

TRIPURA HUMAN RIGHTS COMMISSION
KUNJABAN: AGARTALA

Complaint No. 29 of 2024
(Complaint by Smt. Anindita Saha against her husband).

ORDER SHEET

SL. No.	Date	Order	Note
05	06/06/2024	<p>Mr. Dipak Saha, the Opposite Party is present with Ld. Counsel Mr. Elembrok Debbarma.</p> <p>Heard Ld. Counsel Mr. Debbarma. In the process we have also heard Mr. Dipak Saha about the grievances so far stated in the written objection as well as his other grievances against his wife who is the petitioner before the Commission seeking relief for the treatment of their ailing minor son, who is suffering from cancer.</p> <p>It is an admitted position that the minor son of the complainant and the OP Dipak Saha is a cancer patient and is under treatment in Tata Medical Centre, Kolkata. The complainant Anindita Saha has filed a complaint before the Commission, praying for treatment of their son, wherein, it has been alleged that the OP Dipak Saha is not helping her in the matter of treatment of their son and that a few lakhs of rupees is urgently required for treatment. The case is under the process of inquiry before the Commission. Notice has been issued to the OP Dipak Saha and he submitted a written statement. A copy of the complaint was also sent to the Registrar of Co-operative Societies, Palace Compound, Agartala, the immediate superior authority of the OP Dipak Saha to inquire into the allegations made against Dipak Saha and to submit a report before the Commission.</p> <p style="text-align: center;"><u>Pg 1 of (4)</u></p>	

The inquiry is in progress. In the meantime, the complainant sought immediate relief and considering the health condition and treatment issue of the minor son, the Commission under dated 17/05/2024, an interim recommendation was made to pay a compensation of Rs. two lakhs to the complainant on some conditions and accordingly, the Registrar, Co-operative Societies was asked to ensure the payment.

Against that interim order, the present petition is filed stating that the Commission has got no jurisdiction to entertain a family dispute, which is between the husband and the wife.

The Commission has got jurisdiction to inquire into violation of human rights as defined under section 2(d) of the Protection of Human Rights Act-1993 and made appropriate recommendation.

Right to life is a precious right of every individual. Where the life of a minor boy is in distress and for his treatment, certain amount is required and it is on record that the father who is a public servant, not looking after the treatment, of course, prima facie, the Commission thought it appropriate to give interim recommendation pending final inquiry on the issue.

It is stated by Mr. Saha that he likes to dispose a plot of land which he purchased in the name of his wife to arrange the money for treatment, but the wife is not agreeing. In this respect, the Commission cannot give any direction, which the Commission explained to the Ld. Counsel, Mr. Debbarma.

Regarding the jurisdiction, it has been pointed out by Ld. Counsel Mr. Debbarma that section 8 of the family Courts Act prescribes that no other Court shall entertain a family dispute while family Court is set up. He has also referred section 13 of the Protection of Human Rights Act and has submitted that this Commission is a civil Court and it cannot entertain such a dispute.

We cannot appreciate this argument of Ld. Counsel, Mr. Debbarma, since the strength of section 13 of the Protection of Human Rights Act is otherwise than what the Ld. Counsel has expressed. The Commission is out and out a Commission to inquire into violation of human rights. It is not a Court of law, but while exercising its jurisdiction in respect to inquiry about violation of human rights, it shall be deemed to be a civil Court and exercise such power as prescribed under section 13 of the act. Under the colour of that provision, the Commission cannot usurp the jurisdiction of a Court. Therefore, the Commission's jurisdiction to inquire into any allegation of violation of human rights cannot be put into a watertight compartment to say that it cannot entertain any issue if it is between the families.

Prima facie, we have found that the minor son of the complainant and the OP is a cancer patient and is under treatment in a cancer institute at Kolkata and the complainant who is the mother of the boy is looking after him, there. As it appears the matrimonial relation between the husband and wife has been sored and therefore, they are fighting tooth and nail. The precious life of their son cannot be in distress and this is the sanctity of Commission for which the Commission has entertained the complaint since the respondent, i.e. the OP Dipak Saha is a public servant and the Commission also issued notice to his superior authority.

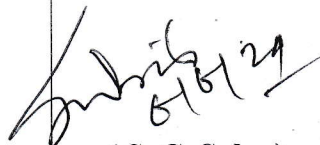
Ld. Counsel Mr. Debbarma has also pointed out that the complainant has filed a case under the domestic violence act and also another case under section 125 of Cr.PC seeking maintenance before Court of law. No document is filed in support of those cases. The OP is at liberty to submit the documents about the payments made including that of the Court's order before the Commission on or before the next date.


We find no reason to call back or modify the order passed by the Commission, dated, **17/05/2024**.

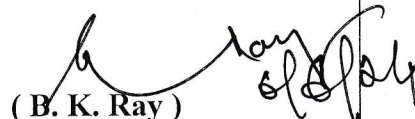
The investigation wing headed by Dy.SP L.Molsom has submitted a petition stating that the complainant has expressed over telephone that she is not in a position to appear before the Commission for recording her statement, physically, pending condition of treatment of her son. If she cannot appear before the Commission, the investigation wing can prepare a questionnaire and send it to the complainant in her email address via e-mail, asking her to submit her response in writing by affidavit before the next date.

A copy of this order may be given to the complainant as well as the OP Mr. Dipak Saha.

Fix it on... **06/07/2024**


(S. C. Saha)
Member


(Justice S. C. Das)
Chairperson


(B. K. Ray)
Member