

**WEST BENGAL HUMAN RIGHTS COMMISSION**

File No.555/25/08/23

Date : 05-04-2024

**Present**

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

On 8<sup>th</sup> September, 2023 complainant, namely, Arif Mallick, son of Lt.Rahamat Ali Mallick, Vill.Aima, Paharpur, Piyasara, P.S.Tarakeswar, Dist-Hooghly approached before the West Bengal Human Rights Commission for redressal of his grievance relating to alleged incident dt.14<sup>th</sup> August, 2023. In his said written complaint said Arif Mallick stated that he is a gold ornament maker by profession and he has to stay in the State of Andhra Pradesh. On 09/7/2022 while he was coming to his said native place by his motorcycle on his way to Aima, Paharpur miscreants whose names have been mentioned in his complaint restrained him on his way and asked him to pay a sum of Rs.20,000/- as gunda fee for celebrating their feast/picnic. The complainant refused to pay the sum and as a result, one Sk. Manirul slapped him and other persons thrown him from his motorcycle on the road side. Complainant was abused by the miscreants at the point of

revolver/pistol. Out of fear, complainant fled away from the place of occurrence leaving his motorcycle there. Thereafter, complainant visited Tarakeswar P.S. and reported the incident. Complainant was asked by the O.C. of Tarakeswar P.S. to visit in the evening. On the same day at about 1 p.m. miscreants jointly came to the residence of the complainant and tried to damage main gate, abused him with slang language and threatened to murder him if he went to the Police Station further. Complainant also stated that they ousted him from his house. It has also been claimed by the complainant that everything was recorded in CCTV installed at his house. In his said complaint before the WBHRC the complainant has also stated that out of fear he left for his work place in Andhra Pradesh. Again on 14/8/2023 he came at his house and that time the said miscreants under the leadership of Sk. Manirul came to him and demanded Rs.1 lakh for staying at village. Complainant refused their demand. Sk. Manirul and Saidul Molla started assaulted him by fist and blows and extorted a sum of Rs.3,000/- from his pocket. Sk. Manirul threatened the complainant with a pistol. Sk. Manirul explained that he was the ruling party leader and Upa-prodhan of Gram Panchayat. Police including all other authorities were in his pocket.

2. On September 20, 2023 complainant, Arif Mallick submitted one supplementary complaint in addition to original complaint dt.29/8/2023 which was received by our office on 8<sup>th</sup> September,

2023. In his said complaint, the complainant has specifically alleged that the culprits demanded huge sum of money from him which he refused. On 14/8/2023 he was assaulted by the persons named in the complaint and they extorted money from him at the point of pistol. In his supplementary complaint the complainant has also stated that the miscreants ousted him from his residence by stating that if he tried to enter into his house they would murder him. From the supplementary complaint it appears that he reported the facts to the O.C., Tarakeswar P.S. but no response was received. Thereafter, the complainant made written complaint to O.C., Tarakeswar P.S, the S.P., Hooghly Rural Police District, D.G. of Police, West Bengal and the B.D.O., Tarakeswar with prayer for help and taking necessary action. The complainant has alleged that there was no result regarding his aforesaid complaint. According to the complainant, the police authorities were totally inactive and did not give any protection to him. In his supplementary complaint, the complainant has specifically mentioned that he along with his family members had been forced to remain outside his house and passing days through fear of life. Complainant also stated that the accused persons were giving constant threat of life.

3. Complainant enclosed copies of complaint made to police authorities and the video footage stored in the CD along with his supplementary complaint.

4. On 29/08/2023 a report was called for from S.P., Hooghly Rural Police District regarding alleged grievance of the complainant.
5. Pursuant to the direction of the Commission, the S.P., Hooghly Rural Police District sent enquiry / action taken report vide Memo No.6098/DEB/HGLY(R) dt.10/11/2023. In his said report S.P., Hooghly Rural Police District has mentioned that the matter was enquired into by Dy.S.P (HQ), Hooghly Rural Police District and the same was duly forwarded by Addl.S.P. (Rural) Hooghly to S.P., Hooghly Rural Police District.
6. In his enquiry report Dy.S.P (HQ), Hooghly Rural Police District has mentioned that an enquiry was conducted regarding the petition of complainant, Arif Mallick. In the said report, the Dy.S.P., Hooghly Rural Police District has stated that during the course of said enquiry he tried to contact the petitioner but it found that the petitioner is working in Andhra Pradesh state as Goldsmith and he did not visit his native place, Tarakeswar for a long time. From the said report it appears that the complainant was requested by the Dy. S.P. (HQ) to come at Tarakeswar P.S. and file a complaint. In spite of that neither complainant nor any member of his family came to the Police Station to lodge a written complaint. In the said report it has been mentioned that only on 3<sup>rd</sup> November, 2023 the O.C., Tarakeswar P.S. received the written complaint and started Tarakeswar P.S. Case No.428/23

u/s 341/323/384/504/506/34 IPC and the said case is now under investigation.

7. The enquiry report remains complete silent about the inaction of the police authorities regarding the complaint lodged by the complainant. In his complaint addressed to the O.C., Tarakeswar P.S. on the basis of which Tarakeswar P.S. Case No.428/23 was started, complainant clearly mentioned that after the alleged incident the complainant visited the Tarakeswar P.S. and reported the facts while the O.C. asked him to come at evening time. From the documents furnished by the complainant along with the complaint, it appears that the complainant informed the O.C., Tarakeswar P.S., Supdt. of Police, Hooghly Rural Police District, District Magistrate, Hooghly and the D.G. of Police, West Bengal. It also appears that prior to making complaint before the WBHRC the complainant informed the police authorities as well as district civil administration regarding the alleged incident of extortion of money and threatening of life at the point of fire arms to the complainant and his family members. The enquiry report as submitted by the Dy.S.P. (HQ), Hooghly Rural Police District had not mentioned anything in this regard though in his complaint before the WBHRC, the complainant specifically stated that he made prayer to the police administration as well as the district civil administration for assistance and protection from the clutches of the miscreants. The enquiry report of Dy.S.P. (HQ), Hooghly Rural Police District was not

considered to be satisfactory by the Commission. The Commission opined that the examination of Dy.S.P (HQ), Hooghly Rural Police District and the then O.C., Tarakeswar P.S. was necessary.

8. Thereafter, the Commission proceeded to record the statement of witnesses. The witnesses examined by the Commission are Mr. Afzal Abrar, Dy.S.P. (HQ) Hooghly Rural Police District, Mr. Anil Kumar Raj, the then O.C. of Tarakeswar P.S. (witness no.2), Mr. Kaushik Dutta, the then O.C., Tarakeswar P.S.(witness no.3), Mr. Abhisek Chowdhury, the then O.C. of Tarakeswar P.S. (witness no.4), Mr. Rajdeb Hazra, ASI of Tarakeswar P.S. (witness no.5).

9. From the order of the Commission dt.January 8, 2024 it appears that during his examination, ASI Rajdeb Hazra produced the copies of GDE No.705 dt.16/09/2023 and GDE No.1003 dt.22/9/2023 of Tarakeswar P.S. He also handed over the copies of Tarakeswar P.S. NCR No.1441 of 2023 dt.22/9/2023 to the Commission. Commission was of the view that the copies of document as produced by the witness no.5 i.e. ASI Rajdeb Hazra were required to be verified. As such, the Commission instructed Investigation Wing to verify the genuineness of those documents. In compliance with the said direction the Investigation Wing of the Commission submitted its report to the Commission on 01/02/2024.

10. Witness No.1, Afzal Abrar, Dy.S.P. (HQ) during the course of his examination by the Commission stated that he conducted an enquiry

into the allegation of complainant, Arif Mallick. From his statement made before the Commission on 07/12/2023 it came out that before conducting the enquiry he had gone through the contents of the complaint of Arif Mallick. He deposed that the allegation of said Arif Mallick was that some people of his village had restrained him and demanded money from him. He also stated that complainant in his written complaint before the Police Station stated that they assaulted him and took Rs.3000/- from his possession by using one revolver or a pistol. During his statement he specifically stated that an unsigned complaint was received by the local Police Station on 08/9/2023 from said Arif Mallick. He expressed his ignorance regarding the received of similar complaint by Supdt. of Police, Hooghly Rural Police District and D.G. of Police, West Bengal. During his examination the witness was shown the speed-post receipts and track reports in respect of that the witness could not confirm as to whether Supdt. of Police, Hooghly Rural Police District and D.G. of Police, West Bengal received the complaint from complainant, Arif Mallick. This witness could not confirm even after going through the postal receipt and track report as to whether the O.C., Tarakeswar P.S. received the complaint through speed-post. Thereafter, a specific question was put to the witness drawing his attention to track report dt.08/9/2023. This witness stated that the track report dt.08/9/2023 shows that the item was delivered to the addressee (O.C.), Tarakeswar P.S. on 8<sup>th</sup> September, 2023. When the attention of the witness was drawn to the track report

in respect of service of addressee, S.P., Hooghly Rural Police District, D.G. of Police, West Bengal and service was affected on 06/9/2023. During the course of his examination P.W. No.1 stated that the allegation made in the complaint was enquired into by him and the result of the enquiry is reflected in his report. In reply to a specific question of the Commission this witness stated that he did not enquire into the allegation regarding police inaction. He specifically answered that in his report he had not mentioned anything about it. From the statement of P.W. No.1, Dy.S.P. (HQ) Hooghly Rural Police District who held an enquiry into the allegation of the complainant pursuant to the direction of the Commission given to S.P., Hooghly Rural Police District stated that two incidents occurred on two different dates i.e. 09/07/2022 and 14/8/2023. In reply to a specific question of the Commission regarding whether the complainant was forced to leave his village by the miscreants at gun point, this witness answered that he tried to enquire into that allegation but since he could not contact the complainant, he could not hold any effective enquiry. From the answer given by the witness to a specific query of the Commission it appears though the names of the miscreants were mentioned by the complainant in the complaint the witness P.W. No.1 did not make any attempt to ascertain the correctness of the allegations made by the complainant. From the answer given by the witness to specific question of the Commission it appears that no attempt was made by the witness while conducting the enquiry to collect the footage



recorded in the CCTV camera as claimed by the complainant that the alleged incident was recorded in CCTV camera. At the end of his examination this witness himself admitted that his enquiry was not up to the mark and he has given assurance that this would not be repeated again.

11. P.W. No.2 is Mr. Anil Kumar Raj, who was the O.C. of Tarakeswar P.S. in the year 2022. From his statement it came out that on 14<sup>th</sup> August, 2023 he was not posted at Tarakeswar P.S. He took departure from Tarakeswar P.S. on 04/8/2023. The witness has specifically stated that on 9<sup>th</sup> July, 2023 he was the O.C. of Tarakeswar P.S. and that date he did not receive any complaint from Arif Mallick.

12. P.W. No.3 is Kaushik Dutta, S.I. of Police. From the statement made before the Commission it came out that on 10<sup>th</sup> September, 2023 he was posted at Tarakeswar P.S. as O.C. In reply to a specific question this witness answered that on 14/8/2023 S.I. Abhisek Chowdhury posted at Tarakeswar P.S. as O.C. He deposed that after joining at Tarakeswar P.S. on 10/9/2023 he went through Part IV Receipt Register where it had been found that a petition was submitted by Arif Mallick was received on 08/09/2023 which was endorsed to ASI Rajdeb Hazra by the then O.C. Abhisek Chowdhury. This witness answered that he asked the enquiry officer the said Rajdeb Hazra to complete the enquiry as early. From his evidence it also came out that

on being asked enquiry officer, Rajdeb Hazra reported that on 16/09/2023 he had been to the house of petitioner but petitioner was not available in his house and on 20/09/2023 he again tried to meet the complainant but he was not available at his house. In reply to a specific question of the Commission the said witness stated that the complainant was not required to be consulted before holding an investigation. This witness admitted that it was mistake on their part. While replying to a specific question of the Commission the witness answered that the complainant discloses the ingredients of Section 341/323/384 IPC. This witness answered that Section 384 IPC is a cognizable offence.

13. Witness No.4 is S.I. Abhisek Chowdhury, ex-O.C. of Taarkeswar P.S. He deposed that on 14/8/2023 he was posted as O.C., Tarakeswar P.S. He deposed that on 14/08/2023 he was posted as O.C., Tarakeswar P.S. This witness stated that he was not aware as to whether on 14/08/2023 Arif Mallick visited the Police Station to lodge a complaint or not. He stated that he received his complaint on September 8, 2023 and endorsed the petition to one ASI Rajdeb Hazra for enquiry. From the statement of this witness, it appears that the witness went through the contents of the complaint and admitted that the complaint disclosed cognizable offence. In reply to a specific question of the Commission regarding what prevented him from registering complaint as FIR when the contents disclose commission of

cognizable offence. The witness stated that there have been instances of inter-party clashes between the parties who were not in good terms as per his knowledge being the O.C. of local P.S. at that time. The witness admitted that there is no such provision in the Cr.P.C. for non-registering a cognizable offence as an FIR. The witness could not say about the result of the enquiry as he was transferred from the said P.S. The witness also stated that he did not enquire about the CCTV footage.

14. Witness No.5 is Rajdeb Hazra, ASI of Tarakeswar P.S. He stated before the Commission that on September 9, 2023 he was entrusted to hold an enquiry into the complaint of Arif Mallick by the then O.C. of Tarakeswar P.S. and he received the complaint on 13/4/2023. He stated that he went through the contents of the complaint and proceeded to village Aima, Paharpur, Piyasara, Dist-Hooghly for holding an enquiry. This witness could not say the difference between cognizable and non-cognizable offence. He deposed that he visited the residence of complainant, Arif Mallick but he was not available there. He met the mother of complainant, Arif Mallick and he was informed by her that Arif Mallick left for Andhra Pradesh. From his evidence it appears he concluded the enquiry and prosecution u/S 107/116(3) Cr.P.C. was recommended against Sk. Manirul Islam and two others. He has specifically deposed that prosecution report was submitted to the Court of Ld. Magistrate. From his evidence it transpires that four

print outs were taken out of his all said prosecution report. Two out of those four print outs were submitted before the Court of Ld. Magistrate and the remaining two bearing original signature and forwarding note of O.C. with his initial and seal were retained by the P.S. which were produced before the Commission. This witness could not explain the reason for bearing the extract of two print outs in original. This witness had brought those copies before the Commission with the permission of O.C. of the Police Station. Photo-copy of one P.R. was submitted before the Commission by the deponent. Copies of the entry no.705 and 1003 in the G.D.E.s dt.16/9/2023 and 22/9/20023 respectively submitted by the deponent before the Commission.

15. The Commission vide its order dt.08/01/2024 instructed Investigation Wing of the Commission to verify the genuineness of those documents as produced before the Commission by P.W. No.5.

16. On 06/2/2024 the Investigating Wing of WBHRC submitted its report before the Commission. From the said report it appears that the copies of entry nos.705 dt.16/09/2023 and 1003 dt.22/09/2023 of Tarakeswar P.S. were authenticated. The said report further reveals that Tarakeswar P.S. N.C.R. No.1441/2023 dt.22/09/2023 u/S 107/116(3) Cr.P.C. was received at Chandannagar Court on 16/1/2024 at 07.45 hrs. (evening) i.e. day of visit of I.W., WBHRC team at Chandannagar Court.

**Findings :**

17. Complainant Arif Mallick approached before the W.B. Human Rights Commission alleging police inaction. It was his specific grievance that Tarakeswar P.S. did not response to his complaint by taking action against the miscreants. At the time of perusal of the case record it appears that he lodged two different complaints to WBHRC. First one dt.29/08/2023 was received by office of WBHRC on 08/09/2023 and second one dt.20/09/2023 was received by the office of WBHRC on 20/09/2023. The complaint dt. 20/09/2023 mentioned that it is the supplementary complaint in addition to original complaint dt.29/08/2023 which was received by the office of WBHRC on 08/09/2023. The complaint dt.29/08/2023 was received by office of WBHRC on 08/09/2023 mentioned the incident dt.09/7/2022 as well as incident dt.14/08/2023. Complaint dt.20/09/2023 was received by office of WBHRC on 20/09/2023 wherein the incident which was occurred on dt.14/08/2023 was mentioned. In both the complaints the complainant specifically stated he went to Tarakeswar P.S. and reported the facts. In his complaint dt.20/09/2023 the complainant specifically mentioned that he was assaulted by persons as mentioned in his complaint on 14/08/2023 and extorted money at point of pistol. From his said complaint it appears that he was ousted from his house by them and by saying that if he tried to enter into his house, they would murder him. Complainant stated that he made

written complaint to O.C., Tarakeswar P.S., S.P., Hooghly Rural Police District, D.M., Hooghly, D.G. of Police, West Bengal and BDO, Tarakeswar for help. He also alleged that he along with his family members had been forced to remain outside his residence through fear of life.

18. An enquiry report pursuant to the direction of the Commission forwarded by S.P., Hooghly Rural Police District mentioned that during the course of enquiry the Dy.S.P. (HQ) tried to contact the petitioner but it was found that he is working in Andhra Pradesh State as a Gold Smith. He stated the he was contacted through phone call several times and requested him to come to Tarakeswar P.S. to lodge complaint. In the said enquiry report it was stated that on 03/11/2023 O.C., Tarakeswar P.S. received a written complaint of Arif Mallick, the complainant and on the basis of which Tarakeswar P.S. Case No.428/23 dt.03/11/2023 u/s 341/323/384/504/506/34 IPC was initiated against the accused. Copies of formal FIR and the written complaint have been sent to the Commission by S.P., along with enquiry report. On perusal of the said written complaint it appears that the complainant narrated the incidents dt.09/07/2022 and 14/08/2023. In the said written complaint it has been specifically alleged that on 14/08/2023 miscreants came to him and demanded Rs.1 lakh for allowing him to stay at village which was refused by the complainant. He assaulted him and extorted a sum of Rs.3000/- from

his pocket and threatened to murder him with pistol. The enquiry report has totally kept mum regarding the alleged grievance of the complainant against the person in action on the part of the police administration. In his complaint before the Commission complainant stated that he was ousted from his house by the miscreants by saying that he would be murdered if he tried to enter into his house. Complainant in his petition before the Commission specifically mentioned that he made written complaint to O.C., Tarakeswar P.S. and S.P., Hooghly Rural Police District, D.M., Hooghly, D.G of Police, West Bengal and BDO, Tarakeswar for help. Complainant annexed postal receipts and track report along with the copy of complaints to show that he sent written complaint to the district police administration, D.G. of Police, and district civil administration for assistance to save him and his family. In his written complaint, complainant annexed C.D. where the video footage of the alleged incidents stored. Copy of this written complaint addressed to WBHRC was sent to S.P., Hooghly Rural Police District. Dy.S.P. (HQ) Hooghly Rural Police District in his report dt.03/11/2023 stated that he perused the petition of complaint. It is not clear what prevented him to enquire into the allegation of the complainant that in spite of receipt the written complaint no assistance was rendered to him by the authority concerned. Even the enquiry report kept mum regarding the CCTV footage. Footage stored in CCTV has been clearly mentioned in the complaint addressed to WBHRC which was sent to the S.P.,

Hooghly Rural Police District for enquiry. The enquiry report is not only perfunctory in nature but highly unsatisfactory. During his examination by the Commission, the Dy.S.P. (HQ) Hooghly himself admitted the said facts by stating that his enquiry was not up to the mark and this would not be repeated again.

19. While making statement before the Commission witness No.3 Shri Kaushik Dutta who was posted as O.C., Tarakeswar P.S. on 10/09/2023 stated that after joining at Tarakeswar P.S. on 10/09/2023 he went through the Part IV Receipt Register where it had been found that a petition duly submitted by Arif Mallick was received on 08/09/2023 which was entrusted to ASI Rajdeb Hazra by the then O.C. Abhisek Chowdhury and he asked the said enquiry officer to complete the enquiry as early as possible. Reply to a question of the Commission P.W No.3 stated that the complaint was received by the Police Station through post on 08/09/2023. From his evidence, it is clear that Tarakeswar P.S. received the complaint regarding the alleged incident dt.14/08/2023 was received by Tarakeswar P.S. on 08/09/2023 through Speed-Post. P.W No.4, Shri Abhisek Chowdhury who was the O.C. of Tarakeswar P.S. stated that he received a complaint on 08/09/2023 from Arif Mallick. He deposed that he endorsed the said case to ASI Rajdeb Hazra for enquiry. PW No.5 is ASI Rajdeb Hazra he deposed that on 13/09/2023 the complaint of Arif Mallick was given to him for enquiry and report. From the



evidence of PW No.3,4, and 5 it is clear that Tarakeswar P.S. received the written complaint of Arif Mallick through Speed-Post on 08/09/2023. Receipt of complaint of Arif Mallick through Speed-Post by Tarakeswar P.S. was a fact. During his examination by the Commission Shri Kaushik Dutta the then O.C. of Tarakeswar P.S. deposed after going through the complaint made by the complainant and stated that ingredients of Section 341/ 323 / 384 IPC had been found. In reply to a specific question of the Commission other witness stated that Section 384 IPC is a cognizable offence. P.W. No.4 Shri Abhisek Chwdhury the then O.C. of Tarakeswar P.S. admitted that there is no such provision in the Cr.P.C. not to register a complaint indicating the commission of cognizable offences as an F.I.R. He stated that he wanted to hold a preliminary enquiry. From the statements made by P.W. No.3,4 and 5 it transpires that P.W. No.5 ASI Rajdeb Hazra was entrusted to hold an enquiry into the alleged grievance of the complainant, Arif Mallick. In his statement P.W. No.4 Abhisek Chowdhury the then O.C., Tarakeswar P.S. deposed that he made endorsement for enquiry on 08/09/2023. P.W.No.3 Kaushik Dutta who was also posted as O.C., Tarakeswar P.S. stated that the complaint of Arif Mallick was received on 08/09/2023 and it was endorsed to ASI Rajdeb Hazra. Shri Rajdeb Hazra witness no.5 deposed that he received it on 13/09/2023. As per the direction of the Commission regarding the complaint of the complainant an enquiry was conducted by Dy.S.P. (HQ) on 03/11/2023. Interestingly there is

no such whisper regarding receipt of complaint of Arif Mallick by Tarakeswar P.S. through Speed-Post on 08/09/2023 and the same was endorsed for enquiry to ASI Rajdeb Hazra. While making his statement before the Commission the said ASI Rajdeb Hazra deposed that he concluded the enquiry and prosecution u/S 107/116(3) Cr.P.C. and was recommended against one Sk. Manirul Islam and two others. He specifically deposed that prosecution report was submitted to the Court of Ld. Magistrate. Copies of G.D. Entry Nos.705 and 1003 in the GDEs dt.16/09/2023 and 22/09/2023 were furnished by this witness before the Commission.

20. Commission asked its Investigation Wing to verify the genuineness and authenticities of the entry nos.705 and 1003 dt.16/09/2023 and 22/09/2023 respectively. From the report submitted by Investigating Wing of WBHRC it appears that the copies of aforesaid G.D. Entries are genuine and authentic. But the report of our Investigating Wing reveals that Tarakeswar P.S. N.C.R. No.1441/2023 dt.22/09/2023 u/s 107/116(3) Cr.P.C. was received at Chandannagar Court on 16/1/2024 at 17.45 hrs. evening i.e. day of visit of Investigating Wing, WBHRC team at Chandannagar Court. The statement made by P.W. No.5 before the Commission on 08/1/2024 that P.R. was submitted to the Court of Ld. Magistrate was totally false statement.

21. On close scrutiny of entire materials on record it appears that complainant, Arif Mallick sent written complaint to the Police Station regarding commission of cognizable offences against one Manirul Islam and others who claimed himself to be leader of the ruling party and upa-prodhan of Gram Panchayat and extorted money from him and ousted him from the residence at the gun point. In spite of receipt of the complaint by the P.S. on 08/09/2023 no FIR was registered although, contents disclosed commission of cognizable offence. This action on the part of the police authority is contrary to the principle laid down by our Hon'ble Supreme Court in Lalita Kumari Case ( Lalita Kumari Vs. Govt. of Uttar Pradesh of Supreme Court Judgement dt.12<sup>th</sup> November, 2013).

22. From the evidence of police personnel, namely, P.W. No.3. Mr. Kaushik Dutta (who was posted on 10/09/2023 at Tarakeswar P.S. as Officer-in-Charge), P.W. No.4 Abhisek Chowdhury (who was posted as O.C. of Tarakeswar P.S. on 14/8/2023) admitted the receipt of complaint of Arif Mallick on 08/9/2023. In his statement before the Commission P.W. No.3 admitted that the complaint which was received by the Tarakeswar P.S. contains the ingredients of Section 341/ 323/ 384 IPC. P.W. No.3 admitted that offence u/s 384 is a cognizable offence. The statements of the police personnel who were examined by the Commission leaves the Commission no doubt that in spite of receipt of the written complaint regarding the commission of

cognizable offence local Police Station kept mum without taking any action. As a result of which the complainant had to leave his residence to save his life as stated in his petition before the WBHRC. The petition of complaint was sent to S.P., Hooghly Rural Police District for causing an enquiry into the alleged grievance of the complainant. Unfortunately, the officer i.e. Dy.S.P. (HQ), Hooghly Rural Police District conducted the said enquiry in cursory manner without trying to find out the actual facts as it appears from his statement made before the Commission. In support of his allegation the petitioner, Arif Mallick sent CD of CCTV footage as well as postal receipts showing that for assistance and help he approached different police authorities. It is a case of total inaction on the part of entire police authority including civil administration to provide shelter to a person who needed protection from the hands of the miscreants. Dy.S.P. (HQ), Hooghly admitted that no attempt was made on his behalf to collect the footage recorded in the CCTV camera regarding the alleged acts of the miscreants towards the complainant. The conduct of the police administration as reflected in their statements appears that the entire local Police Station including the enquiry officer was trying to hide the miscreants. In order to justify their action Mr. Abhisek Chakraborty, witness no.4, ex-O.C. of Tarakeswar P.S. stated in reply to a specific question regarding what prevented him from registering a complaint as FIR. This witness answered that there has been instances of inter-party clashes in the said place of occurrence under Tarakeswar P.S.

and both the alleged persons and the petitioner were not in good terms as per his knowledge being the local officer at that time. The excuse as given by P.W. No.4 appears to be a lame excuse. In reply to a specific question regarding non-registration of a complaint disclosing cognizable offence as FIR the said witness admitted that there is no such provision in the Cr.P.C. He replied that he wanted to hold a preliminary enquiry. This witness stated before the Commission that he was aware of local groups of political parties who created trouble there and petitioner one of the trouble-mongers. The justification as given by witness no.3, the ex.O.C. of Tarakeswar P.S. is not tenable in law.

23. Previously, Commission observed that witness no.5, ASI Rajdeb Hazra made false statement before the Commission by stating that on the complaint of the petitioner, Arif Mallick he conducted an enquiry and after conclusion of enquiry he submitted prosecution u/s 107/116(3) Cr.P.C. against one Manirul Islam and two others. But the copy of P.R. as produced by this witness before the Commission shows that there was a prayer for both the parties may be prosecuted u/s 107/116(3) Cr.P.C. as officer preventive measure as well as to maintain any breach of peace. This witness deposed before the Commission on 08/1/2024. From the report of our Investigating Wing it appears that the said P.R. being Tarakeswar P.S. NCR No.1441/2023 dt.22/09/2023 was received by Chandannagar Court

on 16/01/2024 at 17.45 hrs. afternoon i.e day of visit of Investigating Wing of WBHRC team to Chandannagar Court. It is not clear what prevented the Tarakeswar P.S. to submit the prosecution report to the Chandannagar Court when the same was forwarded on 23/09/2023. The conduct of the Tarakeswar P.S. cannot be said to be free from all types of suspicion. Function of the Police Station is to look into the grievance of the public and in appropriate cases the matter should be brought to the Court so that citizen can lead their life peacefully without fear of their lives, security etc. In the instant case that was not done by Tarakeswar P.S. Thereafter, the petitioner approached civil and police administration for his protection. No proper assistance was rendered to him. Lastly, he was compelled to approach the West Bengal Human Rights Commission.

24. Having regard to the role played by the police personnel of Tarakeswar P.S., the Commission is of the view that Tarakeswar P.S. has failed to discharge their duties properly. In spite of getting complaint disclosing commission of cognizable offence they failed to register the same as FIR and endorsed the same to one ASI Rajdeb Hazra for an enquiry and the prosecution report, after that enquiry, was not sent to the Court for further action. This conduct of Tarakeswar P.S. can be termed as dereliction of official duties.

25. Previously, Commission observed that Dy.S.P. (HQ) Hooghly held enquiry in a very cursory manner. He realized that the enquiry was not

up to the mark and stated before the Commission that this would not be repeated again.

26. In the present case the materials on record as well as the statements made by the police officials before the Commission clearly indicate that the grievance of the petitioner was not dealt with in accordance with the provision of law and the justification as projected by the concerned police officer not only bogus but also against the Human Rights or Fundamental Rights of a person to get fair investigation within the meaning of Article 21 of the Constitution of India.

27. Having regard to the entire materials on record the Commission recommends as under :-

i. Supdt. of Police, Hooghly Rural Police District is directed to initiate departmental proceeding against ASI Rajdeb Hazra for giving false evidence on oath before the Commission and misleading the Commission.

ii. Abhisek Chowdhury, the then O.C. of Tarakeswar P.S. should be cautioned and directed to be cautious while dealing with the complaint lodged before Police Station.

iii. Dy.S.P. (HQ) Afzal Abrar is hereby cautioned to be more careful in future while conducting any enquiry as directed by any

Commission. He should be warned not to recur such type of thing in future.

iv. Supdt. of Police, Hooghly Rural Police District is directed to ensure that complainant may not suffer in any way for lodging complaint before the Human Rights Commission and to ensure proper protection be given to the complainant so that he along with the members of his family can reside in his residence peacefully without any interference from the named miscreants and / or any member of this team and / or gang.

28. 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