NATIONAL HUMAN RIGHTS COMMISSION
(L A W D I V I S I O N)
MANAVADHIKAR BHAWAN, BLOCK-C, G.P.O. COMPLEX,
INA, NEW DELHI- 110023

Dated 26/03/2014

Case No. 1128/25/11/2010-AD

To

SUHAS CHAKMA, DIRECTOR
NATIONAL CAMPAIGN FOR PREVENTION OF
TORTURE, C-3/441-C, JANAKPURI,
WEST DELHI, DELHI.

27 MAR 2014

Sir/Madam,

With reference to your complaint dated 22/11/2010, I am directed to say that the matter was considered by the Commission on 20/03/2014. The Commission has made the following directions.

These proceedings shall be read in continuation of the earlier proceedings of the Commission dated 06.06.2013, vide which the Chief Secretary, Government of West Bengal, was directed to send the compliance report alongwith proof of payment.

Pursuant to the directions of the Commission, the Special Secretary to the Government of West Bengal, has submitted his report dated 25.06.2013 alongwith proof of payment of Rs.1 lakh to the mother (next of kin) of the deceased Haripada Barman.

The Commission has perused and considered the report. Compliance of the recommendation of the Commission has been made, hence, no further intervention of the Commission in the matter is required and the case is closed.

This is for your information.

Yours faithfully,

ASSISTANT REGISTRAR(LAW)

Assistant Registrar(LAW)
Tel. No.: 011-2338 5368
Fax No.: 011-2338 6521
Telegraphic Add.: "HUMANRIGHTS"
Home Page : http://nhrc.nic.in

Case No. 1128/25/11/2010-AD

NATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)
* * *
FARIDKOT HOUSE
COPERNICUS MARG, NEW DELHI-110 001

Dated 23/02/2013

26 FEB 2013

To

THE CHIEF SECRETARY
GOVT. OF WEST BENGAL, KOLKATA

Sub : Complaint from

SUJAS CHARMA, DIRECTOR
NATIONAL CAMPAIGN FOR PREVENTION OF TORTURE,
C-3/44 I-C, JANAKPURI,
WEST DELHI DELHI 110058

Sir/Madam,

I am directed to say that the matter was considered by the Commission on 18/02/2013 and the Commission has directed as follows.

These proceedings are in continuation of the earlier proceedings of the Commission on the alleged custodial death of one Haripada Barman on 18.11.2010 at Police Camp, Sayedpur, District Malda, West Bengal. This Police Camp is located in a rented room in a house in which the deceased was found. The initial police version was that one Mumtaz Ali had brought the deceased and confined him in a room with the consent of Constable Mithlesh Kamet. FIR No. 678/10 U/S 342/365/306/34 IPC was registered at Police Station Kaliachak on 18.11.2010 itself against four civilians and two Constables of Sayedpur Police Camp.

A magisterial inquiry on the death was conducted by a Judicial Magistrate and she concluded that though the dead body was found within the premises of Sayedpur Police Camp, the deceased was not in the custody of the police in relation to any case or offence committed by him and concluded that this was not a case of custodial death.

Keeping in view the fact that the dead body was found in the premises of Sayedpur Police Camp and two policemen of the Camp had also been named in the FIR, the Commission through its proceedings dated 16.07.2012 ordered issuance of a show cause notice to the Government of West Bengal.

Now the Commission has been informed that during the investigation of the case, no incriminating evidence was found against the two named policemen and a chargesheet has been filed in the Court against the remaining accused persons. Departmental action initiated against the two policemen has also been dropped. The show cause notice has been responded to by the Special Secretary to the Government of West Bengal, Home Department, Human Rights Cell, vide his letter dated 12.10.2012. Referring to the conclusion drawn by the Inquiry Magistrate, he says that the deceased was never in the custody of the police or any custody authorized by the Magistrate or the Court. However, he goes on to say as under :

"However, State Government may agree to pay compensation on humanitarian ground, if the Commission, having regard to the facts and circumstances of the case, so recommends".

The Commission has carefully considered the material on record. Technically speaking, the deceased

might not be in the police custody, however, the two Constables having knowledge of the confinement of the deceased in the room cannot be ruled out. They were dropped from the chargesheet 'since no substantive evidence could be found against them'. They were given benefit of doubt by the Investigating Officer. Even if the two Constables were not themselves involved in the Crime, their silence and negligence in reporting the illegal confinement of the deceased to their superior officers led to the ultimate death of the victim. In the facts and circumstances of the case, the Commission is of the view that the State Government must compensate the next of kin of the deceased.

Hence, the Commission recommends to the Government of West Bengal, through its Chief Secretary, to pay compensation of Rs. 1,00,000/- (Rupees One Lakh only) to the next of kin of the deceased the late Haripada Barman. The Chief Secretary is directed to submit compliance report alongwith proof of payment within six weeks.

It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 13/04/2013, so that the same could be placed before the Commission.

Yours faithfully,

ASSISTANT REGISTRAR (LAW)

CC To,

SUHAS CHAKMA, DIRECTOR
NATIONAL CAMPAIGN FOR PREVENTION OF TORTURE,
C-3/441-C, JANAKPURI,
WEST DELHI, DELHI.
(Pin Code-110058)