

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

File No. 1090/WBHRC/COM/2009-10

P r e s e n t

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|-----------------------------------|---------------|
| 1. Mr. Justice Asok Kumar Ganguly | - Chairperson |
| 2. Justice N. C. Sil | - Member |
| 4. Shri S. N. Roy | - Member |

It appeared from Memo No. 276-1(6)SH dated 22.03.2010 of the Superintendent, S.M.M. Home, Liluah, Howrah that a girl aged between 15/16 years and a victim of gang rape was missing from the said Home with effect from 21.03.2010. The same was detected in the evening of 21.03.2010.

2. The raped victim was sent to the said Home on 17.03.2010 in connection with Domjur PS Case No. 88/10 dated 02.03.2010 under Sections 341/376(G)/506(11) IPC as per order of the Learned Chief Judicial Magistrate, Howrah. At the time of admission the victim girl stated that her father's name is Ismile Sk and she was a resident within the jurisdiction of Bankra Paschim Para, PS-Domjur, Dist. Howrah. After her admission in the S.M.M. Home, Liluah, Howrah she was placed in Hall No. 6 of the said Home.

3. On receipt of the information from the Superintendent, S.M.M. Home, Liluah, the Commission passed an order dated 08.04.2010 and directed the Superintendent of Police, Howrah to make an enquiry and to submit a report within four weeks and the same was communicated vide Commission's communication No. 2501(20/WBHRC/Com/1090/09-10 dated 22.04.2010.

4. From the Enquiry Report submitted by the Deputy Superintendent of Police(Town/North) Howrah which was forwarded by the Superintendent of Police, Howrah on 05.07.2011, it appeared that the said Raped Victim, daughter of Ismile Sk of Bankra Paschimpara, PS Domjur, Howrah was

admitted in the said Home as per the order of the Court in connection with Domjur PS Case No. 38/10 dated 02.02.2010 under Sections 341/376(2)(g)/506 IPC. The report further indicated that on the evening of 21.03.2010 the said victim girl was found missing from the Home. The then R.T. Officer S.I. Subal Majumder of Bally Police Station visited the S.M.M. Home and examined the Superintendent and other inmates of the Home and also searched all possible places but could not trace out the missing girl. Thereafter all the neighbouring Police Stations as well as Railway Stations, Missing Persons Squad, Detective Department, Lalbazar and CID-West Bengal were informed but the missing girl could not be traced. It further appears from the report that the e-mail message was also sent to O.C. Bankra Police Station to inform whether the missing girl has returned to her family or not. But no report was received from their end. The report shows that the victim girl is still untraced.

5. After careful consideration of the report submitted by the Dy. S.P.(Town/North)Howrah, the Commission called for the status report in respect of Domjur PS Case No. 38/10 dated 02.02.10 under Section 341/376(2)(g)/506 IPC on 23.09.2010 and in compliance with the above, Shri Nupur Prasad, IPS, Asst. Superintendent of Police,(Town/North) Howrah submitted another reoport which is the same as the report submitted by the Dy. Superintendent of Police(Town/North), Howrah.

6. In view of the said report, the Commission directed the Superintendent, S.M.M. Home, Liluah to appear before the Commission and to make her statement under Section 16 of the Protection of Human Rights Act.

7. Pursuant to the direction of the Commission Smt. Nilima Das, District Social Welfare Officer, Bankura came and deposed before the Commission on 17.05.2012

8. In her deposition she admitted that at the time of occurrence she was the Superintendent of S.M.M. Home, Liluah. She also admitted that the victim girl was of 16 years, was the victim of gang rape and she escaped from the Home at about 6 p.m. on 21.03.2010 when she went to fetch water. According to the evidence of the Superintendent, at the time she went to fetch water two other inmates were provided to the victim girl. The Superintendent also admitted that the boundary wall of the Home is of 8 ft height all around the campus. The source of drinking water is within the campus. There was only one main gate in the campus. One darwan was posted in the main gate. After the aforesaid incident of escaping of the victim girl from the Home, show cause notice was issued against the darwan. The Superintendent further deposed that she made several correspondence with the authorities to improve the infrastructure of the Home. As a result of her correspondence electric wiring system of the Home has been repaired.

9. From the chain of events and the evidence of Smt. Nilima Das, District Social Welfare Officer, Bankura, it appears that there was negligence on the part of the Home Authorities in maintaining proper vigil over the movement of the victim girl. The victim girl went to fetch drinking water and the source of drinking water was within the campus. Her possibilities of escaping from the Home are very limited as the Home is surrounded by the boundary wall of 8 ft height and the main gate is guarded by a darwan. It is also in the evidence of the Superintendent that at the time she went to fetch water she was given the protection of two other inmates. Through the aforesaid narration it is clear that there must be some connivance between the inmates of the Home and the person guarding the inmates of the Home and as a result of the same, such incident of escaping from the Home takes place.

10. The Home Authority should realize that they are keeping the victim girls in the Home under the order of the Courts and they have an onerous responsibility to the Courts and in discharging such responsibility the Home

authorities must display greater awareness. The escaping of victim girls from the Home has a serious impact on the pending trial before the Court of Law. It is a case of gang rape which is a serious crime and causes great social impact. If the main victim of gang rape is not produced in Court and her evidence is not available, in all probability the trial will end in a fiasco causing interference with the proper administration of justice.

11. The Commission has thus reasons to believe that such victim girls are allowed to escape at the instance of persons who are facing the trial. This incident shows a nexus between the criminals and the authorities of the Home who are responsible for keeping the victim girls in their custody especially those victims who are sent by Court. Casual approach of the home authorities as reflected in the evidence of the Superintendent calls for serious consideration by the Commission.

12. Considering the entire evidence and the materials on record and the social impact of such escape of the victim girl in a gang rape case, the Commission recommends that -

- (a) The State Government should immediately initiate Disciplinary Proceedings against the then Superintendent of the S.M.M. Home, Liluah, Hoswrah, if not already initiated.
- (b) The State Government should take steps to expedite the disciplinary proceedings if any initiated against the then Darwan who was posted to guard the main gate. If no such effective proceedings have been initiated, it should be initiated immediately.
- (c) The State Government should take immediate steps to improve the infrastructural facilities in the Home by properly maintaining the boundary wall and also by maintaining proper system of entry and exit from the main gate and by posting adequate number of personnel for guarding the inmates of the Home.

(d) The main gate must be under constant vigilance.

13. The Government should intimate the Commission within a period of two months about the actions taken or proposed to be taken on the recommendations of the Commission.

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

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

sd/-
(Justice Asok Kumar Ganguly)
Chairperson

Dated Kolkata, the 14th June, 2012.

SDB

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

Sd/- (14/06/2012)
(J. Sundara Sekhar)
Secretary & CEO