.m. examination. On 08/1/2023 this witness came to know about the incident through news media TV 9 Bangla and G24 Gahanta. Accordingly, he submitted a complaint before the Hone'ble C.M., West Bengal in this regard. This witness specifically stated that they did not give any consent either written or verbal for using the dead body of his uncle, Prasanta Kumar Das for dissection purpose in medical workshop of the said Medical College before post mortem.

18. Smt. Bidya Kundu, wife of Prafula Kundu stated that the dead body of Prfulla Kundu ( her husband) was used in the workshop dt.January 5,

2023 prior to post mortem examination. From her statement, it appears that on 04/1/2023 her husband became sick and expired. Dead body of her husband was taken to R.G. Kar Hospital Morgue where post mortem examination was done on 5<sup>th</sup> January,2023. She was unaware of the fact that before p.m. examination the dead body of her husband was used in a medical workshop. She stated that her husband, Prafulla Kundu did not make any written declaration of donation of his body after his death. She specifically stated that R.G. Kar Medical College authority did not take any written / verbal consent / permission for using the dead body of her husband for dissection purpose in the medical workshop.

19. In spite of service of notices dt.11/9/2023, 12/9/2023 the Principal, Sandip Ghosh remained absent to make statement before the Commission on the ground that he is engaged in urgent domestic work and he will not be able to attend the Investigation Wing of WBHRC within a short period and prayed for further time for his appearance. As such, the Investigation Wing submitted its report without examining Dr. Sandip Ghosh. Our Investigation Wing in its enquiry report stated that vide memo no.222/WBHRC/IW/SP/2023 dt.13/9/2023 to the Director of Medical Education, Swasthya Bhawan, Kolkata with photocopy of letter of doctor (Prof. Somnath Das) which earlier sent to the Director of Medical Education Swasthya Bahwan on 11/1/2023 along with photocopies of complaint of Monaj Mallick, Morgue Attendant of R.G. kar Hospital for sending an action taken report by 18/9/2023 regarding the alleged use of dead body in the

workshop before post mortem examination by Principal and other staff. The date of submission of the report is on 18/9/2023.

20. Our Investigation Wing observed that the R.G. Kar Medical College and Hospital authority did not observe the legal procedure to use the dead body in the workshop. Our Investigation Wing came to the conclusion that dead bodies were used in the workshop without taking the consent of the family members of deceased persons and the police authorities. The bodies were used in the workshop before post mortem examination. It was specifically mentioned that the role of Professor ( Dr.) Prabir Kumar Chakraborty, HOD, FMT, R.G. Kar Medical College and Hospital) and Dr. Sandip Ghosh, Principal, R.G. kar Medical College and Hospital cannot shrug off his responsibilities in this regard.

21. On 22/1/2024 our Investigation Wing submitted a supplementary report to the Commission. On the basis of the direction of the Commission as Principal, Dr. Sandip Ghosh was not examined by the Investigation Wing. From the supplementary report it appears that on 15/1/2024 Dr. Sandip Ghosh, Principal R.G. Kar Medical College & Hospital appeared at Investigation Wing, WBHRC being accompanied with Shri Raja Roy, Joint Secretary (Law) Deptt. of Health and Family Welfare, Govt. of West Bengal. He was examined by our Investigation Wing and his statement was recorded.

22. While making his statement before the Commission, Dr. Sandip Ghosh stated that he had no knowledge regarding rejection of request letter



dt.21/12/2022 by Prof. Dr. Somnath Das, HOD, FMT, R.G. Kar Medical College & Hospital for supplying of corpses for workshop. In response to a specific question asked by our Investigation Wing, Dr. Sandip Ghosh, he has stated that he just forwarded the letter of request dt.30/12/2022 of Prof. Dr. Indra Nath Kundu, HOD, ENT Deptt. to HOD, FMT, R.G. Kar Medical College & Hospital Dr. Prabir Chkraborty being the institutional Head of the Medical College and Hospital. While making his statement before the Investigation Wing, Dr. Sandip Ghosh admitted that dissection of dead bodies' prior to post mortem examination, without any order or without observing any formalities, is a gross negligence.

23. In spite of issuance of several direction and reminders by the Commission no report has been received by the Commission regarding the contents of the petition of complaint of Porf. (Dr.) Som Nath Das. In the above situation, the Commission cannot keep the matter pending for a long period as the Commission took suo moth cognizance on 10/1/2023. Accordingly, the Commission had decided to dispose of the matter in accordance with the materials collected by our Investigation Wing during enquiry conducted as per the direction of the Commission as well as the statements of different witnesses recorded by the Commission and the Investigation Wing during the course of enquiry.

24. On 28/3/2024 the Commission after going through the enquiry report and supplementary enquiry report submitted by the Investigation Wing of

the Commission regarding the complaint of Dr. Somnath Das was of the view that an independent opinion require to be obtained from our in-house doctor, Dr. A. Das. Accordingly, the entire matter was placed before our in-house doctor for obtaining his valuable opinion.

25. Prior to that on 16/8/2023, Dr. Abhishek Das, our in-house expert for Forensic Medicine and Toxicology submitted a specific opinion as sought for by the Commission, in connection with the report submitted before the Commission by Medical Supdt. cum Vice-Principal, R.G. kar Medical College & Hospital, Kolkata. In his opinion dt.16/8/2023 our in-house doctor, Dr. Abhishek Das expressed his valuable opinion regarding the issue pending before the Commission as under :

1. Workshop was on "Endoscopic Sinus Surgery" which includes - Observation, Dissection and Repair.
2. Workshop Programme Schedule mentions video tutorial of "Dissection" followed by three sessions of "Hands on Dissection" in batch - I, II, III.  
The programme schedule also mentions about -
  - Basic hand instruments provided.
  - One batch dissects, others assist - had it been only observation - what to assist? So, it is evident that dissection was done on dead bodies.
3. Verbal consent was taken from Police - No value.
4. Verbal consent was taken from deceased relative - No value,
5. What is meant by "Jurisdictional authority"?
6. Does police have any right of giving permission for dissection? Since dissection in workshop reads to loss of continuity of body tissues +/- destruction of

body tissues +/- tampering of dissected tissues area leading to addition or deletion of bodily evidences.

7. Was the workshop held (dissection sessions) before or after conducting of medicolegal authority?
8. Proof of obtaining consent from Police/deceased relative?
9. CONTRADICTION –
  - (a) 'Police authority is duly authorized as per law to give permission for scudding the body for workshop.'
  - (b) 'Oral/verbal consent is sufficient to send the bodies for workshop.'
  - (c) 'No complaint of foul play on deceased (as relatives never complained)'
  - (d) 'Prior no-permission stands rejected/null & void.'
  - (e) 'External observation only & no techniques.'
  - (f) 'Jurisdictional police authority is the custodian of dead body.'
  - (g) '*Post facto* permission holds no stand.'
  - (h) 'No disregard to dead body, as dead bodies were carried in proper way.'
  - (i) 'Requirement of dead bodies for academic purposes from morgue to various departments in inter departmental routine procedure.'
  - (j) 'Section 201, IPC does not arise.'
  - (k) ' No tampering / hampering with investigation / judicial process.'

26. On 9<sup>th</sup> April, 2024 Dr. Das gave a supplementary opinion as desired by the Commission in continuation of his earlier opinion dt.16/8/2023. In the said supplementary opinion Dr. Das specifically expressed his view that *dead bodies handed over for dissection before conduction of post mortem examination by authorized person (doctors) and for academic purpose does not*



*justify the tampering of body tissue (evidence) which is mentioned in the post mortem report by Dr. Sandip Mukhopadhyay (abrasions in nose) and which subjects to not showing dignity to dead bodies. Moreover, no documentary evidence of taking consent was available from police or deceased's relatives. Only verbal consent that too obtained after conduction of post mortem and workshop, is of no value.*

27. From the post mortem report of the deceased persons whose dead bodies were produced in the workshop, it appears that all the dead bodies contained injury marks on abrasion 0.1" each nasal mucosa just above the both nostrils. Both the abrasions are yellowish in colour and post mortem in nature. The contents of the post mortem reports of the deceased persons whose bodies were used in the workshop clearly indicates that dissection was done in respect of the dead bodies prior to post mortem examination. While making his statement before the Commission on oath, Dr. Probir Kumar Chakraborty, Professor and HOD of Forensic Medicine of R.G. Kar Medical College and Hospital stated that after obtaining oral permission from the police authority the workshop was held. He admitted that no written permission was sought from the relatives of the cadavers. In this regard the statement of Mr. Saikat Neogy, witness no.3 may be cited. From his statement it came out that on 6<sup>th</sup> February, 2023 Prof. Prabir Kumar Chakraborty, HOD, FMT applied for post facto permission from the O.C. of Tala P.S. by submitting an application dt.6<sup>th</sup> February, 2023. He also deposited that after getting the said prayer for post facto permission the

officer-in-charge of the Tala P.S. consulted C.P., Kolkata, Jt. C.P., Crime and D.C., North Division and they expressed their opinion that police authority do not have any authority to grant such permission as prayed for by Prof. Prabir Kumar Chakraborty, HOD, FMT. This witness specifically stated that grant of any permission either prior or post facto is not within the jurisdiction of the police. A specific question was asked by the Commission to the O.C. of Tala P.S. as to whether the police authority had any jurisdiction to grant any oral permission for dissecting any dead body kept in the morgue for post mortem prior to autopsy. The witness gave negative answer. Prof. Prabir Kumar Chakraborty was also examined by the Commission as witness no.2. While making his statement before the Commission, Prof. Dr. Prabir Kumar Chakraborty stated that he had received a request letter from Deptt. of ENT to provide cadavers and after informing police personnel verbally and also by sending a letter he had sought for permission. He also stated before the Commission that after receiving oral permission from Tala P.S. he provided four cadavers. From his statement made before the Commission on oath, it appeared that the cadavers came to mortuary centre through police personnel for post mortem. This witness could not say the names of the persons from whom he obtained the oral permission. In response to a specific question of the Commission, the witness answered that he could produce the written permission (question no.12). He stated that he applied first time for permission on 5<sup>th</sup> January, 2023 and thereafter again on 6<sup>th</sup> February, 2023. The letter dt.05/1/2023

which according to the witness was submitted to the police authority but that letter does not bear any evidence that the same was received by the police authority. Witness also admitted that the letter dt.05/1/2023 does not bear any evidence that same was received by the police authority. From the letter dt.06/2/2023, it appeared that the letter seeking permission from the police was received on 07/3/2023 much later from the date of workshop as the workshop was held on 06/1/2023 as per the statement of Prof. Prabir Kumar Chakraborty. This witness while answering question no.24 specifically stated that post facto permission was taken from police authority but this witness failed to produce such permission. Granting permission for dissection of dead bodies for the purpose of workshop by Tala P.S. was totally denied by PW no.3 who is O.C. of Tala P.S. From his statement, it is clear that police authority has no power to grant either oral or written permission for dissection of the dead body which are being sent to the hospital morgue for the purpose of post mortem. Prof. Chakraborty holding a responsible post was trying to play hide and seek game with the Commission suppressing the actual fact. It is not expected from a responsible person who is holding the Chair of Head of the Deptt. FMT, R.G. Kar Medical College and Hospital. More so, in his letter dt.24/5/2023 addressed to the Commission Prof. Chakraborty mentioned that verbal consent of the relatives was obtained. Out of five dead bodies which were placed for the purpose of workshop relatives of two dead bodies were examined by our Investigation Wing. Claim of Dr. Prabir Kumar Chakraborty that the consent of the



relatives of the deceased whose dead bodies were placed in the workshop has no basis at all. The statement is totally incorrect as he could not place any document that the permission was obtained either from the police or from the relatives of the deceased. From the statements made by Shri Abhijit Karmakar relative of deceased, Prasanta Kumar Das and Smt. Bidya Kundu wife of deceased, Prafulla Kundu, it is clear that no permission either written or verbal was obtained from the relatives of the deceased persons. PW no.2 Dr. Indra Nath Kundu under whose supervision the workshop in question was conducted in the R.G.Kar Medical College on 05/1/2023. From his statement made before the Commission it appeared that he obtained prior permission from the Principal of R.G. Kar Medical College for organizing workshop in Anatomy Deptt. and the subject matter of the workshop was Endoscopic sinus surgery demonstration in cadavers. In reply to a question of the Commission the witness stated that he gave requisition for production of dead bodies for making those bodies available in Anatomy Deptt. for using the same in workshop. While replying answer to the Commission, this witness admitted that the workshop is a demonstration procedure, so minimum dissection through the nasal cavity would serve the purpose. He admitted that for the purpose of dissection basic hand instruments were used on table. In reply to a specific question to the effect that dissection of the dead body in the workshop leads to loss of continuity of body tissues and destruction of body tissue plus tampering dissected tissue area leading to addition and deletion of bodily evidence, the witness specifically stated that

there may be a possibility in general but question of such loss of continuity of body tissues and destruction of body tissues plus tampering of dissected tissue area leading to addition or deletion of bodily evidence does not arise in the said endoscopic sinus surgery workshop. This witness could not give any specific answer in connection with the question put to him by the Commission regarding a dead body which had no injury on the nose or nasal area but while p.m. examination it was found that such injury appeared on that part of the body then what would be the outcome of the post mortem report. This witness left the matter to the opinion of the Forensic Expert.

28. The Investigation Wing of the Commission submitted supplementary report on 22/01/2024 after recording the statement of Dr. Sandip Ghosh, Principal of R.G. Kar Medical College and Hospital. From the supplementary report it appears that his statement was recorded in separate sheet as dictated by Shri Raja Roy, Joint Secretary (Law), Deptt. of Health & Family Welfare, Govt. of West Bengal. In his statement, Dr. Sandip Ghosh stated that he had no knowledge regarding rejection of request letter dt.21/12/2022 by Prof. (Dr.) Somnath Das, HOD, FMT, R.G. Kar Medical College and Hospital for supplying corpses for workshop. He admitted that he forwarded the request made by Prof.(Dr.) Indra Nath Kundu, HOD, ENT Deptt., R.G. Kar Medical College & Hospital to HOD, FMT, R.G. Kar Medical College and Hospital. He denied his involvement in the matter directly or indirectly. However, in his statement he admitted that being institutional head he had just forwarded the letter dt.30/12/2022 to HOD, FMT on good

faith without any ill motive or without knowing whether actual protocol was complied or not. He also stated that the letter dt.30/12/2022 does not mention whether the request was made for cadavers before p.m. examination, but he admitted that it was not legal for sending claimed dead bodies for the purpose of academic workshop before p.m. examination. It has also been admitted by him that dissection of corpses before p.m. examination without any order or observing any formalities is a gross negligence.

29. From the statement of the witnesses as recorded by the Commission as well as from enquiry report as conducted by Investigation Wing of the Commission, it appeared that on 5<sup>th</sup> January, 2023 five dead bodies which were kept at the mortuary of R.G. Kar Medical College and Hospital, Kolkata for the purpose of post mortem examination were sent in a workshop organized by ENT Deptt. of the said Hospital before the post mortem examination. In the instant case on the basis of news item dt.January 10, 2023 published in a daily Bengali news paper, namely, Ananda Bazar Patrika, the West Bengal Human Rights Commission took suo motu cognizance. A report was called for regarding the alleged incident as published in the newspaper from Principal Secretary, Health & Family Welfare Deptt., Govt. of West Bengal. The allegation in the news item was that five dead bodies were taken from the morgue of R.G. Kar Medical College and Hospital and said bodies were used in the workshop without taking permission from police authorities or the relatives of the deceased person.



Pursuant to the direction of the Commission an enquiry report was forwarded to the Commission. From the said enquiry report it appears that an enquiry was conducted into the alleged incident by Prof.(Dr.) Bulbul Mukherjee, Dean of Students Affairs, Prof.(Dr.) Apurba Biswas, Deptt. of FMT and Dr. Tridib Mustafi, Addl. Medical Supdt. The said enquiry report mentioned about taking of verbal consent of jurisdictional police personnel and relatives of the deceased whose bodies were placed for workshop and obtaining of post facto written permission from the police authorities. In the enquiry report the use of dead body prior to p.m. examination was justified by stating that the R.G. Kar Medical College and Hospital is a premier academic institution for which cadavers are required for imparting medical education to students. WBHRC was not satisfied with the report. Three specific questions were asked to the hospital authorities for clarification :

1. *The first query was why prior written permission of the relatives of the deceased persons and police authorities were not taken.*
2. *Second query relates to the issue that post facto written permission of the police was taken but the date and designation of the authorities had not been mentioned. At the same time, the Commission observed that no written permission of the relatives of the deceased was obtained.*
3. *The third issue as raised by the Commission was how the post mortem report was given when such dead bodies were used for educational purposes since the post mortem report is a legal documents which is used in investigation and is evidence in the Court of Law. Commission observed that the action taken by Hospital authorities tantamounts to interference with judicial process of both investigation and trial.*

b

30. The queries had been replied by letter dt.24/5/2023 of Prof. and HOD of FMT, R.G. Kar Medical College and Hospital which was duly forwarded to the Commission by Dy. Secretary, Deptt. of Health and Family Welfare, Govt. of West Bengal. The gist of the reply submitted by Dr. Chakraborty, HOD, Forensic Medicine of R.G. Kar Medical College and Hospital to Health Deptt. was that no wrong have been committed as oral permission of jurisdictional police authority obtained which was sufficient. The term used jurisdictional police authority was not clarified in the said report. In the said report it was mentioned that no complaint of foul play received and hence the action was justified. Accordingly, the clarification as given by the HOD, FMT, R.G. Kar Medical College and Hospital was discussed by the Commission and thereafter the Commission directed the MSVP, R.G. Kar Medical College and Hospital to submit information relating to dates of programme scheduled for workshop and the list of the persons attended in the said Seminar. Accordingly, a report was sent to the Commission wherefrom it appears that video tutorial on FESS cadavers (dissection) was scheduled to commence at 8.30 a.m. on the date of Seminar and hands-on dissection batch-wise was scheduled to commence from 9 a.m. to 11.30 a.m. and from the programme schedule it was seen that there were three batches for hands-on dissection programme.

b

31. Though, in reply to the query, Prof. (Dr.) Prabir Chakraborty, HOD, FMT, R.G. Kar Medical College and Hospital specifically stated that he had obtained permission from jurisdictional police and the relatives of the deceased persons for using the dead bodies of the deceased in the workshop. From the statements of said HOD and O.C., Tala P.S. it appeared that no such permission was obtained either from the police or from the relatives of the deceased for the purpose of using their dead bodies in the workshop. The clarifications as given by Prof.(Dr.) Prabir Chakraborty are totally misleading and false. More so, the O.C., Tala P.S. made it clear that the police has no authority to give permission to use the dead bodies which are kept in the hospital morgue for the purpose of post mortem to use the same for dissection or use in any Seminar prior to post mortem. It appears that the hospital authority desperately used the dead bodies which were kept in hospital morgue for post mortem examination to ascertain their cause of death were used in workshop and dissection on the body was done leave in signs /marks on their face. Those amounts to disfigurement of the dead bodies as it appeared from the copies of the post mortem report. A specific report was called for from our in-house doctor regarding the use of dead body in the workshop conducted by ENT Deptt. of R.G. Kar Medical College and Hospital. Our in house doctor in his opinion has categorically stated that the dead body



handed over for dissection before conduction of post mortem examination by authorized person (doctor) and for academic purpose, does not justify the tampering of body tissue (evidence) which is mentioned in the post mortem reports by Dr. Sandip Mukhopadhyay (abrasion in nose) and which subjects do not showing dignity to dead bodies.

32. Anatomy Act, 1949 imposes certain responsibility upon the person who is entrusted with the dead body. In the instant case the dead bodies were sent to the hospital morgue for p.m. examination to know the cause of death that means the hospital authority was entrusted with the dead body so that their post mortem examination could be done. Section 8 of the Act says that *any person having lawful possession of a body and not being an undertaker or other person entrusted with the body for the purpose only of interment, may permit the body to undergo anatomical examination, unless to the knowledge of such first-mentioned person the deceased has expressed his desire, either in writing at any time during his life or verbally in the presence of two or more witnesses during the illness whereof he died, that his body after death should not undergo such examination, or unless the surviving husband or wife, or any child of the deceased requires the body to be interred without such examination.*

33. Our Apex Court in various decision held that dignity of dead must be maintained and respected. Right to Dignity was also expanded to a dead person. Following our Hon'ble Supreme Court various High Courts of our country have taken the same view. Dead body requires to be treated with the same respect and dignity as an alive person. Transplantation of Human Organs and Tissues Act, 1994 has protected the Right of the dead person. According to this Act any form of physical exploitation of the body of the dead violates the basic Right of the deceased person. Use of the claimed dead body which were kept in the hospital morgue for the purpose of p.m. examination to ascertain the actual cause of death which was necessary for the purpose of the investigation in the workshop amounts to one kind of physical exploitation of the said dead bodies behind the back of their near relatives. In the instant case, the doctors who were involved in the workshop on Endoscopic Sinus Surgery were responsible for tampering of evidence by dissecting the nose of dead body (which is a vital part of our face) and that was done prior to post mortem examination of the dead bodies which amounts to tampering of evidence. The entire thing was committed by the responsible authorities of the hospital in a reckless manner ignoring all ethical guidelines issued by ICMR and keeping the police administration as well as the relatives of the deceased in dark. From the materials on record it appears that the workshop in question was organized by AIOB as well as ENT Deptt., R.G. Kar Medical College and Hospital. At the relevant point of time, Dr. Indranath Kundu was the HOD of ENT and was personally involved in

organizing the workshop where the cadavers were sent for dissection with hand instrument prior to post mortem examination. The role played by Dr. Indra Nath Kundu in the incident in question cannot be over looked. The then HOD, FMT, who sent the dead bodies for workshop prior to p.m. report acted in a highly negligent manner ignoring all the procedure and guidelines and his responsibility cannot be ignored as he himself was the Head of the Department of FMT he ought to have refused to supply the dead bodies which were kept in the morgue only for the purpose of post mortem.

At the relevant point of time Dr. Sandip Ghosh was the Principal of R.G. Kar Medical College and Hospital. In fact, the letter regarding holding of said workshop and requisition of dead bodies by Prof.(Dr.) Indra Nath Kundu, HOD was addressed to him and he forwarded the same to the HOD, FMT, Dr. Probir Chakraborty. While making his statement before the I.W. of the Commission he tried to evade his responsibility by stating that he was not directly or indirectly involved in the incident and he had just forwarded the letter to the HOD, FMT. Dr. Ghosh tried to clarify by stating that he had no knowledge about the rejection of the prayer for supplying dead bodies to the workshop earlier by Dr. Somnath Das. This clarification or explanation as given by Dr. Ghosh while making his statement before the Investigation Wing of the Commission is not tenable at all. More so he himself had admitted that dissection of dead bodies' prior to post mortem examination, without any order or without observing any formalities, is a gross negligence. That means he not only allowed the dead bodies to be placed before the workshop but also allowed those dead bodies to be dissected before  
b) conduction of post mortem with knowledge the consequences of such



dissection prior to post mortem examination. The then Principal of R.G. Kar Medical College and Hospital was also responsible for the incident.

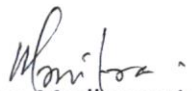
34. In view of this the West Bengal Human Rights Commission recommends that :

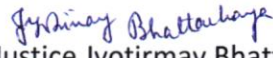
- i. Initiation of disciplinary proceeding against Dr. Sanjib Ghosh the then Principal of R. G. Kar Medical College and Hospital and Prof. Dr. Prabir Chakraborty, HOD, FMT, R. G. Medical College and Hospital is recommended for giving false and misleading evidence before the West Bengal Human Rights Commission with the definite intention to mislead the Commission and thereby, restraining the Commission from coming to a logical conclusion as to the wrongful use of cadavers of five dead persons sent from the hospital morgue before conduction of *post mortem*, to the ENT Deptt. for their use in the workshop on endoscopic sinus surgery organized in the seminar organized by Dr. Indranath Kundu, HOD of ENT, R. G. Kar Medical College and Hospital, and by making them responsible for tampering with evidence by allowing dissecting on the nose of the dead bodies being a vital part of their faces.
- ii. Initiation of disciplinary proceeding against Dr. Indranath Kundu, Head of the Department, ENT, R. G. Kar Medical College and Hospital is highly recommended because of his role in organizing the workshop where cadavers of five dead persons were allowed to be dissected on the nose of the dead bodies being a vital part of their faces with hand instruments prior to conduction of *post mortem* amounting to tampering with evidence in highly negligent manner by ignoring all the procedure and guidelines set up by the Hon'ble Apex Court as well as by the Hon'ble High Courts as to the manner in which

dead body requires to be treated under various Acts such as Anatomy Act, 1949; Transplantation of Human Organs and Tissues Act, 1994 etc.

- iii. Having regard to the fact that it has already been decided by the Hon'ble Apex Court as well as by the different High Courts that dignity of dead person must be maintained and respected in the same manner as a living person deserves, the Principal Secretary, Health and Family Welfare Department, Government of West Bengal should enforce the spirit of the law enunciated by the Hon'ble Apex Court and the different Hon'ble High Courts by issuing notice / circulars / office orders to the hospital authorities including Principal / MSVP / HOD and all other concerned prohibiting use of any dead body in any workshop and/or seminar and/or even for academic purpose, preserved in the hospital morgue for *post mortem* before conduction of *post mortem*.

35. 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  
27.01.25

  
(Justice Jyotirmay Bhattacharya)  
Chairman  
27.01.2025

  
(Basudeb Banerjee)  
Member  
27.1.25