

WEST BENGAL HUMAN RIGHTS COMMISSION

File No. 629/25/05/23

P r e s e n t

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

On 2nd November, 2023 complainant Shri Ritwick Paul submitted a written complaint to WBHRC against one Mr. Manas Kumar Mondal, Officer of Jorabagan P.S. along with other police officials.

2. On the basis of that written complaint the Commission on 8th November, 2023 called for a report from the Commissioner of Police, Kolkata regarding the alleged grievance of complainant Ritwick Paul.

3. Pursuant to the direction of the Commission, Commissioner of Police, Kolkata vide memo. No.19674/RPT+enclo dated 20/12/2023 submitted an enquiry report regarding the alleged grievance of complainant Ritwick Paul.

4. The alleged grievance of the complainant Ritwick Paul as narrated in his complaint addressed to WBHRC may be narrated as under :-

5. On 22nd October, 2023 on the day of Maha-Astami the complainant was riding a scooty with his friend to visit the pandels near Aeheritola B.K. Paul area at about 8.30 p.m. when the complainant reached near B.K. Paul crossing, he put off his helmet as he was suffocating. Complainant approached Shri Manas Kumar Mondal with an object to get information regarding the place for parking of his scooty. At that time the police officials imposed a fine of Rs. 1000/- as the complainant was without helmet. The complainant paid the fine. It was alleged by the complainant that at the time of indicating the parking place, the said Manas Kumar Mondal took the complainant before the other officers who insulted him. After payment of fine the complainant told Manas Kumar Mondal that he ought not to have been penalized for requesting to show the parking place and he should take legal action against him. As a result said Manas Kumar Mondal became furious, abused the complainant with filthy languages and assaulted him on his face, neck, arms and legs. Complainant was forcibly taken to Jorabagan P.S. and he was detained there and he was told by the said Manas Kumar Mondal that he would be implicated under the provisions of various Acts including Motor-Vehicles Act, Indian Penal Code, and NDPS Act. Thereafter he was forced to sign on a letter addressed to the O.C., Jorabagan P.S. In the said letter addressed to the O/C, Jorabagan P.S. it was mentioned that the complainant and said Manas Kumar

Mondal had no grievance against each other. Copy of the letter addressed to O/C, Jorabagan P.S. dated 22nd October, 2023 has been annexed to the petition of complaint.

6. From the enquiry report submitted before the Commission by the Commissioner of Police, Kolkata it transpires that Assistant Commissioner of Police, North and North Suburban Division, Kolkata held an enquiry into the alleged grievance of complainant Ritwick Paul.

7. In the said enquiry report, it was mentioned that the alleged incident occurred on 22nd October, 2023 at about 20.35 hrs. in the evening of Maha-Astami. From the enquiry report it appears that Shri Manas Kumar Paul, Constable of Jorabagan P.S. with force were on duty at the crossing of B.K. Paul Avenue and Rabindra Sarani. There was huge crowd assembled near Aeheritola Yubakbrinda and Aeheritola Sarbojanin and as such 'No Entry Board' and barricade had been put on B.K. Paul Avenue on the date of alleged incident i.e. on 22nd October, 2023. The police personnel were in vigil to maintain law and order duty at the crossing of B.K. Paul Avenue and Rabindra Sarani. At the relevant point of time the petitioner reached at this spot riding on a scooty with his friend and tried to enter into the said No-Entry-Zone. Shri Manas Kumar Mondal, Constable of Jorabagan P.S. resisted the complainant to enter into the No Entry Zone along with his scooty. The petitioner tried to park his scooty at B.K. Paul More in violation of the direction of the police officials at that spot. On-duty Traffic

Sergeant Shri Rajarshi Chowdhury of Jorabagan Traffic Guard prosecuted them under Motor Vehicles Act for not using helmet. At that time a hot altercation took place between petitioner and said Constable on duty and other police officials. The petitioner was taken to Jorabagan P.S. On reaching the P.S. both the petitioner Ritwick Paul and Manas Kumar Mondal, Constable of Jorabagan P.S. gave a joint declaration in writing stating that they had no grievance against each other. The said declaration was diarised vide Jorabagan P.S. GDE No. 1561 dated 22/10/2023. Assistant Commissioner of Police (I), North and North Suburban Division, Kolkata annexed the said written declaration to his enquiry report.

8. In his enquiry report the enquiry officer observed that the allegations by the petitioner that he was compelled and forced to sign on a letter addressed to O.C. of Jorabagan P.S. could not be substantiated. In his enquiry report the enquiry officer specifically mentioned that during the course of enquiry he had talked with the complainant over phone. Regarding the injury of the petitioner the enquiry officer has stated that the petitioner failed to produce any medical document in support of the injuries sustained by him by on-duty police constable Shri Manas Kumar Mondal.

9. After going through the enquiry report regarding the alleged grievance of complainant Ritwick Paul, the Commission vide its order dated 4th January, 2024 decided that the petitioner Ritwick Paul was required to be examined by the Commission and

the medical papers produced by the petitioner in support of his allegation of assault were required to be verified by our Investigation Wing.

10. On 18th January, 2024 the petitioner Ritwick Paul appeared before the Commission. On that date he submitted a written statement and the same was kept with the record. The petitioner was examined in full by the Commission. On the said date the Commission decided to examine Shri Manas Kumar Mondal, Constable of Jorabagan PS and he was directed to appear before the Commission on 31st January, 2024.

11. On 31st January, 2024 Shri Manas Kumar Mondal, Constable of Jorabagan PS was present before the Commission. He was examined on oath in full and discharged.

12. On the same date i.e. on 31st January, 2024 the Investigation Wing of WBHRC was instructed to collect the certified copy of GDE dated 22/10/2023 of Jorabagan PS regarding patrol duty of police personnel at B.K. Paul Avenue Crossing. The Commission also decided to obtain the opinion of our in-house doctor regarding the injuries sustained by Ritwick Paul.

13. On 19th February, 2024 our in-house doctor expressed his opinion regarding the alleged injuries sustained by petitioner Ritwick Paul.

14. In his enquiry report the Assistant Commissioner of Police, North & North Suburban Division, Kolkata has specifically mentioned that the petitioner Shri Ritwick Paul was contacted over telephone several times but he did not make himself available to face examination. During telephonic conversation the petitioner, in addition to his allegations as narrated in his complaint, also claimed that he was assaulted by Shri Manas Kumar Mondal with fist and blows at the spot and he sustained bleeding injuries. It also appears from the enquiry report that the complainant stated to the enquiry officer that he was medically treated for his injuries.

15. While making his statement before the Commission, the complainant/petitioner stated that the incident occurred on 22nd October, 2023 at about 20.30 hrs. He stated that it was a horrible incident for him when he visited at Aaheritola (B.K. Paul area) with his friends for visiting Durgapuja Pandel. He put off his helmet because he was suffocating and suddenly a man came to him and he asked him where he could park his scooty to visit the pandel. From his statement it appears that the said man was totally in civil dress and as such the petitioner thought he might belong to the

Puja committee and so he asked him where he could park this scooty.

16. From statement of the petitioner before the Commission, it appears that the said person took him in the middle of officers and fine was imposed on him as he was not wearing helmet. Petitioner paid the fine. Petitioner also stated that said Manas Kumar Mondal cheated him and he was joking him and as such he felt very insulted. Petitioner directly told the said person namely Manas Kumar Mondal that the way he talked and behaved with him, the petitioner would take legal action against him. From his statement it also appears that as soon as the petitioner told the above words to the said person, the said person started abusing him with slang languages and slapped him for five-six times and beat him on his legs and caught his hand so roughly. From the statement of the petitioner, it appears that everything took place in front of the officers who were present there and the entire incident was reflected in the camera bearing no. 2776N(KP155).

17. From the statement of the petitioner it also came out that the petitioner was taken to Jorabagan PS and there he was threatened that his scooty would be seized and he would be put in lock-up for a night. After two hours he came to Thana then the officer on duty was trying to settle out the dispute mutually. The

petitioner stated the Commission that he did not agree because he had not committed any wrong. In his statement before the Commission the petitioner stated that he was pressurized to settle the dispute mutually or otherwise he would be implicated in false criminal case.

18. In reply to a specific question of the Commission the complainant stated that when he was imposed fine for not wearing helmet and at that time he came to know that the person in civil dress was Manas Kumar Mondal of Jorabagan PS. The complainant stated the Commission that he had told Manas Kumar Mondal that he could take legal action for making jokes in front of others. In reply to another specific question of the Commission, the complainant stated that he never met the person in civil uniform prior to the incident. During his examination by Commission the witness admitted that the alleged incident took place on 22nd October, 2023 but he was examined by the doctor on 23rd October, 2023. This witness stated that delay was caused as on the date of the alleged incident was Astami and he was both mentally and physically upset as the alleged incident took place in presence of his friend. He stated that he waited till the end of the puja, thereafter he visited the doctor when he saw that the blood marks remained and his pain was continuing. While making his statement before the Commission the complainant stated that he was unable to appear before ACP to face the enquiry and as such

he had made his statement over phone and narrated the entire incident to ACP.

19. Witness no. 2 is Mr. Manas Kumar Mondal. He stated before the Commission that presently he is posted at Jorabagan PS as constable. He stated that on 22nd October, 2023 he was on patrol duty in civil dress from B.K. Paul Avenue and Rabindra Sarani Crossing upto B.K. Paul Avenue and Nimtala Ghat Street Crossing.

20. From his statement made before the Commission, it came out that area where he was performing his duty on the date of alleged incident was declared as 'No Entry Zone'. No vehicle or motor-scooter except the residents of the locality, riding on a vehicle on a motor cycle was allowed within the 'No Entry Zone'. He stated that no entry restriction remained in force from afternoon till midnight.

21. According to his statement Ritwick Paul, complainant was trying to enter into the restricted no entry zone with his motor-cycle and he was alone on the motor-cycle. He stated that the Civic Volunteers on duty refrained him from entering the restricted zone as he tried to enter the restricted zone with his motor-cycle forcibly. When Ritwick got himself involved in altercation with the Civic Volunteer, he was informed that only the vehicles or the motor-cycles belonging to the residents of the locality, were

allowed entry in the no entry zone. Ritwick refused to adhere to the direction of the Civic Volunteer as some vehicles were allowed to enter restricted zone. At that point of time witness no. 2 i.e. Manas Kumar Mondal intervened and tried to convince him by stating that only the vehicles and or the motor-cycles belonging to the locality were allowed entry in the restricted zone, so we should not enter in the restricted zone as he did not belong to the locality. P.W. No. 2 also stated that Ritwick was without helmet and as such police on duty instructed him to take Ritwick to the Traffic Sergeant and he followed the said direction.

22. From the statement made by the P.W. No. 2 before the Commission, it also came out that the Traffic Sergeant imposed fine on him through online for not using helmet. When fine was imposed on him, Ritwick the complainant became violent and abused the police personnel on-duty by using filthy languages. Another Assistant Sub-Inspector who was on duty there in civil dress tried to pacify him by requesting him not to use abusive languages about the police in front of public. Thereafter, he took Ritwick to PS. On reaching PS, the complainant Ritwick Paul admitted his fault and stated that he ought not to have used abusive languages against the police personnel there. P.W. No. 2 also stated that he requested the 2nd Officer not to take any harsh action against Ritwick.

23. From the statement made by P.W. No. 2 before the Commission, it appears that a settlement was arrived at between Ritwick and P.W. No. 2 and that settlement was recorded in a piece of paper and the same was signed by both of them. This witness denied the allegation against him made by the complainant in his petition of the complaint that he was abused and assaulted by P.W. No. 2.

24. In reply to a specific question of the Commission, the witness has stated that he did not have any prior acquaintance with the complainant. In reply to another specific question of the Commission the P.W. no. 2 answered that police personnel of Jorabagan PS went to the place of occurrence on the basis of GDE. He specifically answered that the said GDE mentioned the names of police personnel who were on patrol duty, the time of such duty and the place of such duty. In reply to another question of the Commission P.W. No. 2 answered that he could produce the certified copy of the GDE.

25. P.W. No. 2 expressed ignorance about the treatment of the complainant by doctor as well as the statement made by the complainant before the doctor regarding his injury.

26. From the statement made by the complainant before the Commission, it appears that on the date of alleged incident the complainant visited at the area near Aeheritola and B.K. Paul Avenue by riding a scooty along with his friends. In his written complaint as well as in his statement before the Commission the complainant specifically alleged that on that date he was assaulted by one police official namely Manas Kumar Mondal of Jorabagan PS. The presence of said Manas Kumar Mondal at this spot was not denied by A.C.(I), ND while submitting an enquiry report. From the enquiry report which was submitted before the Commission, pursuant to its direction clearly indicated that said Manas Kumar Mondal at the relevant point of time was posted as constable at Jorabagan PS and at the relevant point of time he was on duty at the place of alleged occurrence. From the statements of witnesses namely the complainant and Shri Mondal against whom the allegation has been labeled as well as the enquiry report conducted by A.C.(I), ND, it is clear that something was happened there. In his enquiry report A.C.(I), ND has stated that the dispute cropped up between the complainant and Constable Manas Kumar Mondal was ultimately mutually settled and both of them executed a document in this regard and the said document was recorded in the GDE of the PS. In this connection, the statement of both the complainant and constable may be mentioned. According to the complainant he was forced to put his signature on the documents which recorded the settlement of the dispute

between them. On the other hand, Shri Manas Kumar Mondal, the constable stated before the Commission that the 2nd Officer of Jorabagan PS asked both of them to settle the matter amicably.

27. While making his statement before the Commission, Constable Manas Kumar Mondal specifically denied the allegation of assault on the complainant. He stated that when the traffic sergeant imposed fine on the complainant for not using helmet the complainant became furious and started to use abusive languages addressing the police personnel.

28. From the enquiry report as well as from the statement made by P.W. No. 2, it appears that on the relevant date Shri Mondal was on patrol duty at the place of occurrence. While deposing before the Commission Mr. Mondal himself also stated that he could produce the certified copy of the GDE wherefrom it could be ascertained that on the relevant date he was posted to perform patrol duty at the place of occurrence.

29. Apart from, in the enquiry report A.C.(I), N.D. also stated that Shri Mondal, Constable of Jorabagan PS was also on duty at the place of occurrence on the relevant date.

30. On 31st January, 2024 the Commission directed its Investigation Team to collect the certified copy of GDE dated 22/10/2023 of Jorabagan PS regarding the duty of police personnel at B.K. Paul crossing on the relevant date. At the same time the Commission invited the opinion of its in-house doctor Dr. Abhisekh Das on the injury report of complainant Shri Ritwick Paul.

31. On 15th February, 2024 the Investigation Wing of WBHRC submitted its report. From the documents as furnished by the Investigation Wing of WBHRC along with enquiry report, it shows that S.P. of Investigation Wing of WBHRC sent a message to O.C., Jorabagan PS with a direction to produce a command certificate of constable Manas Kumar Mondal of Jorabagan PS on 22/10/2023 at B.K. Paul Avenue (duty place) in an around 20.25 hrs. and what kind of duty he was assigned to perform and whether he was in uniform or not.

32. In response to the said queries the O.C., of Jorabagan PS, Kolkata sent the certified copies of documents as asked for by the Investigation Wing of WBHRC. From the said documents it appears that GDE No. 1549 dated 22/10/2023 did not show specific name of Manas Kumar Mondal to have accompany to ASI U.K. Sarkar. In their report the Investigation Wing has specifically mentioned that no command certificate was issued to Constable

Manas Kumar Mondal for specific duty to corroborate his physical presence in the same matter. The report of Investigation Wing clearly indicated that no Command Certificate to Constable Manas Kumar Mondal was issued on that duty as he was deployed in the PS area. From the report as submitted before the Commission by its Investigation Wing has clearly falsified the statement made by Shri Manas Kumar Mondal before the Commission to the effect that he went to the place of occurrence to perform duty on the basis of GDE.

33. From the statement of complainant Ritwick Paul, Manas Kumar Mondal as well as from the enquiry report of our Investigation Wing it appears that the complainant and constable Manas Kumar Mondal arrived at a mutual settlement.

34. In his written complaint the complainant alleged that constable Manas Kumar Mondal and other officers of Jorabagan PS compelled him to sign on a drafted letter as condition to leave him free. In his enquiry report the Assistant Commissioner of Police has observed that the allegation of forceful signing on amicable letter addressed to the O.C. of Jorabagan PS could not be substantiated. Certified copy of the said alleged settlement bearing the admitted signature of constable Manas Kumar Mondal and complainant Ritwick Paul addressed to the O.C. of Jorabagan PS has been placed on record. In the said so-called amicable

settlement it was mentioned as under :- "We, Manas Kumar Mondal and Ritwick Paul, due to misunderstanding the arguments started between us and now we amicably settled the matter. Now we have no complaint against each other."

35. Previously the Commission observed that at the relevant point of time constable Manas Kumar Mondal was present at the spot though he was not on official duty. In his enquiry report the Assistant Commissioner of Police specifically stated that the constable Manas Kumar Mondal of Jorabagan PS was in area round duty and was standing at that place at that time to control heavy rush of spectators. He resisted the petitioner from entering into no-entry zone along with his scooty. Petitioner had tried to park his scooty at B.K. Paul Road violating repeated warnings of on-duty police officer at that spot. The enquiry report has clearly indicated that petitioner Ritwick Paul was at fault. Now the question comes what prompted the police constable to enter into an amicable settlement with the wrong doer or a person who violates the direction of the police relating to maintenance of law and order. Previously the Commission observed that on the date and time mentioned above the constable was not officially engaged to perform duty. It is peculiar to note that a police personnel who was engaged to maintain law and order came to compromise with a person who was the law breaker. This raises strong suspicion in the mind of the Commission that there must be

some foul play on the part of the police authority. More so, the report of the Commissioner of the police to the effect that said constable Manas Kumar Mondal of Jorabagan PS was in area round duty is not correct as it appears from the report of the Investigation Wing of WBHRC. Now-a-days it has been observed by the Commission that the duty of the Police Station is to negotiate or settle the dispute between the parties. Sometimes the Police Stations obtained declaration from the complainants to the effect that from the complaint who approached before the Commission or any authority against the police administration to obtain declaration from them that they have no grievance against the concerned police person or P.S. In the instant case the so-called statement mentioned that both have no complaint against each other. In this connection the statement of said constable made before the Commission may be mentioned.

36. While deposing before the Commission Shri Mondal stated that they took the complainant to the P.S. and when the complainant reached the P.S. he identified himself as a law student and admitted his fault. He said that he ought not to have used abusive languages against the police personnel there and considering the fact that Ritwick Paul (complainant) is a student. Shri Mondal requested the 2nd Officer not to take any harsh action

against Ritwick. Therefore Shri Mondal further stated that 2nd officer then asked both of them to settle the matter amicably. Shri Mondal went on to state that Ritwick agreed to write but asked him as to whether any harsh action would be taken against him. Subsequently, Shri Mondal disclosed that he had no complaint against him. From his statement it appears that the settlement which was arrived at between them was recorded in a piece of paper and the same was signed by both of them. Shri Mondal during examination identified the said settlement arrived at by them. While making his statement before the Commission, Shri Mondal has specifically stated that both of them signed the settlement paper voluntarily.

37. Presence of Mr. Mondal at the P.S. is an admitted fact. It is also admitted that all documents were signed by both complainant and Mr. Mondal, a Constable of Jorabagan PS mentioning that they had no grievance with each other. Though in the enquiry report as forwarded before the Commission as per its direction mentioned that Shri Mondal was on official duty, but the report of investigation team clearly indicated that on that date Shri Mondal was not on duty. The complainant himself stated before the Commission that Shri Mondal was on plain dress. It is also a fact that an agreement was signed by both the complainant and the Constable. Mr. Mondal deposed that both of them signed on the

said paper voluntarily. On the other hand it is the case of the complainant that he was compelled to put his signature on that document.

38. The overall scenario clearly indicated that Mr. Mondal, the Constable was not above suspicion and doubt. The conduct of the constable Shri Mondal indicates that there was on the part of the constable himself and that is why it was written that both of them have no complaint with each other.

39. In his written complaint as well as his statement made before the Commission, the complainant stated that he was assaulted by Shri Mondal on his face, neck, arms, legs etc. From materials placed on record, it appears that the complainant was examined at Emergency at Deshbandhu Nagar Hospital on 25th October, 2023 at 2.30 p.m. by on-duty doctor. The doctor who examined the complainant opined that injuries sustained by the petitioner were not grievous and the doctor found in Rt. Sides of knee, neck, lower leg and arm in blunt trauma with haematoma. As the patient reported difficulty in swallowing he was referred to ENT for further check up. He also advised for orthopedic check up to see whether there was inside fracture on his body due to blunt trauma and haematoma. He advised conservative treatment (medicines) to the

patient and also opined the injuries could have been received 03 days ago considering the nature of injuries shown to him. He added that the patient came alone to have a check-up. He was discharged with advice for ENT and Ortho check up by performing tests medically. He also said that patient alleged to have been assaulted by one Manas Kr. Mondal but the specific identity (whether police or not) and his address was not disclosed to him.

40. The statement of the doctor was recorded by our investigation team. We also obtained an opinion from our in-house doctor regarding the alleged injuries sustained by the complainant.

41. The alleged incident took place on 22nd October, 2023. The complainant was medically checked up at Deshbandhu Nagar Hospital on 25th October, 2023 that is after three days of the alleged incident. Our in-house doctor, while expressing his opinion observed that injury over bilateral arm could be corroborated but the other injuries were not corroborated as there was no visible injuries. In his opinion the doctor expressed that moreover the exact duration of time since infliction of the injuries could not be ascertained.

42. The above discussions and findings lead the Commission to hold that on the date of alleged incident the Constable Manas

Kumar Mondal of Jorabagan PS was not officially on duty. The complainant was imposed fine for violation of Traffic Rules. There was an altercation and assault on the complainant by the said constable cannot be completely ruled out.

43. From the statement of the doctor as well as medical papers it suggested that the complainant sustained injury and he was examined by the doctor after three days of the alleged incident. The execution of mutual agreement by the Constable whose duty is to maintain law and order and the complainant who was alleged to have violated the Traffic Rules clearly indicates both the constable and the complainant were at fault.

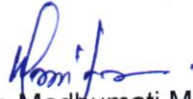
Having regard to the fact that both the complainant and the police constable were at fault, and the root cause of the trouble was initiated at the instance of the complainant who entered into "**no entry zone**" by riding on a scooty with his friend, the Commission declines to award any monetary compensation to the complainant for the injury which he allegedly suffered while he was allegedly assaulted by the police constable namely, Manas Kumar Mondal.

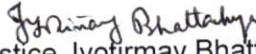
In the backdrop of the discussion and/or observation made hereinabove, the following recommendations are made by the Commission:-


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- (i) The role of Mr. Manas Kumar Mondal constable of Jorabagan Police Station on 22nd October, 2023 as recorded hereinabove is strongly deprecated by the Commission and the Commission recommends that the said constable should be censured with sufficient warning so that acts complained of against him are not repeated.
- (ii) The practice of playing the role of the mediator by the Police Officials, in settling any dispute arising from any complaint made by a complainant against any police officer which has developed in the recent past, should be discontinued totally by issuance of office order/instruction/memorandum by the Director General of Police, West Bengal and the Commissioners of Police to all police stations under their control.

The OSD & Ex-Officio Secretary & CEO-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 (J)


Justice Jyotirmay Bhattacharya
Chairman
06.08.2024


Basudeb Banerjee
Member(A)
6/8/24