

Tapas Kumar Bhanja Vs. State of West Bengal and anr.

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Court : Kolkata

Decided On : Nov-18-2005

Reported in : (2006)2CALLT108(HC)

Judge : V.S. Sirpurkar, C.J. and ;A.K. Ganguly, J.

Acts : West Bengal Juvenile Justice Act, 2000 - Rule 36

Appeal No. : W.P. No. 18904(W) of 2000

Appellant : Tapas Kumar Bhanja

Respondent : State of West Bengal and anr.

Advocate for Def. : Rabilal Maitra Debabrata Roy, Adv.

Advocate for Pet/Ap. : Party-in-person;Manick Chandra Das and ;S. Banerjee, Adv.

Judgement :

V.S. Sirpurkar, C.J.

1. The present writ petition was filed in 2000 by a public spirited lawyer Shri Bhanja. This was predominantly a complaint regarding a home called 'Liluah Home' for the undertrial women. The grievance made in the petition was that there was over all mismanagement in this Home. That the lady prisoners are not at all safe, lot of injustice is perpetrated, they are physically and mentally molested, they

are not even provided elementary medical treatment and that there was overall mismanagement. The learned Counsel had also pointed out that number of lady prisoners escaped from the home not to be found again and thus this was a case where there was a gross abuse of human rights.

2. A Division Bench of this Court consisting of Hon'ble Justice Ashok Kumar Mathur (as His Lordship then was) and the Hon'ble Justice Girish Chandra Gupta passed an order on 4th May, 2001 transmitting the matter to Human Rights Commission and the Human Rights Commission was directed to depute some of the officers to see that the condition of Liluah Home are improved. The Bench also directed the Human Rights Commission to monitor from time to time the conditions in the said Home. With this order the Division Bench disposed of the petition.

3. However, thereafter, from time to time applications came to be made or and the matter came to be mentioned before various Benches dealing with public interest litigation at the instance of Shri Bhanja. On 11th March, 2005 a Division Bench of this Court consisting of Hon'ble Justice Ganguly, Acting Chief Justice (As His Lordship then was) and the Hon'ble Justice Tapan Kumar Dutt again passed an order whereby a second team of Human Rights Commission was directed to take an in-depth inspection of the inmates. The Bench directed that the report should be presented in a sealed cover within a period of four weeks. The team was directed as to whether the identity of the juvenile was established with photographs under Rule 36 of the Juvenile Justice Act, 2000.

4. It seems that a detailed report was then submitted by the Inspecting Team. Ultimately this report was considered along with the photographs and an order came to be passed again by the aforementioned Division Bench on 10th June, 2005. In this order also some irregularities were found. Ultimately the report was placed before the Court and on that basis of the report a last order came to be passed on 8th July, 2005 consisting of Hon'ble Justice V.S. Sirpurkar, the Chief Justice and the Hon'ble Justice Ganguly. The report was considered threadbare. The report suggests that inspection was taken on 4th April, 2005. The findings in that inspection were considered. It was found that steps were being taken in pursuance of the rules framed under the West Bengal Juvenile Justice Act, 2000.

It was also found further that the Notification dated 30th March, 2001 issued by the Joint Secretary, Department of Women and Child Development and Social welfare was not given effect to. The Government was therefore given four weeks time to explain regarding the steps taken. It was found that a segregation was made and a sum of rupees 1.5 crores was sanctioned. The overall improvement made in the matter of maintenance, drainage, renovation and repairing of the building of the Home and the building was also repaired. The inspection team had in fact found that the renovation work was in full progress. It was now reported that renovation work is now over. The Bench also directed the State Government to take inspection of the registers of the Inmates and the Government was directed to disclose in affidavit the steps taken in pursuance of the inspection report.

5. Similar such matters were taken into consideration by us and we also expressed our satisfaction that a Committee was formed to check the quality and quantity of the food articles consumed by the inmates of the home. We, however, express dissatisfaction in respect of the health care and found that though there were about 120 inmates in the said home the said inmates were at the mercy of the untrained compounder pharmacist as no doctor was prepared to spend any time though there is a quarter for residential purposes. From time to time we, therefore, directed that the doctors' services should be made available to the inmates so that their health is not affected. Shri Bhanja had also complained about the escapes of the undertrial women as also the physical assault against them. We also express that the Government should take immediate steps to check the escapes.

6. We find from the record that as per our direction an affidavit was filed which was affirmed on 4th August, 2005. From the affidavit it seems that most of the directions given are complied with. The affidavit specifically refers to the maintenance of the record such as inspection registers, visitors books etc. It also mentions about the records of the inmates. It is then suggested that the affidavit also touches on the subject about the Group 'C' staff.

7. It is further suggested that the deaf and dumb inmates not in conflict with law are sent to Raiganj Deaf & Dumb Home which is also a Special Category Home

under JJ. Act 2000. It is pointed out that two specialized NGOs namely Socio Legal Aid and Sanlaap are entrusted to pursue the cases pending in various Courts and action is taken as per their advice. It is pointed out that a 'reputed NGO called REACH, which is an expert organization in dealing with deaf and dumb has been engaged for providing support in vocational training as well as in daily communication and expression through their counselors, and that these counselors attend the Home on all working days. It has been pointed out that renovation, repair, sanitation and other maintenance work of the Home which was long pending is being undertaken and an amount of Rs. 1.27 crores have been released to the PWD for the aforementioned work. The details of the taken up work are also provided.

8. It is further provided that the Superintendent of Police, Howrah, is requested to provide security to the inmates while going to the hospital and during their stay at the hospital and even when they go out of the home for legitimate purpose.

9. It is further pointed out that there is full control of the staff specially the male employees being exercised by the Home authorities. The physical barrier is being constructed by the P.W.D. as recommended by the West Bengal Human Rights Commission.

10. The affidavit further refers to a Committee to check the quality and quantity of the food staff and suggests that the situation has improved.

11. As regards the medical officer, it is pointed out that normally the lady medical officer do not stay there and, therefore, Mr. Maitra suggests that some steps will be taken to provide more than one medical officer so that the services of some medical officer at least will be made available. The affidavit further suggests that an ambulance may also be available now and a regular review is taken in respect of the mentally retarded or ill inmates by the councilors of the Directorate and N.G.O. also and actions are taken as per the suggestion. There are number of other facts given in the affidavit for showing that the activities in the Liluah Home are controlled with a view to secure the welfare of the inmates. It includes cultural and recreation activities, maintenance of discipline etc.

12. As regards the filling up of vacant posts, it is suggested that fifteen posts were lying vacant in the Home out of the total seventy eight posts. The affidavit suggests that clearance from the Finance Department has already been received for filling up the twelve posts on priority basis. In short the affidavit suggests that all the possible care is being taken. We are generally satisfied with the affidavit. However, we would like to direct :

That the State shall keep a constant vigil for maintaining the health of the inmates. It shall also keep a constant vigil on the condition of the women inmates particularly it shall ensure that the women inmates are not molested by the male staff and are safe. There shall be a very strict control over the male staff of the Home. In addition to this we expect Human Rights Commission to send teams from time to time for seeing as to whether the inmates are safe and are kept in humanitarian condition.

13. We do not think anything else can be done in the matter and we only express a fervent hope that this Home really becomes a Home for the inmates and not a hell as was complained.

With this we dispose of the writ petition.

Let Xerox plain copy of this order duly countersigned by the Assistant Registrar (Court) be given to the learned Counsel for the parties on usual undertaking.

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