

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.961/WBHRC/Com/2013-14

P r e s e n t

1. Shri Naparajit Mukherjee - Acting Chairperson
2. Shri Mani Shankar Dwivedy - Member

A petition was received from Shri Lalit Kr. Singh, son of Sahadeb Singh, Vill.Barduary, P.S.Harishchandrapur, Dist-Malda dt.14.06.2013 alleging illegal detention of the petitioner from 10-5-2013 to 12-5-2013 by I.C. Shri Babin Mukherjee of Harishchandrapur P.S., Dist-Malda and alleging continuous assault, threatening, injuries to life etc. The West Bengal Human Rights Commission took due cognizance of the matter and directed Supdt. of Police, Malda to get the matter enquired into by an Addl.S.P. level officer considering the gravity of the allegations.

The brief facts of the petition are as follows :-

2. Lalit Kr. Singh, son of Sahadeb Singh, Vill.Barduary, P.S.Harishchandrapur, Dist-Malda alleged that he was unlawfully detained by Inspector Shri Babin Mukherjee, I.C., Harishchandrapur P.S. in the police lockup for more than two days between 10-5-2013 to 12-5-2013. He further alleged that no documentation regarding his detention was made in the Police

Station and he was physically and mentally tortured by the I.C. of the P.S., Shri Babin Mukherjee and was pressurised to execute a sale deed of a property in favour of one Radhyesham Sharma, son of Prahlad Sharma of Vill Barduary, P.S.Harishchandrapur, Dist-Malda against petitioner's free will. The petitioner claimed that he was mercilessly beaten by Shri Babin Mukherjee, I.C. of the P.S. and that the petitioner was detained in the police lockup from the evening of 10-5-2013 to 12-5-2013 upto 1500 hrs. without taking recourse to any legal procedure.

3. **Results of enquiry conducted by Shri Shyam Singh, IPS, Addl. S.P., Malda on the petition at the direction of State Human Rights Commission.** Shri Shyam Singh, IPS, Addl. S.P., Malda conducted an enquiry and submitted report to the Commission through Supdt. of Police, Malda vide Memo No.16/E dt.02-1-2014. The Addl.S.P. in his report stated that he visited Harishchandrapur P.S. on 23-6-2013 and found that the I.C. did not maintain Diet Bill Register of prisoners, Lockup Register and all Arrest Register in the Police Station as mandated in the Police Regulations and various directives of N.H.R.C./Apex Court. Further, during the course of enquiry it was prima facie established that Lalit Kr. Singh was detained in Harishchandrapur P.S. for two consecutive dates without making any reference in the G.D. or any register to be maintained in the Police Station as per

P.R.B. Following facts were also revealed in the enquiry report of the Addl.S.P. :

(a) HG 1926 Sabir Ali of Harishchandrapur P.S. along with village police Zahid Hossain apprehended Lalit Kr. Singh, (petitioner) s/o.Sahdeb Singh, Vill-Barduary, P.S.Harishchandrapur, Dist – Malda on 10-5-2013 at about 1800 hrs. and brought him to the P.S. as directed by I.C., Babin Mukherjee. However, on perusal of the G.D. book from 09-5-2013 to 11-5-2013 no entry has been found to this effect. The enquiry report claimed that HG 1926 Sabir Ali, S.I. Bikash Halder and Inspector, Shri Babin Mukherjee submitted written deposition to the Addl.S.P. accepting all the facts.

(b) A.S.I.s Biswanath Chakraborty and Goutam Mahato both of Harishchandrapur P.S. were duty officers between 10-5-2013 to 11-5-2013. They both accepted in writing that the petitioner was detained in the Police Station for two consecutive dates after he was brought to the P.S. on 10-5-2013 afternoon. Inspector, Babin Mukherjee accepted that after mutual compromise with opposite party, Lalit Kr. Singh was allowed to leave the Police Station on 12-5-2013 morning. The enquiry report of the Addl. S.P. claims that he has submitted a written deposition to him in this regard.

(c) On 19-5-2013 Shri P.R. Das, SDPO, Chanchal came to the P.S. to enquire into the same incident of unlawful detention of Lalit Kr. Singh between 10-5-2013 to 12-5-2013. I.C, Shri Babin

Mukherjee during the course of enquiry, informed SDPO, Chanchal that the G.D.E. Book from 02-05-2013 to 17-5-2013 was missing from the P.S. for the last few days. However, he had not informed the fact to office superiors prior to visit of SDPO, Chanchal on 19-5-2013. The Addl. S.P. commented in his report that he came to know all these development on 21-6-2013 and directed the I.C. to start a specific case u/s 409 IPC for missing of the GDE Book. After giving this direction the G.D.E Book was traced which gave rise to reasonable suspicion in the matter.

(d) During enquiry following facts were also learnt. I.C., Harishchandrapur P.S. failed to produce any chart of distribution of duty before the enquiring officer, no Diet Register was maintained at the P.S. as per PRB Rules and directives of NHRC for which the Addl.S.P. recommended "censure" to Shri Babin Mukherjee for intentionally suppressing relevant facts.

4. In conclusion of his enquiry, the Addl.S.P. mentioned that it was established that I.C. Shri Babin Mukherjee of Harishchandrapur P.S. detained Lalit Kr. Singh (petitioner) for two days without making any documentation as required legally in the Police Station. Supporting evidence to this fact was obtained from deposition of Shri Babin Mukherjee, village police Zahid Hossain and HG 1926 Sabir Ali. It is also found that the I.C. did not maintain Diet Bill Register, Lockup Register and all Arrest Register.

A show cause notice was issued to Shri Babin Mukherjee on Inspection Remarks of Addl.S.P., Malda dt.23/6/2013.

Shri Babin Mukherjee in his letter to S.P., Malda dt.28-6-2013 questioned the authority of his superior officers to conduct an enquiry into any matter concerning the affairs of his P.S. without serving notice to him and labelled the action of his superiors as “misfeasance.” He also intentionally used the word “your Additional authority” in place of Additional Superintendent of Police to defy and undermine the authority of Addl.S.P. He also raised certain irrelevant and illegal points to S.P., Malda which were unwarranted and unfolded with the intention to undermine the authority of his superiors. Lastly, in his enquiry Addl. S.P. strongly recommended to initiate departmental proceedings against Inspector, Shri Babin Mukherjee, I.C., Harishchandrapur P.S. on grounds of illegal detention and not maintaining relevant registers in gross violation of legal requirements.

Action taken by Supdt. of Police, Malda.

5. The Superintendent of Police recommended departmental proceedings against the officer which was duly drawn up by IGP(Hqrs.)WBPD vide DP No.31/2013 dt.12/12/2013.

Consideration of WBHRC

6. This enquiry report was duly considered by the Human Rights Commission as it was prima facie established that the Inspector had committed illegal detention of an innocent person.

The Human Rights Commission decided to call for a report from Supdt. of Police, Malda regarding (a) the status of departmental proceedings against Inspector, Shri Babin Mukherjee and (b) also summon Inspector Shri Babin Mukherjee u/s 16 of the PHR Act for hearing on 02-7-2015. S.P., Malda in reply (memo no.1239/E dt.13.3.2015) informed that DIG of Police, Malda Range had enquired into the D.P. against the charged officer, Shri Babin Mukherjee, I.C., Harishchandrapur P.S., Malda and the departmental proceedings has since been completed. The charged officer has also submitted his written statement of defence on 06-10-2014. The enquiring officer of the D.P. has submitted his findings to the Director General and Inspector General of Police, West Bengal on 19-1-2015. He has held the Charged Officer “partially guilty” of charge no.1 i.e. “during his incumbency as I.C., Harishchandrapur P.S., Dist-Malda he unlawfully detained one Shri Lalit Kr. Singh, s/o.Sahadeb Singh of Barduary, P.S.-Harishchandrapur, Dist-Malda at the PS Lock-up from the evening of 10.5.2013 till morning 12.05.2013.” Regarding charge no.2 “He did not maintain Diet Bill Register, Lock-up Register and All arrest Register at the PS as prescribed in PRB. This charge stands proved

beyond any shadow of doubt” The matter is pending with D.G. & IGP, West Bengal for his final views/orders.

7. The charged officer Shri Babin Mukherjee was examined by Human Rights Commission on 02-7-2015 u/s 16 of PHR Act where he admitted that departmental enquiry took place in the matter of Lalit Kr. Singh and has since been completed. Two charges were framed against him in the departmental proceedings but as yet no punishment has been inflicted on him.

Findings of WBHRC

8. Be that as it may, the West Bengal Human Rights Commission after considering the allegations levelled by the petitioner against Shri Babin Mukherjee, Inspector, enquiry report of Shri Shyam Singh, IPS, Addl. S.P., Malda and the gist of the departmental proceedings as well as the statement of Inspector, Shri Babin Mukherjee before the Commission u/s 16 of the PHR Act has come to the conclusion – (i) that Babin Mukherjee has illegally detained Lalit Kr. Singh for two days (between 10.5.2013 to 12.5.2013) in order to make compromise regarding sale of a property with the opposite party which was really is not the job of the Police Station. (ii) That Inspector Shri Babin Mukherjee failed to maintain the Diet Register, Lockup Register and All Arrest Register of the P.S. in order to avoid any documentation regarding arrest of persons by the Police Station so that he can indulge in illegal activities.

Recommendations :

The Commission appreciates the truthful enquiry report submitted by Shri Shyam Singh, IPS, Addl. S.P., Malda for which it requests the D.G. & IGP, West Bengal to issue him a letter of appreciation and also for the prompt action taken by the department in initiating departmental proceedings is noted with satisfaction by the Commission. The same be published in West Bengal Gazette.

The Commission recommends that a compensation of Rs.20,000/- (Rupees twenty thousand) only be paid to the petitioner Lalit Kr. Singh deducting the same amount from the salary of Shri Babin Mukherjee, I.C. of Harishchandrapur P.S. who is responsible for illegal arrest and detention of Lalit Kr. Singh for two days in the Thana lockup in order to settle some private property dispute.

The Commission further states that the result of departmental proceedings and action taken on our recommendation may please be communicated to the Commission within next two months time.

Sd/-
(N. Mukherjee)
Acting Chairperson
06-7-2015

Sd/-
(M.S. Dwivedy)
Member
06-7-2015