



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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Suo Moto Case No. – 9 /2014

Name of the Respondent : The Superintendent of Police
Thane

The Commissioner
Tribal Development
Adivasi Vikas Bhavan
Gadkari Chowk, Old Agra Road
Nashik – 422 001.

The Addl Commissioner
Tribal Development
Vardan Sankulan, 9th Floor
Opp. MIDC, Old Passport Office
Thane

The Principal
English Medium Government Ashram School
Savroli, Shahpur
Dist. Thane.

Project Officer
Ekatmik Adivasi Vibhag Prakalp
Shahpur, Ganga Deavasthan
Wafe, Shahpur 421 601.

Date : **6 June 2015**

Coram : **Justice S. R. Bannurmath, Chairperson**

ORDER

On noticing a news paper report in Maharashtra Times dated 22.08.2014 that a student by name Sadanand Bhagwan Gund studying in Adivasi Ashram School at Savroli in Mukhada had expired due to negligence on

the part of the school officials, the present suo moto case is registered and a report from the Superintendent of Police, Thane, the Commissioner Tribal Development, Adivasi Vikas Bhavan, Nashik, Addl. Commissioner Tribal Development, Thane, the Head Master – English Medium Government Ashram School, Savroli and Project Officer – Ekatmik Adivasi Vibhag Project, Shahpur was called for.

On receipt of the detailed reports following facts emerge :-

The deceased Sadanand aged 9 years was a third standard student studying in the Ashram School at Savroili as resident student. He was not well since 16.08.2014 and only on 20.08.2014 the Head Master informed Shri. Ramesh Gund the cousin of the deceased that the health condition of the boy was serious. In turn the cousin informed the father Bhagwan Triambak Gund on the very same day who was staying at Shahpur and since there was no immediate vehicle facility available he could reach the School at about 10.30 a.m. on 21.08.2014 and there noticed that the deceased was sleeping in the room and responded to the call of the father only by opening his eyes. As such the father with the help of a school staff took the child on a motorcycle to the Sub District Hospital at Shahapur and while the Doctor was examining and treating the child breathed his last at about 11.00 a.m. Thereafter necessary post-mortem was conducted and simultaneously investigation was taken up by the concerned Police. It is reported by the Police that after recording the statements of various persons it emerged that the School Head Master Rajaram Ghodvinde, School Inspector Rahul Shinde and other staff responsible the welfare of the students were negligent in not taking immediate, proper care and caution even though the child was unwell since 16.08.2014, the concerned Police have registered a case in crime No. 268/2014 u/s. 304 (A) IPC as well as u/s. 23 of the Juvenile Justice (Care and Protection of Children) Act, 2000 and investigation is in progress.

After receipt of the reports from the concerned, at the outset it is to be noted that the cause of death of the deceased was due to severe illness. The Post-mortem report discloses that the death was due to "*cerebropulmonary edema due to encephalitis*". As such the death was due to sickness and can be treated as natural.

But the concern of the Commission after going through the various reports is regarding the alleged negligence of the School Authorities in not getting medical treatment to the child at the earliest. The statements of the school staff, the co-students and the parents and relatives clearly indicate that though the deceased was sick in the Hostel, since 16.08.2014 and did not attend the school and inspite of coming to know of the same it appears he was not given proper medical treatment. It is only after the parents came to school on 21.08.2014 and noticing the serious condition of the child the father with the help of the school staff took the child to the hospital on a motorcycle and within a half an hour while the Doctor was examining he breathed his last. In these circumstances prima facie there appears to be negligence on the part of the Head Master and the staff in not taking proper care by immediate shifting to hospital and keeping the sick child for almost five days in the hostel itself. There is apparent delay in even informing the parents of the deceased immediately it was noticed that he was sick. This delay prima facie shows contributory negligence of the School staff. Since the concerned Police have registered a criminal case against the School staff u/s. 304 A IPC and u/s. 23 of Juvenile Justice (Care and Protection of Children) Act, 2000, the Commission feels it proper not to go in deep in this regard.

However, it is brought to the notice of the Commission that though there is a project called as 'Ekatmikkruta Adivasi Vikas Prakalp' (Integrated Tribal Development Project) since 1975-76, it appears there is no proper implementation of the scheme and as such after discussion with the project

officers and all others concerned the Commission would like to make certain recommendations to the State Government.

From the records in the state of Maharashtra it is seen that in eight districts this project is under implementation as large number of tribals resides in these districts. The statistics made available discloses that there are nearly 552 Government Ashram Schools, 556 Ashram Schools with grants and 425 Hostels for tribal boys and girls. In all nearly 56,488 tribal children are in the ashram schools out of whom nearly 8,898 tribal children reside in the hostels. Since these ashram schools and hostels are located not in easily accessible places and the responsibility of health care of these children is on the health department. In this regard the Government of Maharashtra by its शासन निणय क्रमांक संकिण 1096/1530/प्रक्र 304/ आरोग्य 4 said to have appointed 37 medical units and these units as well as the primary health centres are required to hold medical check up for the students four times annually. In the report submitted to the Commission itself it is stated that this medical check-up programme is not done regularly and properly because of non-filling up of posts of Doctors and other staff. The report also discloses that the population of tribals in Maharashtra is in nearly 9.4% of the entire population and in order to give proper facilities for the development of tribals a huge sum is allotted in the budget. In fact as the records disclosed in the budget of 2014-15 a sum of Rs. 4,814.92 crores which is 9.4% of the entire budget of the State has been allotted to the Tribal Development Department.

However, taking into consideration the factual position the Commission is of the view that somewhere there is huge gap between the budget allotted and its utilisation. The State Government and the concerned department are required to look into the same and plug the hole of the non-utilisation or / and mis-utilisation of the funds specifically allotted to the Tribal Development Project.

After long discussion with the officers of the project and after perusing the records made available, the Commission is of the view that it is high time to give directions / recommendations to the State and the concerned departments presently in so far as looking after the health of these tribal children staying and studying in these tribal Ashram Schools in Maharashtra.

The Commission makes the following recommendations:-

- A) **Though Sadanand Bhagwan Gund died due to ill health, since Commission finds contributory negligence on the part of School Authorities in not getting him immediate and proper treatment, and the concerned Department has contributed in negligence by not taking proper precaution the Commission deems it proper to award an interim relief compensation of Rs. 1,00,000/- to the parents of deceased to be paid by the State in four weeks.**
- B) **The State Government shall implement the Tribal Development Project / Scheme for the welfare of Tribals in general and in particular to the Tribal Children Education and Health programme in its true letter and spirit.**
- C) **Taking into consideration the inadequacy of medical units, the State is directed to provide sufficient number of Doctors especially pediatricians and Staff to look after the health of tribals in general and Ashram School children in particular. The Commission recommends that for every tribal Taluka where the Ashram Schools Hostels are located, already identified by the State there shall be sufficient number of medical staff (preferably one qualified Doctor (Pediatrician) one general physician and nursing staff) and they shall be provided enough medicines and basic tools commonly required. This medical staff is to be in exclusive services for the welfare of the tribals and their children.**

- D) **Taking into consideration the geographical situation and difficult terrain to access the medical facilities immediately, the State Government shall provide well equipped ambulances to each project area (3 – 5 Talukas).**
- E) **As per the direction of the State each tribal child, studying and residing in the Ashram Schools is to be given medical check-up once in a quarter of an year or at least twice a year and proper records of the same to be maintained.**
- F) **The State shall establish necessary pathological laboratories in every project areas.**
- G) **Every Doctor and medical staff requires to be sensitized about the importance of medical check-up of each child in the custody of the Ashram Schools.**
- H) **The School officials like Head Master and the Teachers and other staff are required to be sensitized for taking proper care of the children studying and staying in the Ashram Schools.**
- I) **The Project Officer be directed to regularly visit preferably once in a month along with the medical team and maintain a health report of each child staying in the Ashram Residential Schools.**

The Commission expects the State Government to take a firm decision in respect of the recommendations made above and submit the action taken report to the Commission in four months from the date of receipt of the order.

The Secretary to communicate this order to the parties concerned.

(Justice S. R. Bannurmath)
Chairperson, SHRC