



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI

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Case No. 2617/2004. (370 113100)

Name of the complainant : Shri Anil Damduji Wankhede
R/o. Kankati, Kandhali,
Tal - Samudrapur, Dist - Wardha
V/s
The Superintendent of Police
Dist - Wardha.

Date : January 20, 2009.

Coram : Justice Kshitij R. Vyas (Former Chief Justice), Chairperson.

PROCEEDINGS

The complainant is present. Shri Sudhakar Baburao Hemake, President, Vidharbhiya Durbal Ghatak Vikas Mandal, Hinganghat has also remained present as the representative of the complainant at the time of hearing. On behalf of the respondent PSI Shri S. R. Mishra, attached to Police Station Hingra is present.

The complainant states that his daughter Manisha aged 10 was a student of standard 5th and was residing at Sonabai Girls' Hostel, Kanholibara, Nagpur. It is alleged that he was suddenly told on 14.9.2004 that his daughter is expired due to illness. According to him he was not told even once before about her illness. The complainant alleges foul play and negligence on the part of the hostel authorities. The complainant approached the Hingra Police Station in this regard, however, no action whatsoever was taken against the hostel authorities. He, therefore, filed the present complaint.

In the reply filed by the Superintendent of Police, Nagpur (Rural), it is submitted that proper inquiry was conducted in the matter, and the statement of the hostel staff as well as other residents in the hostel including the older sister of the deceased were obtained. It is submitted that from the evidence on record, it does not appear that there was any negligence or foul play on the part of the hostel or other authorities. It is submitted that the deceased had exhibited symptoms of cold, cough and fever and she might have died due to the same as per the say of the Chief Medical officer, Primary Health Center, Kanholibara. The Viscera analysis was not available at the time of submitting the report and hence no comments have been made as to the final cause of the death. In substance the report has given clean chit to the hostel authorities after inquiry.

Today at the time of hearing, PSI Shri S. R. Mishra invited my attention to the Viscera report. Having gone through the same, it appears that the result of the analysis suggests that after general and specific chemical testing of stomach, liver, spleen, kidney and blood they do not reveal any poison.

From the documents on record, it appears that the deceased Manisha while studying in standard 5th, staying at Sonabai Girls' Hostel, Kanholibara, complained about fever, cough and cold on 6th September 2004. The hostel authorities took her to Primary Health Center, Kanholibara where she was treated as OPD patient by 2 doctors on different dates. The Primary Health Center gave medicine to her. From the case papers, it appears that on 7, 8 and 9th September 2004 she was not taken to Primary Health Center. She was again taken to Primary Health Center on 10th as well as 11th September 2004. Again she was taken to the hospital on 13th September 2004. As there was no improvement in her condition she was

referred by Primary Health Center to Government Medical College and Hospital, Nagpur on 14.9.2004 at 9.00 a.m. The Referral Card states that she was unconscious. Likewise, the case papers states that she was found dead before admission on 14th September 2004 at 12.10 hrs.

Having gone through the statements of the doctors and other statements, the following facts emerged:

Even though the girl survives from 6th to 14th September 2004, there was no improvement in the condition of the deceased girl. The treatment provided by the doctors of the Primary Health Center was totally inadequate. It appears, both the doctors were not clear as to the ailment of the deceased, namely whether the fever was on account of Malaria or was of cold. There is nothing on record to suggest about her condition from 7th to 9th September 2004 and on 12th September 2004 as she was not brought to Primary Health Center. Likewise, there was nothing on record to suggest as to why she was not admitted at Primary Health Center on 6th September 2004 till her recovery. The case papers suggest that her condition went from bad to worst. It was only on 14th September 2004 the doctor of Primary Health Center realized that it is beyond their control to cure the deceased and therefore they referred, when it was too late, as she was found dead before her admission at Government Medical College and Hospital, Nagpur.

Surprisingly, for all these time i.e. from 6th to 14th September 2004, the hostel authorities did not care to inform the parents regarding the condition of the deceased child. Surprisingly, the police in his report has not mentioned as to reason why the hostel authorities failed to inform the girl's parents till after her death. Assuming for the sake of arguments that even though the hostel authorities may have initially mistaken the girl's symptoms as common cold, fever, at least while taking her to the hospital at Nagpur they ought to have informed her parents. This conduct on the part of the hostel authorities prima facie suggests that they were negligent in performing of their duties.

With the aforesaid prima facie findings, the Commission could have awarded some amount by way of compensation from the hostel authorities. However, the same may not be adequate, and other technicalities involved in the matter viz. the hostel being a private hostel not being run by the Government. The Commission deems it fit to suggest the complainant to approach the civil court by filing suit for compensation.

The Commission recommends that the State/District/Taluka Legal Services Authority to provide all necessary help including advise, providing lawyer as expeditiously as possible without there being any undue delay in the case, for filing the suit for compensation for the complainant.

With the above recommendation, the case is disposed off.

The **Registrar, SHRC** to send the order along with entire case papers to the concerned Legal Services Authority.



Kshitij R. Vyas
(Justice Kshitij R. Vyas)
Chairperson.

Mumbai; Camp-Nagpur; January 20, 2009.