

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.401/WHRC/Com/2014-15

P r e s e n t

1. **Shri Naparajit Mukherjee - Chairperson**
2. **Shri Mani Shanker Dwivedy - Member**

The West Bengal Human Rights Commission received a petition from one Sahadot Ali Mondal of Bhabagachi, Mamudpur, Dogachia, Naihati, P.S.Naihati, Dist-North 24 Parganas on July 16, 2014 against Inspector-in-Charge of Naihati P.S., Dist-North 24 Parganas. The gist of the complaint of Sahadot Ali Mondal was that he has legitimate business in scrap iron and steel and is a bonafide citizen paying all government taxes etc. In the middle of April, 2014 Sujit Chakraborty, ASI of Police, Naihati P.S. came to his factory and directed him to meet Shri Subir Chakraborty, Inspector-in-Charge of Naihati P.S. Accordingly, he met the I.C., Naihati P.S. who asked him as to how much money (bribe) he (petitioner) used to pay to different officers previously posted at Naihati P.S. Thereafter, the petitioner replied in negative when I.C., Naihati P.S. enquired about his factory, business, ownership, office vehicles etc. Then the petitioner left the Police Station. Again on May 30, 2014 ASI, Sujit Chakraborty of Naihati P.S. came to the factory of the petitioner and asked him to meet the I.C. of the Naihati P.S. In accordance with his request the petitioner went to the P.S. around 8 p.m. the same day and around 12 p.m. I.C., Naihati P.S. allegedly asked him to pay Rs.20,000/- (Rupees twenty thousand) per month to the I.C. as 'bribe' and also asked him to pay Rs.60,000/- (Rupees sixty thousand) as arrears of last three months. He was directed to pay the amount through the plain

cloth staff whose in Charge was Sujit Chakraborty failing which he would seize all vehicles and arrest him. The I.C. allegedly misbehaved with the petitioner and asked him to leave the P.S. On June 14, 2014 approximately 7.23 p.m. Sujit Chakraborty called the petitioner over his cell phone no.9333415079 from Sujit Chakraborty's (ASI) cell phone no.9874993369 and told the petitioner that I.C., Naihati P.S. directed him to seize his vehicle which the petitioner told that were parked in front of his factory. The petitioner alleged that he is suffering from mental trauma and live in fear of both the I.C. and ASI of Naihati P.S. and requested for enquiry into the matter so that he is not 'harmed' by the Police Station authorities.

2. The Commission took cognizance of the matter and directed Commissioner of Police, Barrackpore Police Commissionerate to submit a report within three weeks.

3. Shri Jyotirmoy Roy, Assistant Commissioner of Police-I, Barrackpore Division conducted an enquiry into the matter and submitted his report on September 8, 2014 through Commissioner of Police, Barrackpore Commissionerate into the entire incident. He spoke to the petitioner, Sahadot Ali Mondal and could learn that the petitioner has a business of iron scrap which is duly registered with District Industry Centre. There are total twenty labourers working in his factory and five vehicles are also engaged. The petitioner informed the Enquiring Officer that ASI, Sujit Chakraborty of Naihati P.S. had come to his factory and told that O.C., Naihati P.S. had summoned the petitioner. Accordingly, the petitioner went to the P.S. when O.C., Naihati talked to him regarding his business and also payment of money. The petitioner informed that he was in a legitimate

business for which he refused to pay any money. On 30/5/2014 the petitioner was once again called by O.C., Naihati P.S. when he went there around 8 p.m. and could meet the O.C. around 12 p.m. The O.C. allegedly demanded Rs.60,000/- (Rupees sixty thousand) from him and Rs.20,000/- (Rupees twenty thousand) to run the business smoothly. The petitioner refused to pay the money when O.C., Naihati P.S. threatened the petitioner to put him behind the bars and seize all his vehicles.

4. The Enquiring Officer examined to O.C., Naihati P.S. and ASI, Sujit Chakraborty but they denied all facts. Herein the Enquiring Officer comments that “as expected O.C. denied all facts.” O.C., Naihati P.S., in his defence stated that the allegation was false, the petitioner had come to meet the O.C. but the O.C. did not meet him. Similarly, ASI, Sujit Chakraborty also denied all allegations against him by the petitioner. The Enquiring Officer commented that he warned both O.C., Naihati P.S. and ASI, Sujit Chakraborty and asked them to do lawful government duty properly and focus on dealing with crime and criminals. The Enquiring Officer further stated in his report that he assured the petitioner that he would never be harassed by any police personnel and in case such thing happens the petitioner should contact the Enquiring Officer instantly. The Enquiry Officer says “prima facie charge against O.C., Subir Chakraborty and ASI Sujit Chakraborty could not be substantiated”.

5. The Commission took into consideration the petition and the report of the Enquiring Officer. Not being satisfied with the same decided to summon the Enquiring Officer to clarify his report and to examine both Subir

Chakraborty, I.C., Naihati P.S. and ASI, Sujit Chakraborty under Section 16 of the Protection of Human Rights Act.

6. The statement of Sujit Chakraborty, ASI of Police was recorded on 19/11/2014 and 07/1/2015. In his statement the ASI stated that he had never gone to the establishment of the petitioner and has never asked him to meet the O.C. or come to the P.S. However, he admitted knowing Sahadot Ali Mondal prior to 30/5/2014. In course of execution of warrant in his jurisdiction around February or March of 2014 he had taken assistance of Sahadot Ali Mondal, the petitioner, regarding arrest of warranted person (the ASI could not recollect his name) in connection with a maintenance case. The warrant of arrest against that person is still pending in the Police Station. When the examination was resumed on 07/1/2015, the witness produced a copy of the warrant, G.D. and his personal diary. The witness stated that the warrant was endorsed for execution to him by O.C., Shri Subir Chatterjee on 06.3.2014 and on the same day without taking any action he submitted non execution report to the Ld. Additional Chief Judicial Magistrate's Court on instruction of O.C. who in turn forwarded the N.E.R. to the Ld. Court on the same day. Subsequently, on 11-3-2014 in the warrant it is mentioned that he took several steps for execution but he failed to arrest the warrantee. The ASI claimed that he has no enmity with Sahadot Ali Mondal and has learnt from his colleagues in the P.S. that the petitioner was a 'police friend' and had assisted the police on several occasion like informing police about road accidents etc. He claimed that he has never seen the petitioner visiting the Police Station. The witness also claimed that Subhonkar Bhattacharjee, Addl Dy. Commissioner of Police

asked him over phone as to whether he knew Sahadot Ali Mondal when he replied in negative. The witness further informed that the petitioner was also known as “Khudu” when he informed Shri Subhonkar Bhattacharjee later on that he knew a person known as “Khudu”. The Addl. Dy. Commissioner warned the ASI not to talk to “Khudu” as he had submitted a petition against the ASI. The witness claimed that there was a conspiracy behind filing of the petition and that he had heard the same from I.C. The witness did not disclose details of the conspiracy. The witness admitted that from his mobile phone no.9874993369 he contacted Sahadot Ali Mondal on several occasions and the latter has also contacted him on his mobile number. The witness claimed that he has never told the petitioner that I.C., Naihati P.S. had directed him to seize his vehicles and denied that he had contacted the petitioner on 14-4-2014 (actual date as mentioned in petition is 14/6/2014) at 7.23 p.m. as claimed by the petitioner.

7. The statement of Shri Subir Chakraborty, Inspector of Police was recorded on 07-1-2015 wherein he stated that he does not know Sahadot Ali Mondal. But ASI, Sujit Chakraborty was working under him and that he has never sent the ASI to the petitioner. He stated that following receipt of notice of appearance before the Commission he came to know that Sahadot Ali Mondal had filed a complaint against him. He denied any knowledge of enquiry conducted into this matter by Shri Jyotirmoy Roy, Asstt. Commissioner of Police-I and that the ACP-I had not examined him. Subsequently, as a result of deferment of proceedings the I.C. was again examined on 29/1/2015 when he stated that he had no inimical relation with the petitioner and has not known him. He denied asking for illegal

gratification of Rs.20,000/- (Rupees twenty thousand) per month and Rs.60,000/- (Rupees sixty thousand) as arrears. He also denied sending ASI Sujit Chakraborty to the petitioner or directing the ASI to seize the petitioner's vehicle and also denied the fact that the ASI,Sujit Chakraborty used to talk to the petitioner from his mobile. He claimed that his supervision over the ASI was satisfactory and not received any complaints. He further claimed that Assistant Commissioner of Police has never examined him and that his relation was not such with Shri Jyotirmoy Roy, ACP-I that he would drag him intentionally to Human Rights Commission. He claimed to have good, normal and official relation with his superior officer.

8. Jyotirmoy Roy, Assistant Commissioner of Police-I, Barrackpore Commissionerate was examined on 20-1-2015 for seeking clarification on his enquiry report. He admitted that he enquired into allegations of the petitioner and has submitted the enquiry report to the Commissioner of Police, Barrackpore. He stated that he had examined Sahadot Ali Mondal, ASI Sujit Chakraborty and Inspector, Shri Subir Chakraborty but did not record their statements in writing. Inspector, Shri Subir Chakraborty came to know about the allegations during course of enquiry and that he (Subir Chakraborty) had admitted that the petitioner had come to the P.S. but denied meeting petitioner at the P.S. or demanding money. The Enquiring Officer admitted his mistake in failing to verify the call details of mobile phone of ASI Sujit Chakraborty No. 9874993369 where he was in contact with the petitioner on 14-4-2014 (actual date as mentioned in petition is 14.6.2014) at 7.23 p.m. He also stated that I.C., Subir Chakraborty had

come to know of the complaint against him during enquiry and it was wrong on his part to say that he had come to know of the enquiry only after getting notice from the Commission. He stated that he has no evidence of Sahadot Ali Mondal having hostile relation with Inspect, Shri Subir Chakraborty or the ASI, Sujit Chakraborty and that the Enquiring Officer had no intention to drag the Inspector or ASI before the Commission to “teach them a lesson”.

Findings :

9. The Commission scrutinised the petition, enquiry report and the statements of Enquiry Officer, the Inspector and ASI and after detail discussion came to the conclusion that the petitioner had a genuine complaint of harassment by the local Police Station authorities especially by the A.S.I. who was in-Charge of plain clothes staff of the Police Station. Although, the Inspector in-Charge very painfully denied his calling of the petitioner to the P.S. or demanding any amount from the complainant yet it is clear that the petitioner had come to the P.S. on May 30, 2014 at 08 p.m. and waited till 12 p.m. The Inspector admitted he had come to the P.S. but denied meeting him which is unacceptable to the Commission since the Inspector had full knowledge of his visit to the P.S. It is fact that the petitioner was known to the Police Station staff especially the ASI which has been established by the statement of the ASI and also by examining the call details through the Investigating Wing of the Commission as the Enquiring Officer had failed in his duty to verify the C.D.R. despite being given the specific numbers, time and date of the calls. The A.D.G., Investigating Wing of the W.B.H.R.C. enquired into that portion of the petition in which

Sahadot Ali Mondal claimed that there was a contact with his mobile and that of ASI, Sujit Chakraborty on June 14,, 2014 around 7.23 p.m. It was ascertained from the C.D.R. that on 14-6-2014 around 19.31.29 a contact was established from the petitioner's mobile phone with that of the ASI (established from his CDR). Thus, the claim of the petitioner is borne out in facts. It is further surprising to note that while the enquiry by the Commission was in progress suddenly a petition was received by the Chairman of W.B. Human Rights Commission on November 18, 2014 within a thumb impression of Sahadot Ali Mondal @Khude that he was having no complaint against both the officers of Naihati P.S. This belated action of petitioner only led the Commission to presume some foul play on the part of the Police Station as the enquiry was conducted sometime in September, 2014 and the first statement of the ASI was recorded on 19-11-2014. Further, the Enquiry Officer Shri Jyotirmoy Roy, ACP-I, Barrackpur in his report has stated of warning both O.C., Naihati P.S. and ASI, Sujit Chakraborty to do their lawful government duty and has assured the petitioner that in case he was ever harassed by police officers then the matter should be brought to the notice of the Assistant Commissioner of Police. He also used the word 'as expected' the O.C., Naihati and ASI denied all the allegations against them. The ACP-I did not conduct the enquiry properly and he violated the standard operating procedure for conducting such enquiry which was circulated by D.G.P., West Bengal vide his memo no.1686(ADM.)/HRC dt.25-3-2013 in which it has been stated that all statements of witnesses are to be recorded preferably with signature and enclosed with the report of E.O. He also failed to verify the C.D.R.s of the

A.S.I.'s mobile phone number and that of the petitioner despite the numbers being specifically mentioned. The Commission considers that the Enquiry Officer had done a slipshod enquiry which was avoidable.

Recommendations :

10. The Commission is of the opinion that (i) a departmental proceedings be drawn up against Subir Chakrabroty, Inspector, Naihati P.S. for harassing the petitioner,

(ii) a departmental proceedings be drawn up against ASI, Sujit Chakrabroty of Naihati P.S. for harassing the petitioner and demanding money and threatening seizure of his vehicles, calling him to the Police Station reportedly specially in night hours of 30th May, 2014 around 8 p.m. and keeping him waiting till 12 p.m.,

(iii) the Commissioner of Police, Barrackpore Commissionerate is requested to ensure that in future no such harassment is made to the petitioner from the Police Station as has also been stated by ACP-I, Shri Jyotirmoy Roy,

(iv) Shri Jyotirmoy Roy, ACP-I to be advised to conduct enquiries properly and not in a slipshod manner and follow the Standard Operating Procedure laid down in D.G. & I.G.P.'s Memo No. 1686(ADM.)/HRC dt.25-3-2013.

11. The Government is requested to kindly intimate the Commission about its decision on the recommendation made within three months time.

Sd/-
(M.S. Dwivedy)
Member
03.02.2015

Sd/-
(N. Mukherjee)
Acting Chairperson
03.02.2015