



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI

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DB Case No 949/2010-11 | 878

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7/9/2010

Name of the complainant : Asharafilal Gupta,
Kalyanbai Chawal, Ram Nagar,
Kandivali, (E),
Mumbai. †
v/s
The Deputy Commissioner of Police,
Zone-XI, Mumbai.

Date : 22.07.2010.

Coram : **Justice Kshitij R. Vyas**
(Former Chief Justice), Chairperson.
ShriSubhashLalla,(FormerIAS)
Hon'ble Member,MSHRC, Mumbai.

ORDER (Per Chairperson)

The complainant is present at the time of hearing. None present on behalf of respondent, though DCP, Zone-11, Mumbai has already filed the report in the case.

The complainant who is the hawker by profession was picked up by police along with other hawkers on 29.04.10, and was kept in Kandivali Police Station lock up, later on shifted to Borivali Police Station lock up in the evening at about 5.30, on his failure to furnish the bail bonds.

In this complaint he has described the condition of Borivali Police Station lock up. According to him a lavatory situated in the lock up is not cleaned since months. It emits filthy smell. The lock up is full of mosquitoes and bugs, spreading decease like dengue and malaria. There is a common tap for drinking water as well as for toilet purpose in the lavatory. The water also emits filthy smell. The water tank is not cleaned since years.

The complainant has therefore, submitted that there is a gross violation of the Human Rights of the under trial prisoners. He has prayed for appropriate action after visiting Borivali Police Station lock up.

The matter was listed to before one of us (Justice Kshiraj R Vyas). On 01.06.2010 the notice was issued, and by way of interim order the Special Inspector General of Police of the Commission was directed to give the first hand information regarding the allegations particularly about the hygienic conditions of the Borivali lock up by Deputing Senior Officer and submitted report on or before the date of hearing. The matter was also entrusted to the Division Bench.

In compliance with the order passed by the Commission a team comprising Shri. Uday Khanwilkar, Shri. Gavane of the Investigation Wing of the Commission visited the lock up on date 11.06.2010 and submitted the report, by stating as under :-

The team found the toilets unclean, also the building premise was not clean as the sweeper is not reporting for duty for last few days. At present repairing work is in progress and likely to improve the hygienic conditions of the lock up.

In the report submitted by D.C.P. Zone- XI, as far as the condition of lock up, it is pointed out that the toilet of the Borivali lock up is being clean daily by the private persons it is further stated that twice a week the floor as well as toilet is cleaned with DDT powder and Phenol.

Having perused the report we feel, that the report of DCP is based on the information conveyed by the police officers Borivali Police Station. There is nothing in the report which would suggest that the report is submitted after visiting lock up of Borivali Police Station. On the other hand the allegations of the complainant get support by the Investigation Wing of the Commission. The team has infact found toilets unclean and also the building premises is not clean as the sweeper is not reporting for duty for last few days. Apart from cleanliness of the toilets of the lock up, matter requires attention from the different angle. A common tap for drinking water and for toilet use, and that too from the tank, not cleaned since years, requires immediate attendance.

Failure to provide clean and hygienic food, water and stay amounts to committing breach of the Human Rights of inmates of the lock ups. Lock up of Borivali Police Station is one of the hundreds of lock ups, of the city of Mumbai. The Condition in other lockups is not known. Time has come, for the state machinery to improve the conditions of lock ups in the city. We suggest that the State Government Authorities should issue specific instructions to Field Officers to take up a

cleanliness drive as well as drive to check up the facilities that are available in all the Police Station lockups and deficiencies therein so that remedial measures are undertaken by the Government accordingly. It is also suggested that certain percentage of lockups be personally checked after the drive is completed by the senior officers at supervisory as well as at controlling levels.

We however, leave it to the wisdom of State Government to do the needful. We accordingly recommend that the State Government (through the Additional Chief Secretary, Home Department, Mantralaya) to take up and successfully complete the above mentioned drive within a reasonable period of 4 months and furnish it's report to this Commission through Secretary of this Commission.

In the meantime we direct the Secretary of this Commission to formulate a proposal regarding survey of conditions of Police station lockups in the city of Mumbai that may be conducted by the Commission with the assistance of some of the NGO's, who have done similar survey successfully in the past and have good track record about their dependability. This survey work may start after receiving report from the State Government as recommended above.

With the above recommendation the case is ordered to be closed.

The Secretary of this Commission to communicate this order to the parties concerned.

sd
(Subhash Lalla)
Member



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(Justice Kshitij R. Vyas)
Chairperson.

Mumbai.