Report of Agra visit (13th -14th Jan’17)

– NCPCR takes Suo- Motu Cognizance on a case of a 17 years old girl being stripped, assaulted by passengers on train alleging theft

Visit Report by

Rupa Kapoor, Member NCPCR
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A suo motu cognizance on the issue of a 17 years old girl being stripped, assaulted by passengers on train alleging theft was undertaken by Ms. Rupa Kapoor, Member, National Commission for Protection of Child Rights (NCPCR). She was accompanied by Ms Priyanka Singh, Junior Technical Expert NCPCR; Ms Himani Nautiyal, Junior Technical Expert NCPCR; Ms Meenu Mehta, Junior Technical Expert NCPCR.

On 11th January’17, Times of India reported that a 17 years old girl, who had a mental disorder after she developed a brain tumor, was stripped, humiliated and had her hair cut by passengers of the AC 3 tier compartment of Howrah-Jodhpur Express after she was accused of stealing a bag. The incident took place at a stretch between Firozabad and Tundla as the train was heading towards Agra.

According to her parents, she left home on 8.1.2017 evening in a huff after parents expressed their inability to give her Rs 100 with which she wanted to visit a local fair. The girl's father also informed that she was being treated at a Saifai hospital (in UP) for the past year for the tumour.

According to her school leaving certificate the girl is a minor at 17 years 10 months, was sent to jail on 10.1.2017 after being produced before a local Magistrate. Her family said police did not verify her age as per the documents and on their own accord put her age as 19 years in the FIR.

The complaint was filed initially at Agra Fort station against the girl for theft. Government Railway police (GRP) filed two FIRs -- one based on the written complaint of a passenger- Mrs Sangeeta Aggarwal against the girl, and the other by Mr. SK Sharma, TTE who complained against six unnamed passengers, who had harassed the girl.
The girl was booked under IPC section 380 (theft) and the six passengers were booked under IPC sections 332 (voluntarily causing hurt to deter public servant from his duty), 352 (assault), 353 (assault to deter public servant from discharge of his duty), 507 (criminal intimidation).

Mr. SK Sharma, the TTE informed that the passengers not only assaulted the girl, he also verbally abused him. They accused him and the GRP of being her associate when they tried to rescue the girl. It was sheer barbarism, the way passengers treated the poor child. Women stripped her, while a few men assaulted her. Passengers also cut her hair. (Annexure I)

The National Commission for Protection of Child Rights has been highly concerned about the issue of minor girl who was assaulted by the passengers in the train and took suo motu cognizance of the matter. After taking cognizance of the news reports the following action was initiated:

- A report has been sought from SSP, Agra District vide letter no UP- 77243/2016-17/COMP dated 12.1.2017. (Annexure II)

- Ms. Rupa Kapoor, Member NCPCR led the inquiry with the team members from NCPCR and met Tundla GRP, Agra Fort GRP, CWC Members, JJB Member, Probation Officer, Judicial Magistrate and the girls’ parents from 13th and 14th January’17 at Tundla, Firozabad District and Agra District.

Meeting with Police Officials at Tundla Railway Station & Agra Fort Railway Station

- Member accompanied by the team members of NCPCR reached Tundla Railway Police Station. The team inquired with Shri. Rajendra Singh, Shri Savendra Sharma, SHO and Shi Rajeev Kaushik, Investigating Officer of the case. Shri Savendra Sharma briefed about the case to the team members of NCPCR. He informed that Howrah- Jodhpur Express arrived at around 2:00 am at Etawah District. The girl boarded in Howrah- Jodhpur Express from Etawah Railway Station and entered in AC-3tier, B4 coach seat no 48. The seat was allotted to Mrs Sangeeta Aggarwal. According to the police officer, the girl stole Rs 23000/- from Mrs Sangeeta Aggarwal’s suitcase. Tundla police was informed that a girl has been caught for theft in Jodhpur Howrah express train on 9.01.2017, after which Shi Rajeev Kaushik, and other
policemen of Government Railway Police were instructed to seek out the matter at the station. Police tried but failed to take over the girl from the custody of passengers because the passengers were aggressive and they were not ready to handover the girl to the police at Tundla as they wanted to file the case at Jaipur. The train stopped at Tundla for only two minutes. As the passengers misbehaved the police were unable to receive the girl at Tundla.

- The train stopped next at Agra Fort railway station where the RPF of Agra Fort intervened with lady constables and were able to rescue the girl from the custody of the passengers. Shri Lalit Kumar Tyagi, SHO, Ms Rajkumari and Ms Poonam released the girl from the passenger’s custody.

- Ms. Sangeeta Aggrawal, a lady passenger gave a written complaint against the girl u/s 380 IPC. When, Shri. Suresh Tyagi, SHO, PS Agra fort interacted with the girl; she also accepted the charges against her and stated her age as 17-18 years. (Annexure III)

- Later, Mr.S.K Sharma, the TTE on duty also lodged an FIR against 6 passengers on seat no 48, 57, 59, 60, 61 and 62 under section 354, 353, 342, 509 of IPC. He also informed the police about the misbehavior of the passengers with him and the girl child. (Annexure IV)

- Agra Fort Police lodged FIR from both parties and transferred the case to the Tundla Police, as it was under their jurisdiction and suggested a medical examination of the girl as she had been assaulted.

- Tundla Police called the parents of the girl on 9.1.2017 for investigation. They also mentioned that parents confirmed the age of the girl as 18 years. Tundla Police also confirmed the age on the basis of physical appearance of girl and treated her as adult. Tundla Police mentioned that they had tried to contact her parents for the age proof of the girl, but were unable to meet them.

- The police followed procedures and presented her before the magistrate on the 10.1.2017 where the girl transpired her version before the Magistrate and later was sent to the jail. The girl informed the Magistrate that her age was 18 years. Hearing of her bail petition was also postponed till 16.01.2016.
• The team interacted with the father of the girl and ascertained her medical status. He informed that the child sometimes showed unusual reactions due to the side effects of her brain tumor and is undergoing treatment at UP Rural Institute of Medical Sciences & research, Safai, Etawah (U.P). (Annexure V) He also provided her school leaving certificate where the birth age of the child has been recorded to be 07.07.2000. (Annexure VI)

• The team ascertained that the girl was a minor and had been kept in jail since 9th Jan’17. It was found that the girl would remain in jail until her bail on 16th Jan’17. Immediately, Member directed DM, Firozabad for release of a girl, by the end of the day. The DM instructed the State Probation Officer to request for immediate release of the girl to the Judicial Magistrate who was in charge of the case. CWC members and Child Protection Officers were called to facilitate the same.

• In the course of the case, while the team was probing the lawyer who was appointed by the police for the girl, it was ascertained that the lawyer also placed the girl in trial as an adult instead of a minor even though he knew that the girl had to be tried under the JJ Act. He said that he wanted an easy bail for the girl and didn’t want the family to wait for the JJB trial or keep her in an observation home. He did not orient the family about the laws for a minor and the family said that they were not aware of the separate laws and just wanted their daughter to be out on bail. The parents remained unaware of the fact that the girl would be arrested later on charges and would be retained in jail, if treated as an adult.

• On solicitation of Member, Mr. Dharmveer, Judicial Magistrate, Firozabad Court, mentioned that he was not aware that the girl was a minor and facilitated the immediate release of the girl from the jail. On 13.01.2017 late evening the NCPCR team along with girl’s father, CPO and CWC members went to Firozabad jail to receive the girl. The girl was sent back to Etawah with father on the same day.

• Member directed CWC to follow up and provide support in counseling sessions of the girl and the parents as well through Childline. Member also directed CWC to submit their report.
The girl has prima-facie been rescued timely by the Agra Fort police from the wrongful custody of the passengers.

The Agra Fort police came to know about the assault against the child only after the TTE on duty informed the police and gave a complaint against the six passengers. The child was arrested on a FIR by one of the passengers but the passengers were left to go.

The case later came under Tundla Police Station, where the girl was treated as a major based on the assumption of the police. While the police maintain that they had asked the girl her age which she reported as 18 years, the family denied this. The Police had not ascertained her age from the records.

Relevant Medical reports and the Statement of the girl is yet to be received from Tundla police.

The child is a minor based on her documents from school and is also mentally disturbed and undergoing treatment from past one year.

The passengers of the coach assaulted the minor and cut off her hair in a gross violation of child rights. An FIR was also lodged against them by the TTE, yet the Tundla police took over three days to charge sheet them and bring them to custody. The police however had records of the passengers.

The Tundla Police, the Lawyer, Judiciary and Jail authorities had ascertained her age as an adult and had not only started her trial as an adult but also detained her in jail, without investigating her documents which proved her age as a minor. The girl had already served three days in prison even though she was a juvenile.

NCPCR has asked DM to probe into the matter and determine how Tundla police and other relevant authorities had ascertained that the girl was an adult, without any age proof and started trial against her. Action to be taken against the Police officials if found guilty.

NCPCR has also directed Tundla Police and Agra Fort Police to jointly form a team and charge sheet the six passengers who had assaulted the girl within a week’s time.
• Tundla Police have also been directed to submit proper Medical reports of the girl along with her statement.

• CWC has been instructed to provide counseling and rehabilitation support to the minor with the help of Childline.

• Rehabilitation measures and treatment support of the child needs to be considered by the State Administration.

**Conclusion**

The case clearly establishes the fact that often minors are tried as adults and are detained in custody over petty crimes. The JJ Act is undermined and child rights are violated. It is important to keep a track of such cases and to regularly monitor jails so that minors who may have been treated like adults and put behind bars are given a trial under JJ Act.

In this case, it is important to also charge-sheet the six passengers who took the law in their hands and assaulted the girl. Stringent punishments need to be meted out against such people who violate laws and punish children on their own accord.
Visit to Tundla, Firozabad District & Agra District – where police inquired into the matter

Member at Tundla Railway Police Station

Member interacting with CWC Chairperson and Members, Firozabad District

Member interacting with Lawyer, Firozabad Court

Member interacting with Police Officers at Agra Fort Railway Police Station
News reports of Visit

Hindustan Newspaper

Times of India Newspaper
In medical records, girl assaulted by train passengers has 'severe' brain condition

TAWAH: The minor girl - who the UP police sent to jail after passengers of the Howrah-Jodhpur Express charged her with theft - beating, abusing and stripping her - suffers from a brain disorder that triggers extreme mood swings caused by a throbbing pain in the head that won't go away, doctors told TOI on Wednesday. "She is not a thief," her distraught father said, producing her hospital documents.

TOI accessed the girl's medical records and school certificate after cops disregarded her parents' plea not to send her to jail as she is both minor and mentally ill. Her school leaving certificate shows her to be 17 years. Police, while sending her to jail, mentioned her age as 19 years. A senior doctor at the institute of Mental Health & Hospital, Agra, meanwhile, said, "Neurocysticercosis, the condition she suffers from, leads to massive mood swings and mental stress."

Often caused due to unhygienic conditions in which many of the poor are forced to live - her father is a daily-wage labourer - in this girl's case intestinal tapeworm larva has reached her brain, causing severe inflammation in the left frontal region and also making her epileptic."
The doctor said, "Her act on Monday morning in the train, when passengers alleged that she was seen with a bag that was not hers, could possibly be due to mental stress and irrational behaviour, which neurocysticercosis patients can temporarily suffer from. It can get grave if not treated properly within a specific time frame."

According to the girl's parents, she has been suffering from this form of mental illness for more than a year and is being treated at the Rural Institute of Medical Sciences and Research, Saifai (UP). "We require about Rs 2 lakh if we are to go to a good hospital for further treatment, which we do not have," her father said. He added that his only concern right now is to get her out of jail.

In a related development, a day after TOI carried her story, the ministry of women and child development took note of the incident and decided to investigate how a minor who is mentally ill was treated thus by passengers travelling in an AC compartment of an express train. An officer in Union minister Maneka Gandhi's office said, "The minister has taken note of the case and a team will be sent to investigate the matter. We will find out how a minor was sent to jail by terming her an adult."

The girl's father, sitting outside the Firozabad district jail where she is now lodged, said, "We searched for her the entire night when she didn't come home. Police later informed us that she was assaulted and her hair was also cut by passengers of the train. Our daughter is mentally ill, but the passengers were all in their senses. They could have spared her such humiliation."

Interestingly, police have charged the girl under Section 354 of the IPC, which deals with "assault or criminal force on woman with intent to outrage her modesty". Apart from this, cops slapped Sections 342 (wrongful confinement) and 353 (assault or criminal force to deter public servant from discharge of his duty) on the girl for attacking the TTE of the train, SK Aggarwal.

Asked about it, Aggarwal said, "It is strange. I had filed an FIR against passengers for assaulting me and the girl. I have nothing against her."
SGP (GRP, Agra division) Ajay Kumar said police have not been able to arrest any of the six passengers allegedly involved in the attack on the girl as "the FIR only mentions their berth numbers, not their names". He added, "Our team is investigating the matter."
File No.: UP-77423/NCPCR/2016-17/POCSO  

Dated: 12/01/2017

To,
Senior Superintendent of Police,
SSP Office, Agra
Dist- Agra, Uttar Pradesh-282003
Ph: 0562-2265736
Email:


Sir/Madam,

The Commission has taken cognizance of the above matter u/s 13 (1) (j) of CPCRA Act, 2005 and has decided for an inquiry in the case by the SSP, Agra. (Copy enclosed).

2. You are requested to conduct an inquiry and furnish a detailed factual inquiry report of the case along with following informations/documents to the Commission within 7 days from the date of receipt of this communication:

i. If age of the child is 17 year 10 months (as per school leaving certificate), why the police mentioned her age as 19 year in the FIR? (as reported)
ii. True & legible copy of FIR.
iii. Action taken against the alleged accused named in the FIR.
iv. True & legible copy of MLR. (if conducted)
v. True and legible copy of statement recorded under Section 164 of Cr.PC;
vii. Present status of the child.
viii. Any other information in relation with the case.

3. In case, any other Commission duly constituted under any law, has also taken up this matter with you or any other authority, a copy of their communication may also be furnished.

4. Please quote the number and date of this letter mentioned at the top while responding.

Encl: As above

(Rupa Kapoor  
Member)
फीरोजाबाद में ट्रेन में चोरी के मामले में पकड़ी महिला को जमानत मिली

फीरोजाबाद, हिंदुस्तान संवाद
Updated: 13-01-17 11:30 PM

जोधपुर हावड़ा एक्स्प्रेस के एसी कोच में महिला के बाल काटने के मामले में राष्ट्रीय बाल संरक्षण आयोग की टीम ने बाल खोलकर चोरी का संदर्भ को जांच के लिए फीरोजाबाद में दस्तावेज दी। टीम ने ट्रेन के बाल खोलकर चोरी का संदर्भ को जांच के लिए फीरोजाबाद में दस्तावेज दी। टीम ने दस्तावेज दी।

फीरोजाबाद में ट्रेन में चोरी के मामले में पकड़ी महिला को जमानत मिली

चोरी करने वाले अरोपी की चोरी के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामला तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामले तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामले तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामले तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामले तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामले तुल पकड़ना जा रहा है। मामले का चोरी करनेवाले ठगा काटने के मामले का मामले तुल पकड़ना जा रहा है।
Panel raps police for shoddy probe

TNN | Jan 14, 2017, 08.44 AM IST

IROZABAD: Members of the National Commission for Protection of Child Rights, who are in Firozabad to investigate the case of the minor girl who was physically assaulted and her hair snipped by passengers in a train a few days back for allegedly stealing a bag, reprimanded the government railway police (GRP) for "assuming" the girl to be a major and sending her to jail.

They also reprimanded the cops for not taking prompt action to arrest the six passengers who assaulted the girl and "outraged her modesty".

On Friday evening, the district court in Firozabad granted the girl bail in the theft case, presuming as her to be an adult as the police and the lawyers did not submit her age proof.

As reported by TOI, the girl, suffering from Neurocysticercosis, had left her home and boarded the Jodhpur-Howrah express when the incident took place earlier this week. Neurocysticercosis is due to ingestion of eggs of Taenia Solium (tapeworm), usually due to contamination of food.

On Friday, five-member team lead by Rupa Kapoor visited the government railway police of Tundla station, Firozabad district and also met the parents of the girl to inquire about the incident.
किशोरी से अमानवीय व्यवहार करने वाले यात्री एक सप्ताह में होंगे गिरफ्तार

आम उजाला ब्लूरी, फिरोजाबाद Updated Sat, 14 Jan 2017 11:31 PM IST बाद में पढ़ें

किशोरी ने फिरोजाबाद के ट्रेन में नौ जवाबियों को पटना तक के बैग चोरी का आरोप बताया था।

आम उजाला ने किशोरी के खिलाफ मामला दर्ज कर दिया था और आरोप से मामले को टूटुना जीआरपी ने दर्ज कर दिया था। बाल संक्षेप में आयोग दिल्ली की सदस्य रूप से कॉफ के लगभग 45 मिनट के बीत थे।

आम उजाला ने किशोरी के खिलाफ मामला दर्ज कर दिया था और आरोप से मामले को टूटुना जीआरपी ने दर्ज कर दिया था।

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