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Chairperson

भारत सरकार
GOVERNMENT OF INDIA
राष्ट्रीय बालक अधिकार संरक्षण आयोग
NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

File. No. HR-11015/22548/2010-11/SMComp. /19452 to 19456 Date: 02.08.2011

The Chief Secretary

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Sub: **Illegal detention, physical abuse and torture of a 13 yr old child by Haryana Police, Gurgaon**

The National Commission for Protection of Child Rights (NCPCR) is constituted under Section 3 of the Commissions for Protection of Child Rights (CPCR) Act, 2005 to exercise the powers conferred on and to perform the functions assigned to it under this Act. One of the functions of the Commission under section 13 (1) (j) of the CPCR Act, 2005 is to inquire into complaints of violation/deprivation of child rights. The Commission, under section 14 of the CPCR Act, 2005, has all the powers of a Civil Court in trying a suit under the Code of Civil Procedure, 1908.

2. The Commission had taken suo-motu cognizance of HT news report dated 02.04.2011 under section 13 (1) (j) of the CPCR Act, 2005 about of the alleged torture of a 13 year old child, whose name was later found to be Sonu @ Bhole S/o Sh. Vedpal, resident of Krishna Colony, Sector-4, Gurgaon, at the Sector - 4, Police Post, Gurgaon by two policemen. As per the report, the minor was arrested on 28-03-2011 on charges of theft of a motor vehicle Kintetic Scooty belonging to one Sh. Sumit Bhardwaj who had reported the loss on PCR Tel 100, and against which an FIR No 78 under Sec 379 IPC was registered at the Police Post Sector 4, Gurgaon (falling under the jurisdiction of Police Station Sector-5, Gurgaon). The arrest was shown by the police in its record as on 29-03-2011 and the child was found to have been illegally detained and tortured in Police Post Sec -4 Gurgaon.

3. The Commission's inquiry into the above matter involved field visits to Gurgaon (the Police Station, the Hospital concerned, the child's house, the Guest House etc.), interactions with the DC, DCP, Inspector, SHO, Constable concerned, child and his family, the Medical Officer and the person concerned at Guest House etc. as well as Summon the concerned parties at NCPCR.

4. The observations and findings of NCPCR after the Inquiry in the matter are as follows:
- The child, Sonu, was implicated in a false case of theft and thereafter illegally detained and tortured in a cruel and inhuman manner in absolute contravention of the law. It is clear from the statements and records before the Commission that the illegal detention, brutal beating and other forms of torture were inflicted on the child by Head Constable Jitender Kumar (922/GGN) and Constable Manoj Kumar (757 1st IRB).
 - The fact that child Sonu had been subjected to severe beatings has been established by the MLC which indicated marks of external injuries on his back and both buttocks. even the mlc by the Medical Board constituted by Civil Hospital, Gurgaon stated "external injuries

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described in the m.l.c. were caused by blunt force impact & further that the possibility of allegation regarding forcing petrol through anal route cannot be ruled out".

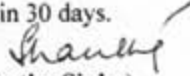
- (c) The entire case of theft of Scooty foisted upon child Sonu was false for which a host of documents including the Wireless Transaction Log of Police Control Room and the statements of HC Jitender Kumar and Constable Manoj Kumar have been relied upon. Sonu was falsely implicated, illegally detained and tortured by the two aforementioned police men to extort money from his family.
- (d) The superior police officers seemed to be reluctant in registering FIR and taking requisite action against the accused police persons- HC Jitender Kumar and Ct Manoj Kumar. This is evident from the following facts:
- (i) The SHO of Police Station at Sector 5, Mr. Naresh Kumar Yadav, deposed on oath that he had sent HC Mukhtiar Singh to Civil Hospital on 1.04. 2011 to record the statement of Sonu. The HC had recorded the statement that child Sonu had been arrested, detained illegally and tortured in a barbaric manner. The SHO however did not register a FIR against the two police officers involved, in spite of the statement of child Sonu disclosing the commission of a cognizable offence. The SHO has also received a copy of the MLC of the child Sonu on 1. 04. 2011, but no action was taken by him in this regard, and merely recorded the statement in the Roznamcha.
 - (ii) The ACP has said in his statement that the letter of the DCP dated 01/04/2011 directing him to submit an enquiry report in this case was mistakenly sent to PS sector 5 and he had received the DCP's letter only on 09/04/2011. The ACP's has claimed that this was the cause of the delay in conducting enquiry in this case. He could not give any explanation as to why no information had been given to him of the letter lying at PP sector 5. He also stated that despite having the knowledge, that the statements of child Sonu disclosed a cognizable offence, requiring registration of FIR, he had not directed the SHO to register an FIR in this case against the erring officials.
 - (iii) The Suspension Order No 11947-53/A-III dated 18-04-2011 issued by DCP, Hqrs, Gurgaon, against HC Jitender Kumar No 922/GGN has diluted the gravity of the crimes committed by the 2 police men on a minor child which constitute a grave violation of his fundamental rights and infringement of laws including the Juvenile Justice (Care & Protection of Children) Act, 2000. The suspension, as the orders state ***"Thus the above said police officials have shown negligence, indiscipline and gross misconduct"***
 - (iv) Statement of D.C.P. West Gurgaon recorded during the proceedings stated ***"ACP in his written report stated that there were certain irregularities in the investigations against the concerned erring officials HC and the Constable. Since Constable Manoj Kumar belonged to IRB Battalion, the Commandant of IRB shall be asked to take departmental action against the Constable Manoj Kumar. The irregularities mentioned by the ACP in his enquiry report included allegation of torture and procedural lapses. He reaffirmed that in his opinion torture by police on any person including a child was a crime in this country."***
 - (v) This case displays a larger malaise in the systemic failure in protecting the rights of children and preventing the abuse and torture, despite a host of laws, rules and institutions that have been put in place. However in this case, as was observed, each person and institution failed to act diligently and instead of protecting the children, allowed two policemen to illegally detain, falsely frame and torture a minor child.

5. In the light of the above findings and under Section 15 of the Commissions for Protection of Child Rights(CPCR) Act, 2005, the State Government of Haryana is hereby desired to take the following actions in the matter:

- (i) As the inquiry prima facie discloses the commission of a cognizable offence a FIR against the aforesaid two policemen is recommended to be lodged.
- (ii) The Commission further recommends under section 15(i) of the CPCR Act., 2005, that the State Govt. of Haryana is directed to institute departmental proceedings and take disciplinary action for the aforesaid infringement of law and rules.
- (iii) All senior officers including the DCP, ACP and SHO Naresh Kumar PS: Sector-5, Gurgaon, failed to exercise their supervisory duty to ensure that the police personnel performed their duties in accordance with the law has failed to perform his duties properly and has not exercised proper control and supervision over the two erring suspect officials The Police Department needs to examine the role played by the senior officers and their persistent reluctance to take appropriate legal action against the aforementioned police men. The State Government must institute transparent and effective mechanisms of accountability of the police to the law to ensure that the brotherhood of the men in khaki does not subvert the rule of law and violate rights of children.
- (iv) SHO P.S. Sec-5 , GGN, also failed in getting the case handled by the SJPU , which has been in force in all the police stations in Gurgaon as per the circular No 1146-03/OHC dated 23-12-2010 issued by DCP West in compliance to the Police Commissioner's notification No 1398-1419/I/C/Special Dt 08-03-2010 announcing setting up of Special Juvenile Unit in all police stations of Gurgaon West. The two officials designated were not on duty on the day 28th/29th March 2011. However, neither did SHO make any attempt to seek the help of a nearby SJPU unit from the neighbouring P.S., nor did he entrust the duties to the official of SJPU who resumed duties on 08-04-2011 as deposed by SHO. A fresh look also needs to be looked into the training requirement of the State Police cadres on the functioning of SJPU and the J J Board as per the provisions of Juvenile Justice (care & protection of children) Act, 2000. The State Home Department and the Department of Child & Women Welfare, need to be concerned on this account.
- (v) The role of Medical Officer in the Government Hospital, Gurgaon, who had issued the Medical Fitness certificate for child Sonu without proper examination needs to be looked into with great urgency, as the Hospital referred to the Main Hospital in the District and a large number of medico legal cases of MLC are referred to it. The Hospital authorities / Health Department needs to undertake a training of all Doctors to ensure that they conduct medical examination in accordance with the laws in force.
- (vi) Payment of monetary compensation to the extent of Rs 25,000/ to the child, Sonu, for the physical torture needing medical treatment and the mental trauma caused upon meting out such inhumane treatment at the hands of the police.
- (vii) The State Government to ensure the admission and schooling of the child: Sonu in a residential Model School at the cost of the State.


A copy of the Report is enclosed for your perusal and ready reference.

I would appreciate if necessary action is taken by the State government on priority basis and an initial Action Taken Report(ATR) in this regard is furnished to this Commission within 30 days.


(Shantha Sinha)
Chairperson

Copy to:

1. Principal Secy. Women & Child Development Department, Haryana Civil Secretariat, Chandigarh email: jakhushakuntala@hry.nic.in.
2. Principal Secretary, Department of Home, Govt. of Haryana, Chandigarh.
3. Principal Secretary, Health Services, Govt. of Haryana, Chandigarh.
4. DGP, Haryana, Police Headquarter, Sector-6, Panchkula, Haryana (email: police@hry.nic.in)
5. Shri P.C. Meena, D.C, Gurgaon (Fax No 0124-2321144)
6. Commissioner of Police, Gurgaon, Haryana, (Fax No 0124-2314200)
7. Principal Medical Officer, Government Hospital, Gurgaon.


(Shantha Sinha)
Chairperson