

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.2265/WBHRC/COM/2008-2009

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

The Commission received a complaint from one Bibhuti Mondal, Vill-Biswanathpur, P.O.Kediapara, P.S.Lalgola, Dist – Murshidabad alleging that he was severely injured in the morning of 28-4-2008 by a police jeep being No.WB 58C 2281 which was driven by Subrata Majumder, the then O.C. of Lalgola P.S. As a result of the accident, his right leg was fractured, he was initially admitted in Krishnapur Hospital and thereafter he was transferred to Lalbag Sub Divisional Hospital. He was hospitalized for thirteen days. He further alleged that Lalgola P.S. refused to accept their complaint and thereafter he complained to S.P., Murshidabad and S.D.P.O., Lalbag also. Ultimately, he filed a complaint in the Court of CJM, Berhampore. It was further alleged in his complaint that on 17-2-2009 at

about 11 p.m. the then O.C. of Lalgola P.S., Subrata Majumder forcibly entered his house with a police force and got some blank papers signed by him by pointing a pistol towards his chest and when his wife tried to resist, she was assaulted. At the time of leaving the house, the O.C. threatened him that they must not tell anybody about the raid. Against this, the petitioner lodged another case in the Court of CJM, Berhampore against the O.C., Subnrata Majumder.

2. The Commission took cognizance of the complaint and directed S.P., Murshidabad to submit a report in the matter. The S.P., Murshidabad forwarded the report of SDPO, Lalbagh, Murshidabad.

3. The SDPO in his report admitted that that police Jeep No.WB 58C 2281 was involved in an accident in the morning of 28-4-2008 at about 7 a.m. near the vegetable market of Lalgola. As a result of the accident one of the vegetable sellers, namely, Bibhuti Mondal got injured. He further stated in the report that said vehicle was being driven by the police driver Md. Jamaluddin. It was also stated in the report that in this connection the petitioner lodged a complaint with Lalgola P.S. on 17-2-2009 against Md. Jamaluddin Sk., driver of Jeep No.WB 58C 2281 and on the basis of that complaint Lalgola P.S. case No.43/09 dt.17-2-2009 was started u/s 279/338

IPC. The case ended in charge sheet vide Lalgola P.S. C/S. No.29/09 dt.20.6.2009.

4. The Commission considered the matter and finding that the report of the SDPO, Lalbagh did not deal with the main allegations of the complaint adequately decided to examine the complainant, Bibhuti Mondal and the following police officials and personnel :-

- i. Tathagata basu, the then SDPO, Lalbagh
- ii. Subrata Majumder, the then O.C., Lalgola P.S.
- iii. The police driver, Md. Jamaluddin

5. The complainant, Bibhuti Mondal in his evidence before the Commission reiterated the points mentioned by him in his complaint. He stated in his evidence before the Commission that his right leg was run over by police Jeep No.WB 58C 2281 of Lalgola P.S. which was being driven by the then O.C., Subrata Majumder. As a result of this accident he sustained permanent injuries in his right leg. He further stated that he knew Subrata Majumder since before the incident and when the accident occurred he himself saw the O.C. driving the jeep. He also stated in his evidence that since he was grievously injured and hospitalized, his wife had been to Lalgola P.S. to lodge a complaint but the police authorities refused to accept

the same. Thereafter he approached the Court of C.J.M., Berhampore. He further reiterated that on 17-2-2009 while he and his wife were sleeping in their house at about 11 p.m., the said O.C. Subrata Majumder with a police force forcibly entered his house and then got some blank papers signed by him by pointing a pistol towards his chest and when his wife tried to protest she was assaulted. He also stated in his evidence that he instituted a case against the O.C. at CJM Court, Berhampore but he was not aware of the fate of the said case. He also reiterated in his evidence that Md. Jamaluddin was not driving the said vehicle.

6. Md. Jamaluddin who, according to the police report, was driving the Lalgola P.S. police jeep No.WB 58C 2281 in the morning of 28-4-2008 was examined. In his evidence Md. Jamaluddin Sk. categorically stated that he did not drive the Jeep No.WB 58C 2281 in the morning of 28-4-2008. He further stated that after enquiry charge sheet was submitted against him in connection with this case but after trial he was acquitted by the Court. He also stated that departmental proceedings were initiated against him and in that proceedings, his increment was stopped for six months.

7. Tathagata Basu, SDPO, Chandernagore, who enquired into the matter, when he was posted as S.D.P.O., Lalbagh, was examined. He stated in his evidence that he tried to contact the complainant through the Lalgola P.S. He

further stated that he enquired about the incident from the Lalgola Bazar. He admitted that he did not enquire about the case mentioned in the complaint, which was instituted by the complainant on 27-2-2009 against the O.C., Lalgola P.S. He also admitted that he did not deal with other allegations made in the petition that the concerned O.C. forcibly took the signature of the complainant on the blank paper in the night of 17-2-2009 and assaulted his wife. He admitted he should have dealt with these allegations in his report.

8. Subrata Majumder the concerned O.C. of Lalgola P.S. stated in his evidence that in the morning of April 28, 2008 at about 7 a.m. Md. Jamaluddin was driving the police jeep No.WB 58C 2281 carrying the accused persons to the hospital for medical examination. He also denied that on 17-2-2009 he entered the house of the petitioner at dead of night and used force on him to put his signature on certain blank papers or that he assaulted his wife when she protested. He admitted that the petitioner permanently got injured being run over by the police jeep No.WB 58C 2281 of Lalgola P.S. He admitted that the complainant filed a case against him which is pending before the Court of ACJM, Lalbagh for trial.

9. From an analysis of the evidence and materials on record it is clear that the complainant, Bibhuti Mondal was permanently injured in his right

leg being run over by the police jeep No.WB 58C 2281 of Lalgola P.S. According to the police case, the concerned jeep was being driven by the police driver Md. Jamaluddin and charge sheet was submitted against Md. Jamaluddin. But Md. Jamaluddin in his evidence categorically denied that he drove the vehicle in the morning of 28-4-2008. Md. Jamaluddin also produced a photocopy of the Court Order passed by Shri Anil Kumar Prasad, Additional Chief Judicial Magistrate, Lalabagh, Dist – Murshidabad in this case. **In his order, Ld. ACJM observed “.....perused the evidence of all P.Ws. on record and find that none of the P.Ws. stated in their whole evidence that accused driver Bibhuti Mondal was driving a vehicle being no.WB/58-C-2281 so rashly and negligently on 28.04.2008 and made accident.” Accordingly, Ld. ACJM acquitted Md. Jamaluddin. He was found not guilty to the charge u/s 279/338 IPC.** The complainant also stated in his evidence before the Commission that he personally saw Subrata Majumder, the then O.C., Lalgola P.S. driving the said vehicle which ran over his right leg causing permanent injuries.

10. Subrata Majumder denied in his evidence before the Commission that he drove the police jeep No.WB 58C 2281 when the vehicle got involved in the accident. He took the plea that Md. Jamaluddin was driving the police jeep carrying the accused persons to the hospital for medical examination.

However, when he was asked by the Commission to indicate whether any G.D. to that effect was made, Subrata Majumder merely stated “I cannot recollect whether any G.D.E. to that effect was made to establish that Md. Jamaluddin was taking the accused persons to the hospital for medical examination. I cannot also recollect who were the accused persons in the said police jeep.” Further, Subrata Majumder denied the allegation of the petitioner regarding his forcible entry into his house on 17-2-2009 and making him sign certain blank papers on gunpoint, but the Commission cannot help noticing the strange coincidence that police started the case against Md. Jamaluddin on the basis of the so called complaint lodged by the petitioner on the same date, i.e., 17-2-2009. It is also worth noting that the complainant filed a case against the O.C. for his highhanded action in the Court of C.J.M., Berhampore immediately thereafter.

11. Further, according to the version of the complainant, his wife approached the Police Station immediately after the incident on 28-4-2008 to lodge the FIR as the complainant was hospitalized but the Lalgola Police authorities did not entertain the complaint and thereafter, finding no other alternative, they approached the C.J.M., Berhampore. Thus, during the whole period starting from the date of the accident i.e 28-4-2008 to 17-2-2009, the date on which the police started the case, no action was taken by

the police authorities. It is also significant that when Tathagata Basu the then S.D.P.O., Lalbagh who enquired into the matter and submitted the report to S.P. on 12-3-2010, he was informed by Lalgola P.S. that the complainant was not traceable. However, the Commission did not find any difficulty in locating the complainant and when the complainant was asked to appear before this Commission for evidence; he duly appeared before this Commission on 04-5-2012. Thus, the entire sequence of events starting from the date of the accident, i.e., 28.04.2008 clearly shows that police authorities tried to suppress the actual fact and started a false case against a driver who was fully exonerated of the charges framed against him by the LD. A.C.J.M., Lalbagh. It is also too much to believe that the complainant, being a poor hapless vegetable vendor, would have the guts to make a false complaint about the O.C. of the Police Station. Thus, the Commission is inclined to hold that police jeep no.WB 58C 2281 of Lalgola P.S. was being driven by the then O.C., Subrata Majumder when the vehicle was involved in the accident in the morning of 28-4-2008. As a result of the accident, the complainant, Bibhuti Mondal suffered permanent injuries in his right leg and the Commission also noted that when the petitioner appeared before the Commission for evidence he was limping and walking with the help of a wooden stick and his right leg appears to be permanently damaged. Thus,

the conduct of the O.C., Subrata Majumder is reprehensible and deserves serious condemnation.

12. The conduct of Tathagata Basu, the then S.D.P.O., Lalbagh who enquired into the matter is also certainly not beyond reproach. He did the enquiry in a very casual, callous manner and his report was perfunctory. In his evidence before the Commission, he stated that he tried to contact the complainant through Lalgola P.S. and enquired about the matter from the Lalgola Bazar but the report submitted by him did not mention any such attempts made by him nor about the witnesses whom he had contacted. Thus, his assertion in this regard appeared to the Commission to be an after-thought. He also admitted before the Commission that he did not make any effort to check serious allegations made in the petition about the concerned O.C. regarding forcibly taking the signature of the complainant on blank paper in the night of 17-2-2009 and assaulting his wife. He also did not bother to enquire about the case mentioned in the complaint which was instituted by the complainant on 27-2-2009 against the O.C., Lalgola P.S. In this respect he admitted in his evidence before the Commission that he could have collected the information from the Court through the Court Inspector.

13. From the aforesaid analysis of the evidence of the witnesses and the materials on record, it is clear that Subrata Majumder the then O.C. of

Lalgola P.S. by acting in a reckless and despicable manner is guilty of gross misconduct and also of gross violation of Human Rights of the complainant, Bibhuti Mondal, who got permanently incapacitated in his right leg. The O.C. appears to be guilty of starting a false case also and trying to unsuccessfully put the blame on the police driver Md. Jamaluddin. The entire story is a sad commentary on the functioning of the police administration in Lalgola P.S.

14. The Commission, therefore, recommends:

- i. Disciplinary proceedings should be started immediately against the concerned O.C., Subrata Majumder and he should be placed under suspension forthwith.
- ii. Disciplinary proceedings should be started against Tathagata Basu the concerned S.D.P.O for giving a misleading report to the Commission and glossing over of serious allegations against O.C., Subrata Majumder.
- iii. A compensation of Rs.50,000/- be paid to Bibhuti Mondal, the complainant whose right leg got permanently impaired as a result of the accident.

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

sd/-
(S.N. Roy)
Member

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

sd/-
(Asok Kumar Ganguly)
Chairperson

Date: Kolkata, the 15th May, 2012

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

Sd/- (15/05/2012)
(J. Sundara Sekhar)
Secretary & CEO