



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

Relief granted [Compensation, Disciplinary & Prosecution] - 1316/25/5/2019-AD

1 message

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Tue, Sep 6, 2022 at 4:35 PM

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

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Case No.- 1316/25/5/2019-ADNATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)

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MANAV ADHIKAR BHAWAN, BLOCK-C,
G.P.O. COMPLEX, INA, NEW DELHI- 110023
Fax No.: 011-24651332 Website: www.nhrc.nic.in

Date : 06/09/2022

To,
THE CHIEF SECRETARY
NABANNA (13TH FLOOR) 325, SARAT CHATTERJEE ROAD, SHIBPUR,
Kolkata WEST BENGAL
711102
Email- cs-westbengal@nic.in

Sub : Complaint/Intimation from

DHANA KUMAR
C-3/441, THIRD FLOOR, JANAKPURI, NEW DELHI-110058, INDIA
WEST DELHI , DELHI
110058
Email- campaignagainsttorture.india@gmail.com , Mob No- 9871474452

Subject: Relief granted [Compensation, Disciplinary & Prosecution] -1316/25/5/2019-AD.

Sir/Madam,

I am directed to say that the matter was considered by the Commission on 06/09/2022 and the Commission has directed as follows.:

In the present case, the Commission received a complaint from Shri Dhana Kumar, Coordinator, Campaign Against Torture, New Delhi regarding custodial death of an under trial prisoner, Maharaja Haldar, on 26.04.2019 at Presidency Jail of Kolkata in West Bengal.

The Commission took cognizance of the complaint and called for the report from the concerned authority. After receiving all the requisite reports from the concerned authority a detailed report from DG (I) was called for.

Vide previous proceeding dated 28.4.2022, the Commission has observed and directed as under:-

"DG (I), NHRC, examined the requisite reports available on record and recommended as follows:-

"1. This is case of complaint received from a HRD, alleging custodial death of an

UTP, aged 36 years in Central Presidency Correctional Home, Alipore, Kolkata, West Bengal on 25/04/2019.

2. Pursuant to the direction of the Commission, the detailed report, along with other supporting documents, was received from Superintendent of Central Presidency Correctional Home, Alipore. It revealed that the prisoner was admitted in the Correctional Home on 16/08/2016 in a murder case. His IHSR revealed normal health. The MTR indicated treatment for weakness, convulsion etc. On 25/04/2019, at about 0610 AM, he was found hanging by window rod in Hospital Ward of the Jail with the help of a Gumchha.

3. As per PMR, except ligature marks on the neck, seven superficial incised wounds were noticed on left and right forearm of the deceased. The cause of death was "due to effects of Hanging" -ante mortem in nature.

4. The Enquiry was conducted by an Executive Magistrate. The family members including wife of the deceased, who were associated with it, did not raise any suspicion about his death. The Enquiry magistrate did not point out any foul play or negligence in the death.

5. The UTP committed suicide while he was in the custody of State. This is indicating lack of vigil and proper watch on the part of Jail authorities.

6. In view of facts mentioned above, the Hon'ble Commission may consider the following:-

i) issuing SCN to the Chief Secretary, Govt. of West Bengal for monetary compensation to the NOK of the deceased as per section 18 of PHR Act.

ii) Directing DG (Prison), West Bengal to get the matter enquired into and fix up responsibility for negligence which resulted in suicidal hanging in judicial custody."

The Commission perused and considered the report. In the opinion of the Commission, violation of Human Rights of the deceased has been prima facie made out and the state is vicariously liable to pay monetary compensation to the NOK of the deceased prisoner as the deceased died in the judicial custody and lapse in security of prisoners cannot be ruled out.

Issue notice under Section 18(a) of Protection of Human Rights Act, 1993 to Government of West Bengal through its Chief Secretary, to show cause as to why the Commission should not recommend monetary relief of Rs. 5.5 Lac(Rupees Five Lac Fifty Thousand only) to the NoK of the deceased.

DG (Prison), West Bengal, is directed to get the matter enquired into and fix up responsibility for negligence which resulted in suicidal hanging in judicial custody."

The Commission issued notice u/s 18 (a) of Protection of Human Rights Act, 1993, to the Government of West Bengal through its Chief Secretary to show cause as to why the Commission should not recommend monetary relief of Rs. 5,50,000/- lakhs to the NOK of the deceased prisoner Maharaja Haldar.

Pursuant to the directions of the Commission, a report from the Special Secretary to the Government of West Bengal, has been received in the Commission stating therein that the State Government is agreeable to pay monetary compensation to the NOK of the deceased on humanitarian grounds, however, it is observed that amount of monetary compensation recommended by the Hon'ble Commission in the recent past in such cases of custodial death by committing suicide had varied between Rs. 1 lakh to Rs. 3 lakhs. It has been requested to reconsider the amount of compensation in the matter and fix the same at RRs. 3 lakhs.

The Commission has observed and considered the reply dated 24.6.2022.

The concerned authority though agreeable to give monetary compensation to the NOK of the deceased on humanitarian grounds, however requested to reconsider the amount of compensation.

It is pertinent to mention that it has been resolved in the Full Commission vide proceeding dated 9.2.2022 that the Notification No. 36/89/2019-1, JJ-II, dated 29.6.2021 framed by the Haryana Government for payment of compensation appears to be appropriate compensation. Various State Governments and UTs were also requested to frame such

guidelines fixing the same amount of compensation.

In view of the facts and circumstances of the case, the amount of compensation of Rs. 5,50,000/- lakhs for the monetary compensation to the NOK of the deceased is quite reasonable and appropriate.

In view of the above observations, the Commission confirms its recommendation of a monetary relief of Rs. 5,50,000/- Lakhs to the NOK of the deceased prisoner Maharaja Haldar. Therefore, the Government of West Bengal through its Chief Secretary is directed to pay the monetary relief of Rs. 5,50,000/- Lakhs to the NOK of the deceased prisoner Maharaja Haldar and to submit a compliance report along with proof of payment in the Commission within six weeks positively.

It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 14/10/2022, so that the same could be placed before the Commission.

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-1 Section

Ph. No. 011-24663317

Email. ar1.nhrc@nic.in

CC to

Complainant Details

Case No. 1316/25/5/2019-AD

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