

WEST BENGAL HUMAN RIGHTS COMMISSION
BHABANI BHAVAN, ALIPORE, KOLKATA-27

File No. 1085/WBHRC/COM/2011-12

P r e s e n t

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

This is to consider an application of Shri Santosh Kumar Jaiswal and Shri Bikash Kumar Gupta of 89/1, Cossipore Road, PS. Cossipore, Kolkata-700 002 filed before this Commission on 20.12.2011. It is alleged in the petition that one Sudip Das opened a business relation with the petitioners. During the course of business between them there was loss and the business did not flourish. The petitioners also alleged that on the complaint of Sudip Das, SI Jotirmoy Barui of Tala Police Station continuously threatened them to repay more than the amount actually due to Sudip Das. It is alleged that Sudip Das had already taken back Rs. 7000/- from them. On 15.10.2011 at about 09:30 P.M., the petitioners were called at the Tala Police Station and they were locked up and were ordered to pay Rs. 5000/- to Sudip Das and they were forced to put signature on some blank papers. It is also alleged that they were locked up till an amount of Rs. 2000/- was paid to Sudip Das.

2. It appears from the record that on receipt of that petition, the Commission admitted the same on 04.01.2012 and the Dy. Commissioner of Police, North Division was directed to enquire into the allegations and submit his report. The record also shows that the said report was ultimately submitted by the Assistant Commissioner of Police(II), North & North Suburban Division which was forwarded by the D.C. North & North Suburban Division on 15.02.2012.

3. On receipt of the report forwarded by the D.C. North & North Suburban Division, the Commission decided to examine the following witnesses :

1. Shri Debshis Banerjee, O.C. Tala P.S.

2. Shri Jyotirmoy Barui, S.I. Tala P.S.

4. Thus Shri Debashis Banerjee who was the O.C. of Tala Police Station at the relevant point of time admitted in his evidence that he received the petition of one Sudip Das and directed S.I. Jyotirmoy Barui to enquire into the matter. He stated before the Commission that the petition disclosed only a civil dispute and there is no criminality involved in it. He further stated that police does not take action to recover money or to settle financial dispute. Shri Banerjee admitted that it was part of his duty to know the entire incident as he was the O.C. of the Police Station.

5. Shri Jyotirmoy Barui who was the S.I. of Tala Police Station at the relevant point of time, appeared before the Commission and admitted in his evidence that the statement in the report of the Asst. Commissioner of Police about recovery of money in favour of Sudip Das from Bikash Kumar Gupta and Merinius Tete who gave two thousand rupees to Sudip Das was correct but he denied that the financial transaction took place inside the Police Station. He also admitted that he was examined by the Asstt. Commissioner of Police when he enquired into the matter. He admitted that the entire complaint of Sudip Das was purely a civil dispute in which police should have got nothing to do.

8. Now on analysis of the evidence of the witnesses adduced before the Commission there appears a clear admission from the two witnesses who were examined by the Commission under Section 16 of the Protection of Human Rights Act, 1993 that they unauthorizedly interfered in a purely civil dispute and in abuse of their official powers recovered money from the petitioners and paid it to the other party. The allegations in the complain that over this purely civil dispute the petitioners were put in the lock up and made to sign blank

papers have not been denied by Shri Jyotirmoy Barui in his deposition. The complain of Sudip Das dated 14.10.2011 is very vague and does not disclose the Commission of any cognizable offence. It shows a purely private dispute of a loan transaction. Only on this petition no person can be arrested and put in the lock up of a police station and then made to sign blank papers and part with money or property. They also took part to settle the financial dispute involving private loan transaction.

9. Accordingly, the Commission holds that both the police officers have abused their powers to the detriment of the petitioners whose basic human rights have been infringed.

10. Therefore, the Commission recommends:

(a) that a disciplinary proceeding be initiated against Shri Debashis Banerjee, O.C. Tala Police Station within six weeks from date.

(b) that a disciplinary proceeding be started against Shri Jyotirmoy Barui, S.I. of Police, Tala Police Station within six weeks from date.

10. The State Government is requested to inform this Commission about the action taken on the basis of the recommendations within a period of two months from the date of communication.

sd/-
(Shri S. N. Roy)
Member

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

sd/-
(Justice Asok Kumar Ganguly)
Chairperson

Dated, Kolkata the 19th October, 2012.

SDB

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

Sd/- (19/10/2012)
(J. Sundara Sekhar)
Secretary & CEO