

MAHARASHTRA STATE HUMAN RIGHTS COMMISSION
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SHRC/VGM/09/2009/2516
Date: 02nd September 2009

Case No. - 5826/2007-08

Name of the Complainant : Wanmala Shamsunder Reddy
C/o. Vijaykumar D Surywanshi
Shantinagar Darga Road
Parbhani, Tal Dist Parbhani

Vs.

1. The Superintendent of Police
Buldhana (Rural)
2. The District Education Officer
Zilla Parishad, Buldhana
3. The Chief Executive Officer
Zilla Parishad, Buldhana

Date : 31 August 2009

Coram : Justice V G Munshi, Member

ORDER

Read the averments made in the complaint and report received from the Superintendent of Police, Buldhana and reply given by Education Officer, Zilla Parishad, Buldhana. Read the case papers. Heard the parties. Read the report received from Investigation Wing of the Commission.

2. The important facts of the case of the complainant may be briefly stated as under.

The complainant is resident of Parbhani. Her daughter Puja during year 2006 was studying in 6th standard in Respondent School. At the time of Diwali festival Puja visited her parents' house. At that time she made complaint before her parents, against Head Mistress and Superintendent of the School that, they always insult her, making reference of her caste. Thereafter the complainant made



oral complaint about such misbehavior and misconduct of these persons, before Secretary of the School.

The complainant taken and reached her daughter Puja in School that on 21.11.2007. The health condition of Puja was then fit and normal. That on 02.12.2007 the complainant received message from the Head Mistress, that Puja did not keep good health and the complainant should take her back to her house. On the same day in night at about 8.00 p.m. complainant's sister Suman Nikalje reached in Hostel and she came to know that health condition was serious. The official of School did not attend the patient during that night. She was admitted in Civil Hospital at Jalna on 03.12.2007. As the condition of Puja was serious and as there was no proper medical assistance, she was shifted and admitted in Hospital at Aurangabad. She was given medical treatment and she expired in Hospital on 08.12.2007 at 7.45 hours.

The complainant held Head Mistress, Superintendent and Secretary alone responsible for the death of her daughter. It was alleged that, deliberately such treatment was given to her daughter because she belonged to Scheduled Caste. No proper medical treatment was given to her. The complainant made complaints to Collector, Buldhana and Superintendent of Police, Buldhana. She made complaints to Commissioner, Amravati and to higher Authority. In the last she approached Commission and prayed for necessary action in this matter.

3. The Respondent Superintendent of Police, Buldhana by filing their report have come with a case that, the officials of the School were not found responsible for the death of Puja.

The Respondent Education Officer Zilla Parishad, Buldhana in their reply mentioned that, the girl died because of illness.

The Report submitted by the Investigation Wing mentions that there was no negligence on the part of School administration.

4. Therefore, it is necessary to view the case in the light of facts and circumstances brought on record.

- (i) An important part of the Constitution and of great significance to the poor, is the Directive Principles of State policy, which are fundamental in the governance of the country. Article 46 mandates the state to promote with special care the educational and economic interests of weaker sections, of the people and in particular



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of Scheduled Caste and Scheduled Tribes and protect them from injustice and all forms of exploitation. The Protection of Human Rights Act, 1993 defines human rights as, "the rights relating to life, liberty, equality and dignity of individual guaranteed by the Constitution or embodied in the international covenants and enforceable by Courts in India." It was alleged that the Respondent School officials, subjected daughter of the complainant with inhuman practice. If it is so, then it amounts to the denial of human dignity and social oppression. Article 46 of the Constitution directs the State to promote with special case the educational and economic interests of the Scheduled Caste and Scheduled Tribes. The National Policy Education 1986 and the Programme of Action 1992 given emphasis on number of aspects relating to the education of the children belonging to Scheduled Caste etc. Therefore, it is incumbent upon everybody to act accordingly for the welfare or benefit of these children. We have to view the present case on this background.

- (ii) The Record of the case shows that on 02.12.2007 Suman Nikalje sister of the complainant given application in School and taken Puja with her. She admitted Puja in Civil Hospital, Jalna on 03.12.2007. Dr Rathod given necessary medical treatment to Puja and recommended that, Puja should be shifted for better medical treatment to Government Hospital at Aurangabad. However, she was taken to children's Hospital of Dr. Sachdeo for further treatment. Later on 04.12.2007 she was shifted and admitted in Chiranjeev Children's Hospital at Aurangabad. She was given all and necessary medical treatment in this Hospital. In mean time Puja expired on 08.12.2007 during treatment. All these facts are not in dispute. The Doctor given opinion about cause of her death.

"Terminal cardio pulmonary arrest due to viral hemorrhagic fever with pulmonary hemorrhagic with d.i.c."

Civil Surgeon Buldhana, after perusal of all these case papers recorded same opinion. It is necessary to mention that, the



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complainant never made any grievance about the treatment given to her daughter in all these hospitals. Even cause of death was not disputed. The complainant refused the post mortem examination. The complainant given all possible best medical treatment to her daughter and did spend huge amount on her medical treatment. Thus, there was no grievance of any type about medical treatment given to the patient in all these hospitals from 03.12.2007 onwards.

- (iii) After diwali holidays, Puja returned to the school on 21.11.2007 and she was the occupant of the hostel. From the Record it is seen that on 21.11.2007 health of Puja was fit and normal and she did not suffer from any illness. The report of Superintendent of Police, Buldhana shows that on 28.11.2007 Dr. Vaishalli Shirsat at about 6.00 p.m. as usual was doing medical check up of all the girls. That time Puja did tell the Doctor that she was getting fever. The Doctor examined her, called the prescribed medicine from medical shop and given it to Puja. It has not come anywhere on record, from which date, prior to 28.11.2007 Puja was getting fever. In other words, there was no occasion to give her medical treatment prior to 28.11.2007. She was again examined on 29.11.2007 and 30.11.2007 and the Doctor found that there was improvement in her health. That on 02.12.2007 at about 12.00 p.m. Teacher K K Sonawane taken Puja to the dispensary of Dr. Dalvi. She was given medicine as prescribed by Dr Dalvi. If the patient was taken to Dr Dalvi on 02.12.2007, it indicates that the health of the patient did not improve and on the other hand it became serious. Moreover, the Head Mistress for the first time that on 01.12.2007 informed the complainant on telephone about the health of Puja. When Puja fell ill on 28.11.2007 it was incumbent upon the School staff to inform the mother of the complainant, immediately on the same day. There was abnormal delay in informing the parents about the health of the child. Secondly, the Head Mistress called upon the complainant, on telephone and told her to take back the patient for better medical treatment. It indicates that the health of patient was not at all good. Moreover, the delay taken place in informing the complainant, about ill



health of her daughter. No satisfactory reason was assigned for not informing the complainant about ill health of her daughter till 01.12.2007 when the girl was getting fever since 28.11.2007. It has come on record that on 02.12.2007 the patient was taken to Dr. Dalvi, as there was no improvement in her health, though she was given medicine by Dr. Smt Shirsat. The Head Mistress, in the message given to the complainant, on 01.12.2007 did mention that, the patient that time was in need of better medical treatment. It clearly shows that the health condition of the patient was not at all good. This fact has become more clear, because the patient thereafter was required to take treatment in number of hospitals. In the given circumstances, it cannot be said that, the treatment given to the patient by School Management was adequate and proper taking into consideration the nature and seriousness of the illness, which later on ended in death of the patient

(iv) Attempt was made to show that, when the patient was admitted in Chiranjeevi Hospital at Aurangabad, she needed blood. The teachers of this school donated blood. It was further submitted that the School even did give financial help to the complainant during and after medical treatment. The school uptill now paid total amount of Rs. 2,29,220/- to the complainant by way of medical help. All these things occurred when the health condition of the patient became serious on 02.12.2007 and when she was admitted in Hospital at Aurangabad. The complainant has come with a case that, had it been the fact that proper medical treatment was given to the patient well in-time, there would not have been such situation. There is force in the submissions made by the complainant and therefore, we have to accept the same.

(v) When the students reside in the hostel of the School, it is the responsibility of the officials of the School and hostel to take all the care of these children, who stay away from their parents. In such case, it is incumbent upon these officials, firstly to inform the parents of the student immediately about illness and secondly to take more care of the patient and if necessary to give best medical treatment or to admit the



patient in hospital. The circumstances brought on record, do not show that, such care and precaution was then taken.

5. In view of this situation I am of the opinion that proper inquiry is necessary in this matter, into the allegations of mis-management, negligence, inaction on the part of officials of school and Hostel. In the given circumstances, I think it just and proper to make recommendations for proper inquiry by the competent Authority in view of the provisions of Sec. 18 of the Protection of Human Rights Act, 1993.

- (i) Chief Executive Officer Zilla Parishad, Buldhana either himself or through District Education Officer, Buldhana to make proper and thorough inquiry into the allegations of mis-management, negligence inaction on the part of officials of School and Hostel of Sainiki Girls School Chikhali, Dist. Buldhana, in view of the observations made in the order, and to take action according to law.
- (ii) Chief Executive Officer Zilla Parishad, Buldhana / Inquiry Officer to give the complainant full opportunity to substantiate her case, and make and complete the inquiry, at early date and compliance be reported.
- (iii) Copy of this order be sent to Chief Executive Officer Zilla Parishad, Buldhana for necessary action, through Secretary State Human Rights Commission, Mumbai.

With these observations and recommendations Case No. 5826/2007-08 is disposed of accordingly.



V G Munshi
(Justice V G Munshi)
Member, SHRC