

Views of West Bengal Human Rights Commission as to the
Guidelines
that should be followed in cases of encounter death and injuries

The sixteen (16) guidelines as laid down by the Hon'ble Apex Court in its Judgment passed in Criminal Appeal No. 1255 of 1999 for (Para 31) is to be followed in the matters of investigating police encounter in the cases of death/injuries as the standard procedure for thorough, effective and independent investigation.

In addition the following guidelines proposed by the West Bengal Human Rights Commission should be followed :-

1. Handwash of the victim should be conducted immediately for forensic examination to detect any residue of any ingredients of explosives.
2. Option to be given to the family members/relatives of the victim to be present during Post Mortem Examination of the victim.
3. Proper respect should be shown to the dead-body of 'encounter victim' while removing the same from P.O. to Hospital & finally handing over to relatives. Preferably, covered 'BODY-BAGS' should be used for this purpose.
4. As regards compensation to be granted to the dependents of the victim who suffered death in a police encounter, recommendation of West Bengal Human Rights Commission under Section 18 (C) of the Protection of Human Rights Act be taken into consideration.

When death is caused in an encounter, and if it is not justified as having been caused in exercise of the legitimate right of private defence, or in proper exercise of the power of arrest under Section 46 of the Cr.P.C., the police officer causing the death, would be guilty of the offence of culpable homicide. Whether the causing of death in the encounter in a particular case was justified as

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falling under any one of the two conditions, can only be ascertained by proper investigation and not otherwise.

The above guidelines will also be applicable to grievous injury cases in police encounter, as far as possible.

The above requirements/norms must be strictly observed in all cases of death and grievous injury in police encounters.

Sd/-

(M. S. Dwivedy)
Member

sd/-

(Naparajit Mukherjee)
Acting Chairperson

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