



Campaign Against Torture <campaignagainsttorture.india@gmail.com>

Action Taken Report Called for - 18850/24/23/2020-ad

1 message

nhrc.india@nic.in <nhrc.india@nic.in>
To: csup@nic.in, campaignagainsttorture.india@gmail.com
Cc: ar1.nhrc@nic.in

Thu, Nov 10, 2022 at 4:31 PM

Case No.- 18850/24/23/2020-ad
NATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)
* * *
MANAV ADHIKAR BHAWAN, BLOCK-C,
G.P.O. COMPLEX, INA, NEW DELHI- 110023
Fax No.: 011-24651332 Website: www.nhrc.nic.in

Date : 10/11/2022

To,
THE CHIEF SECRETARY
ETAWAH UTTAR PRADESH
Email- csup@nic.in

Sub : Complaint/Intimation from

DHANA KUMAR
C-3/441, THIRD FLOOR, JANAKPURI, NEW DELHI
WEST DELHI , DELHI
110058
Email- campaignagainsttorture.india@gmail.com , Mob No- 9667907060

Subject: Action Taken Report Called for -18850/24/23/2020-ad.

Sir/Madam,

The complaint/intimation dated 29/08/2020, was placed before the Commission on 10/11/2022. Upon perusing the same, the Commission directed as follows:

The matter rested thus when the Commission received a complaint from Dhana Kumar alleging that one minor boy of 15 years, identified as Pankaj Kumar had died due to alleged torture in the custody of Etawah district jail of Uttar Pradesh on 23.08.2020. The deceased, a resident of Kukurkat village under Erwakra police station in Auraiya district of Uttar Pradesh, was arrested and sent to judicial custody on 10.08.2020 for eloping with a girl. Jail officials claimed that on 23.08.2020, the deceased committed suicide by hanging himself by using his scarf from the hook outside his barrack. However, family members of the deceased accused the jail officials of torture and killing the deceased inside the jail. They alleged that Pankaj Kumar was brutally assaulted inside the jail which led to his death. The family members asked why the deceased was sent to district jail, instead of Children Home as he was only 15 years. A prayer had been made for intervention by the Commission in the matter.

Pursuant to directions of the Commission, the requisite reports received from the State Authorities have been examined by the Investigation Division of the Commission. Perusal of the same reveals that the enquiry was conducted by an Executive Magistrate. Father of the deceased who was associated with the enquiry raised apprehension that his son was killed by someone but the allegation was not substantiated

during the enquiry. Based on the available oral and documentary evidence, the Enquiry Magistrate observed that the prisoner committed suicide in desperation/hopelessness. The Enquiry Magistrate concluded that four jail officials were found negligent in their duties. As per report of Superintendent, District Jail, Etawah, Uttar Pradesh departmental action has been initiated against all the four errant jail officials.

Vide its proceedings dated 4.5.2022 the Commission has considered the matter, observed and directed thus:-

The Commission has considered the matter. On perusal of the papers placed in the file it could be seen that the deceased (21 years) has died due to suicide in the custody of the State. The Magisterial Enquiry has mentioned that departmental action has been initiated against the delinquent prison personnel. The negligence of prisons authorities leading to death of the deceased has resulted in violation of Human Rights of the deceased inmate and his family. The State is vicariously liable to compensate for this untimely and sad death of the deceased in the custody of the State. In these circumstances, let a Notice u/s 18 of the Protection of Human Rights Act, 1993 be sent to the Govt. of Uttar Pradesh through its Chief Secretary to Show Cause within 06 weeks as to why appropriate amount of interim relief may not be recommended to be paid to the next of kin of the deceased. He shall explain on discrepancy in the age of the deceased and not intimating this case of death in custody to the Commission within 24 hours, as per Guidelines of the Commission and also as to how the Magisterial Enquiry in a case like this was not got conducted by a Judicial Magistrate as per S.176 Cr. PC within this period.

A Notice be also sent to the Director General, Prisons, Uttar Pradesh calling upon him to submit the details of Departmental action taken in the matter within this period.

The commission further considered the matter on 08.09.2022 when it observed and directed as under: -
"In pursuance of the same, Commission has not received any reply to the show cause notice and action taken report from DG Prisons, Uttar Pradesh. Willful disobedience of its directions is viewed seriously. Hence, Registry is directed to issue conditional summons for personal appearance of Chief Secretary, Government of Uttar Pradesh and Director General of Prisons, Uttar Pradesh before the Commission on 6th October, 2022 along with requisite reports.
In case, the requisite reports are received on or before 30th September, 2022 personal appearance of the officials shall stand dispensed with."

In response, the Special Secretary, Prison Administration and Correctional Services, Government of UP, DIG, Headquarters, Prisons, UP, Superintendent, District Jail, Etawah, UP vide their communications dated 30.09.2022, 28.09.2022, 22.09.2022 respectively have submitted the reports. Perusal of the same reveals that the Judicial Inquiry in the matter is being conducted through the Chief Judicial Magistrate, Auria and the same is still awaited. It has been further submitted that Departmental Action has been initiated against the delinquent prison personnel for violation of the provisions of the Jail Manual. Three prison personnel have been punished departmentally by stoppage of their three annual increments, warning has been issued to one and an explanation has already been called from the Prison Superintendent. The reply to the show cause notice has however still not been received.

The Commission has considered the matter. As per reports, the Judicial Inquiry in the matter is being conducted through the Chief Judicial Magistrate, Auria. It has been further submitted that Departmental Action has been initiated against the delinquent prison personnel for violation of the provisions of the Jail Manual. Three prison personnel have been punished departmentally by stoppage of their three annual increments, warning has been issued to one and an explanation has already been called from the Prison Superintendent. The reply to the show cause notice has however still not been received. It thus appear that the State Government has nothing to say in the matter. In these circumstances, an amount of Rs.5,00,000/- (Rupees Five Lakhs Only) as interim relief is recommended to be paid to the next of kin of deceased. Let the Chief Secretary, Government of UP submit the compliance report together with proof of payment and details of Departmental Action taken against the remaining delinquent public servants within a period of four weeks.

Put up on 8th December, 2022.

2. Accordingly, I am forwarding herewith a copy of the complaint/intimation as an attachment for taking appropriate action in the matter as per the directions of the Commission. It is requested that an Action Taken Report be sent to the Commission within 4 weeks from the date of receipt of this letter.

3. Any communication by public authorities in this matter may please be sent to the Commission through the HRCNet Portal (<https://hrcnet.nic.in>) by using id and password already provided to the public authorities (click Authority Login), or through Speed Post/ at email-id cr.nhrc@nic.in. **Any Audio/ Video CDs/ pen drives etc. and bulky reports may be sent through Speed Post/ per bearer.**

Your's faithfully

Sd/-

Mukesh

DEPUTY REGISTRAR (LAW)

M-3 Section

Ph. No. 011-24663317

Email. ar1.nhrc@nic.in

CC to

Complainant Details

Case No. 18850/24/23/2020-ad

DHANA KUMAR

C-3/441, THIRD FLOOR, JANAKPURI, NEW DELHI

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Mukesh

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1. This is a system generated email sent using email-id nhrc.india@nic.in. However, this email-id cannot be used to send any communication to the Commission. If needed, the email-id cr.nhrc@nic.in may be used to send communications to the Commission, mentioning the case number mentioned above.
 2. For latest information about the Commission, visit our website at <https://nhrc.nic.in> .
 3. For lodging/ tracking of complaints and uploading of action taken reports by Public Authorities, HRCNet Portal at <https://hrcnet.nic.in> may be visited.
 4. For general information, follow us at twitter handle (https://twitter.com/India_NHRC) and subscribe YouTube channel of the Commission at <https://www.youtube.com/NationalHumanRightsCommission> .

2 attachments

 **14461-IN-2020.pdf**
213K

 **DiaryDetails.pdf**
77K