

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.1045/WBHRC/COM/2010-2011

Date : 18-2-2013

P r e s e n t

1. Mr. Justice Asok Kumar Ganguly - Chairperson
2. Mr. Justice N.C. Sil - Member
3. Mr. S.N. Roy - Member

Nidhir Kumar Saha, Dainhat Subhas Road, P.S.Katwa, Dist - Burdwan submitted a complaint to the Commission which was received in Commission's office on 21-2-2011 alleging that his elder brother Pradip Kr. Saha was murdered on 24-6-2009. It was also stated in the complaint that Katwa P.S. U.D. Case No.115/2009 dt.24-6-2009 was instituted. It was further alleged in his complaint that in spite of the fact that on 09-9-2009 in the prescribed T.R. Form the complainant deposited money in the P.S. for receiving a copy of the viscera report but he did not get the same in spite of repeated contacts at Katwa P.S. and also after informing S.D.P.O. Accordingly, the complainant applied to the Commission to take necessary action so that he could obtain a copy of the viscera relating to the death of his elder brother.

2. The Commission admitted that matter and called for a report from Supdt. of Police, Burdwan.

3. Supdt. of Police, Burdwan forwarded the report of enquiry by Jyotirmoy Roy, SDPO, Katwa. It was stated in the report that the deceased Lt. Pradip Kr. Saha who used to work at Vasko-Da-Gama, Goa since 25 years came to his ancestral place on 23-6-2009 and was reportedly found roaming about in drunken condition. On 24-6-2009 his dead body was found in a pond. The surathal report report was prepared by ASI Prasanta Paul and the dead body was sent to Katwa S.D. Hospital for post mortem examination. Dr. Partha Sarathi Roy Chowdhuri of Katwa S.D. Hospital opined that the cause of death was “may be due to drowning.” Immediate cause of the death was “cardiorespiratory failure” and “ante mortem” in nature and “detail will be available after C.E’s report.” It was stated in the SDPO’s report that C.E. report was still pending and that he had talked to ASI Prasanta Paul over telephone who told him that he had not sent the viscera of the deceased Pradip Kr. Saha to F.S.L., Kolkata for chemical examination.

4. After consideration of the report of the SDPO, the Commission decided to examine the following officials :

- i. Jyotirmoy Roy, the then SDPO, Katwa
- ii. S.I. Tridip Pramanik, the then O.C. of Katwa P.S.
- iii. S.I.Arun Kr. Das, then then O.C. of Katwa P.S. and
- iv. Prasanta Paul, ASI of Police who was posted at Katwa P.S. at the relevant point of time.

5. Jyotirmoy Roy, the then SDPO in his evidence before the Commission admitted that the petitioner Nidhir Kumar Saha had met him on several occasions for viscera report. He also admitted that he had not suggested in his report to the S.P. for taking any action against the ASI Prasanta Paul for not sending the viscera to the FSL for chemical examination. He had called the E.O., ASI Prasanta Paul twice for examination but he did not appear. He admitted that he did not mention this fact in his enquiry report. He further admitted that during his enquiry he found out that viscera was not sent to FSL for chemical examination because viscera was not preserved properly and was lost.

6. S.I. Tridip Pramank, the then O.C. of Katwa P.S. was examined by the Commission. On the date of the incident on 24-6-2009 he was the O.C. of Katwa P.S. but he was transferred from the P.S. on 26-7-2009. During that period, the police officials had not received the post mortem report. As such he was not acquainted with further developments in the case.

7. Arun Kr. Das, S.I. of Police who was in-Charge of the Katwa P.S. after transfer of Tridip Pramanik was also examined by the Commission. The witness mentioned that he was in-Charge for a day or two after transfer of Tridip Pramanik on 26-7-2009.

8. Prasanta Paul, ASI of Police who was posted in Katwa P.S. at the material point of time examined by the Commission. He admitted that he prepared the inquest report on the dead body of the victim. He admitted

that he did not send the viscera to the FSL for chemical examination report as the same was not handed over to him by the doctor who conducted the post mortem examination. He admitted that he had seen the post mortem report and according to the post mortem report, the cause of the death was “may be due to drowning.” Immediate cause of the death was cardio respiratory failure and ante mortem in nature and the details would be clear in C.E.’s report.

9. On consideration of the enquiry report of the SDPO, Katwa and the evidence of the witnesses and other materials on record it is clear that the deceased Pradip Kr. Saha’s viscera was not sent to the FSL for chemical examination as advised by the Autopsy Surgeon and the viscera were not preserved and lost. The entire responsibility for this shocking state of affairs squarely lies on ASI Prasanta Paul who was the E.O. of the U.D. case and it was his duty to obtain the viscera from the hospital. His explanation that the viscera was not handed over to him by the doctor who conducted the post mortem examination is not acceptable at all since there is no evidence to indicate that he tried to obtain the viscera nor did he inform any of the superior officers that viscera was not being made available by the hospital authorities. Thus, ASI Prasanta Paul was guilty of gross dereliction of duty and as a result of such shocking negligence on his part that alleged murder case of deceased Lt. Pradip Kr. Saha could not be properly investigated. He could not give any satisfactory explanation for his conduct.

10. The conduct of the SDPO, Katwa is also not beyond reproach. His enquiry report is perfunctory. He however submitted in his evidence before the Commission that when he sent the report he did not have sufficient experience as he had just completed one year of service. He also admitted that his report was not satisfactory and that it was perfunctory and gave an undertaking to this Commission in future he should be alert while preparing reports in cases of alleged Human Rights violation. The Commission accepts his explanation and has decided not to make any recommendation in his case.

11. Accordingly, the Commission recommends that

- i. immediate disciplinary proceedings be initiated against ASI, Prasanta Paul.

12. The Government should intimate the Commission about the action taken or proposed to be taken on the recommendation within a period of two months from the date of communication.

Sd/-	sd/-	sd/-
(S.N. Roy) Member	(Justice N.C. Sil) Member	(Asok Kumar Ganguly) Chairperson

Date : Kolkata, the 18th February, 2013

Comments of the State Government will be uploaded as and when received.

Sd/- (18/02/2013)
(J. Sundara Sekhar)
Secretary & CEO