



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

Show Cause Notice Issued - 36589/24/35/2018-AD

1 message

nhrc.india@nic.in <nhrc.india@nic.in>

Mon, Sep 26, 2022 at 4:42 PM

To: cs-uttarpradesh@nic.in, csup@nic.in, campaignagainsttorture.india@gmail.com

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Case No.- 36589/24/35/2018-ADNATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)

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MANAV ADHIKAR BHAWAN, BLOCK-C,
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Fax No.: 011-24651332 Website: www.nhrc.nic.in

Date : 26/09/2022

To,
THE CHIEF SECRETARY
GOVT. OF UTTAR PRADESH, LUCKNOW
UTTAR PRADESH UTTAR PRADESH
Email- cs-uttarpradesh@nic.in, csup@nic.in

Sir/Madam,

The case No. 36589/24/35/2018-AD in respect of DHANA KUMAR, was placed before the Commission on 26/09/2022. Upon perusing the same, the Commission directed as follows:

This case pertains to complaint of Sh.Dhana Kumar, alleging death of convict prisoner Kadhora (aged about 56 years) s/o Ishwardas r/o Bilgaon, PS Jalalpur Distt. Hamirpur (UP) on 22.11.2018.

The Commission took the cognizance on 12.12.2018 and directed the Deputy Inspector General (Investigation), to collect facts and requisite reports within eight weeks.

The matter was taken up by the Commission from time to time and vide direction dated 17.9.2021, the matter was referred to DG(I), NHRC for analysis of the reports available on record and submit its findings for consideration of the Commission.

Pursuant to the direction of the Commission, the Investigation Division of NHRC, after analysis of the case file, has submitted that 56 yrs. old convict prisoner Kadhora s/o Ishwardas r/o Bilgaon, PS Jalalpur Distt. Hamirpur (UP) was admitted in Dist. Jail Hamirpur (UP) on 13.09.2018 with normal health condition and died on 22.11.2018. According to the Medical Treatment Record, he was admitted to Jail Hospital on 27.10.2018 on complaint of breathlessness. He was also examined by the Physician of the District Hospital Hamirpur on various occasions and was provided prescribed medicines. According to the Inquest report and PMR, no ante-mortem injury was found on his body. The Final Cause of Death based on the FSL report has not been received in the Commission. The Magisterial Enquiry was conducted by the Civil Judge. On the basis of available oral & documentary evidences, the Magistrate found that the prisoner was not properly treated by the Jail authorities. In his detailed report the Civil Judge has pointed out specific instances of negligence in providing proper treatment as the authorities had not paid any heed to the prescription of the doctor of the Distt. Hospital. The Jail authorities had sent the patient to the Distt. hospital when he had already expired so that it can be said that he had died during treatment. Further, he concluded that the deceased was not ill-treated or manhandled in the Jail, but his death occurred due to the negligence and the callous

attitude of the Jail authority.

The Commission has considered findings of the Investigation Division and the reports available on record and independently observes that the Civil Judge (JD) STF, Hamirpur who had conducted the magisterial enquiry had examined the jail staff, treating doctors of the jail and doctors of the Distt. Hospital, Hamirpur, the doctors who had conducted the PME, the co-inmates, the family members of the deceased during the course of enquiry and also perused the relevant documents. Based on the statements and the relevant documents, the enquiry magistrate concluded that, during the initial admission of the deceased in the jail on 13.09.2018 his IHSR was not done properly. Despite revealing chest pain for the last two years by the deceased and blood in his sputum the jail's doctor did not refer the patient for any Chest X-Ray or blood test etc. from 27.10.2018 to 12.11.2018. The doctor at Distt. Hospital who had prescribed various tests and ECG of the patient on 13.11.2018 were got done after the lapse of six precious days on 19.011.2018. On 20.11.2018 the physician at Distt. Hospital found swelling over the whole body of the patient. As because the jail authority had not paid any heed to the prescription of the doctor of the Distt. Hospital. Even the family members of the deceased had requested the jail authority to send their patient to Kanpur for better treatment. Saying about the paucity of police force, the jail administration did not send him to Kanpur. It was also apparent that, the jail authority had sent the patient dead to the Distt. Hospital as can be said that, he died during treatment. Though the deceased was not ill-treated or manhandled in the jail, but his death has occurred due to the negligence and the callous attitude of the jail authority.

The Commission is consistently taking a stand that when a person is under the custody of jail, the onus of his/her safety, medical treatment and security lies with the State and in case of any negligence or failure to provide the same on accounts of acts of omission or commission on the part of jail authorities, the State becomes vicariously liable to pay the compensation for the same. The right to health of a person is inviolable, which the State has apparently failed to ensure. as even the Enquiry Magistrate has specifically pointed out the negligence and callous attitude of the Jail authorities in instant case.

Having so observed , the Commission directs its Registry to issue notice u/s 18 of the PHR Act 1993 to the Chief Secretary, Govt. of Uttar Pradesh to show cause as to why the Commission should not recommend a monetary compensation of Rs. 3,00,000/(Rupees Three Lakhs only) to the NoK of the deceased convict prisoner Kadhora (aged about 56 years) s/o Ishwardas who died on 22.11.2018 while being in judicial custody of Dist. Jail Hamirpur . The Reply to the show cause notice be given within six weeks positively failing which the Commission shall presume that the State Government has no objection in grant of said compensation and the Commission would be constrained to confirm its recommendation by directing the State Government to submit the compliance report and proof of payment within the specified time period.

2. This is for your information and further necessary action.

Your's faithfully

Sd/-

Debindra Kundraa

ASSISTANT REGISTRAR (LAW)

M-4 Section

Ph. No. 011-24663290

Email. ar4.nhrc@nic.in

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.