

**West Bengal Human Rights Commission**  
**Bhabani Bhavan, 2<sup>nd</sup> Floor, Alipore, Kolkata - 27.**

108/WBHRC/Com/2009-2010

Date : 27.02.2013

Present :

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

1. This is to consider a telegraphic message in which it was stated that one Ratan Shaw, the only earning member and father of three children was in Kulti Police Custody since 24.07.09 without production before the Court. It was alleged in the said message that the Police demanded "BRISE" (? May be bribe) from the members of Shaw's family following which the Police threatened to implicate him in false theft and bribery cases. The message was received by this Commission on 31.07.09 and a report was called for from the S.P. Burdwan on such telegraphic message to be submitted before the Commission within a period of four weeks from the date of communication. After receipt of the report from S.P. Burdwan, it appeared therefrom that the enquiry was made in a slip shod manner and having shirked the responsibility it was stated that the enquiry could not be made as the petitioner could not be available. It may be mentioned here that the enquiry was made by Debarshi Dutta, the then Dy. S.P. Asansol which was forwarded by S.P.

Burdwan. Accordingly Debarshi Dutta was called by this Commission to make his statement on his report.

2. The record goes to show that on several occasions, Sri Dutta absented himself from appearing before this Commission on various grounds. Ultimately on 24.04.12, Sri Dutta appeared before this Commission and stated that during enquiry he asked the O/C Raniganj P.S. to trace out the person who sent the telegraphic message to this Commission but O/C Raniganj P.S. told him verbally that no such person namely Jay Prakash Shaw could be found. It is admitted by Sri Dutta that he had neither taken any report from the O/C Raniganj P.S. nor did he visit Kulti P.S. It is further admitted by him that he did not examine any records of Kulti P.S. relating to the allegations of illegal detention of Ratan Shaw.

3. On the basis of the evidence of Sri Debarshi Dutta, the Commission directed ADG and IGP of this Commission to cause an enquiry on the telegraphic message of Jayprakash Shaw and submit his report within a period of four weeks from the date of communication. Accordingly DGP as he subsequently became submitted his report. It appeared from the report that Ratan Shaw was arrested by 5-6 Police personnel in civil dress on 24.07.09 at about 4.00 pm. and taken in a police jeep to Niyamatpur I/C and detained in Police lock-up there. The enquiry further revealed that Ratan Shaw was alternatively detained at Niyamatpur I/C lock-up and Kulti P.S. lock-up till 28.07.09. During enquiry some discrepancies in the arrest Memo and seizure list of Ratan Shaw were noticed inasmuch as Ratan Shaw was shown arrested on 28.07.09 at 17.15 hrs. but the place of arrest was not shown. In the arrest memo it was shown that Ratan Shaw was arrested in presence of Rama Debi, wife of Ratan Shaw but her signature was not taken. Rama Debi's signature was also not taken as a witness on the seizure list although she was shown to be present at the time of arrest. It is pointed out by the DG of this Commission "Further it is unbelievable

that Ratan Shaw and the other seven accused persons shown in the FIR were waiting with five stolen motor cycles at the place of arrest, only to be arrested by the Police.” Ratan Shaw was ultimately produced before the court on 29.07.09. In conclusion the DG of this commission stated as below :

“ If Ratan Shaw was actually arrested on 28.07.09 at 17.15 hrs. his (sic) as shown in the FIR and arrest memo the petitioner could not have sent the telegram to the WBHRC on 28.07.09 at 15.46 hrs (P 87B),even before his arrest. This proves that Ratan Shaw was arrested before the telegram was sent.”

3. On the basis of the report of the DGP of this Commission, Ananda Charan Sarkar and Sukumal Das, both of Kulti P.S. were examined by this Commission. Ananda Charan Sarkar who subsequently became SDPO, Basirhat stated before this Commission that at that time he was posted as I/C Kulti P.S. The report of the DGP of this Commission was brought to the notice of the witness and also a copy of the same was sent to him along with the notice and when he was questioned on such report he stated “I have no comment to make contradicting the report particularly as regards the last paragraph of the DGP, WBHRC,” as mentioned above.

4. Sukumol Das who was S.I. of Kulti P.S. at that time stated that he had gone through the report of the DGP of this Commission. He further stated that when Ratan Shaw was produced before the Court on 29.07.09 he did not make specific complaint as regards his illegal detention and the Ld. Magistrate had made a specific observation in this regard in his order. The witness has produced a Xerox copy of the said order. It is admitted by the witness that he along with S.I. Ananda Charan Sarkar arrested Ratan Shaw and Dipak De. He had also stated that the brother of

Ratan Shaw sent the telegraphic message apprehending that his brother Ratan Shaw was going to be arrested.

5. The assumption of Sukumal Das that the telegraph message was sent apprehending the arrest of Ratan Shaw has no basis at all in the absence of any tangible evidence before this Commission. Moreover, the claim of Sukumal Das that Ld. Magistrate in his order dt. 29.07.09 made specific observation in connection with illegal detention does not appear to be correct at all. On close scrutiny of the said order, it appears that Ld. Advocate appearing for Ratan Shaw pointed out to the Ld. Magistrate that Ratan Shaw was detained in the Police custody since 24.07.09 and to the effect Jay Prakash Shaw, brother of Ratan Shaw sent the telegraphic message through the Court to S.P. Burdwan and to the State Human Rights Commission. On such submission, Ld. Magistrate in his said order made the following observations :

“I find that there is no specific complaint case lodged by the accused or on his behalf for illegal detention and the accd. Ratan Shaw has been produced under arrest for the alleged offence punishable u/s 411/413/414/120B/34 IPC and I.O, made a prayer for P.C. of both the accd. Persons for 10 (ten) days, which has been recommended by the Superior Police officer of this sub-Division and I also find that no prayer for bail of accd. Dipak Dey @ Raj has been made”

6. Accordingly it is clear from the order of the Ld. Magistrate that in the absence of any specific complaint Ld. Magistrate eschewed himself from dealing with the allegations of illegal detention. It cannot be taken that there was no illegal detention of Ratan Shaw only because “no specific complaint” was lodged before the Ld. Magistrate. On the other hand, the enquiry of the DGP, WBHRC suggests that there was illegal detention of Ratan shaw both at Niyamatpur I/C and Kulti P.S. at the instance of Ananda Charan Sarkar and S.I. Sukumal Das. It is admitted by

Sukumal Das in his evidence that he was with Ananda Charan Sarkar when Ratan Shaw and Dipak Dey were arrested. Our minds lean to believe the claim of Jayprakash Shaw in his telegraphic message that Ratan Shaw was arrested on 24.07.09 more than to rely the claim of the Police authority that Ratan Shaw was arrested on 28.07.09 particularly in view of the discrepancies in the Seizure list and Arrest Memo as mentioned above. Besides, the learned Advocate for Ratan Shaw who appeared before the learned Magistrate had also made complaint of illegal detention orally which was not dealt with by the Magistrate in the absence of a written complaint.

7. We are also totally dismayed with the manner Debarshi Dutta enquired into the matter. Sri Dutta admitted in his evidence before the Commission that he did neither examine the records of Kulti P.S. nor did he take any report from O/C Raniganj P.S. and without doing all these, he simply submitted the report to this Commission in a slip--shod manner. The Commission highly deprecates this attitude of Debarshi Dutta.

8. Thus, from what has been discussed in the foregoing lines, it has been established that the human rights of Ratan Shaw were seriously violated for his illegal detention in Police custody without production before the Court within the statutory period. Sri Dabarshi Dutta is also found not to be serious at all in enquiring the matter sent by this Commission. It is, therefore, recommended that :

- i) Dabarshi Dutta be cautioned for his casual approach in the enquiry
- ii) departmental proceedings be initiated against Ananda Charan Sarkar
- iii) departmental proceedings be initiated against Sukumal Das
- iv) a compensation of Rs.30,000/- (Thirty thousand) be paid to Ratan Shaw for his illegal detention.

9. The Govt. should inform the Commission within a period of two months from the date of receipt of the recommendations as to the action taken or proposed to be taken in this regard.

Sd/-  
(S.N. Roy)  
Member

sd/-  
(Justice N.C. Sil)  
Member

sd/-  
(Justice Asok Kumar Ganguly)  
Chairperson

Date: Kolkata, the 27<sup>th</sup> February, 2013

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

Sd/- (27/02/2013)  
(J. Sundara Sekhar)  
Secretary & CEO