

KARNATAKA STATE HUMAN RIGHTS COMMISSION

1-4th Floor, M.S Building, 5th Stage, Bengaluru-560001

**H.R.C. No: 1425/10/31/2020 c/w
2282/10/31/2020**

PRESENT

Date: 22- 03- 2022

Justice D.H. Waghela
Chairperson

Complainant: Shri. Suresh Babu R,
Advocate,
No. 102/2, Shop No.2,
1st Main, 1st cross,
Near Ration Shop, Singasandra,
Bengaluru- 560 068

V.

- Respondent:**
1. Shri Sheshadri Shekar
Founder of Dare Foundation
 2. Shri Deepak
 3. Station House Officer,
Byatarayanapura Police Station
 4. The Deputy Commissioner,
Bengaluru Urban District
 5. The Deputy Commissioner of Police,
Bengaluru Urban District

OPINION, REPORT AND RECOMMENDATIONS

1. In this proceeding, Shri. Suresh Babu, Advocate, has filed a complaint in the prescribed form stating that Mr. Shekar and Mr. Deepak of Dare Foundation are running a rehabilitation centre and they are torturing inmates of the centre. It is further alleged that many inmates are missing and Byatarayanapura police are not acting upon the complaints filed against the foundation and hence, he has requested to direct the D.G.P to take action. The complainant has also annexed a few photographs, in support of the allegations made in the complaint.
2. Pursuant to the complaint, the Commission, vide its order dated 11.08.2020, issued notice to the D.C.P West Division, Bengaluru alongwith a copy of the complaint and its annexures, to file their response on 15.09.2020.
3. As per the enquiry report dated 19.10.2020 submitted by the D.C.P West Division, Bengaluru, Shri. Sheshadri Shekar, Proprietor, Dare Foundation is running the rehabilitation foundation from 5.10.2015, treating drunkards, drug addicts and mentally retarded patients and, at present, there are 22 patients taking treatment and 13 employees of the foundation are treating them which include Counsellor, Psychologist, Psychiatrist, Physician, Yoga Teacher, Meditation teacher, Cook, Dhobi and Accountant. The copies of the license obtained by Shri Sheshadri Shekar to run the Dare Foundation (Reg) Centre issued by the D.C, Bengaluru District by their order no. MMG(5)/MH/CR/13/2017-18, which is valid until 16.09.2023 and registration certificate issued by the Karnataka Private Medical Establishment Authority, which is valid until 5.07.2023

are said to have been produced in the police station. In response to the photographs annexed to the complaint, it is stated that the patients were taken to bath one by one and at that time some inimical persons have taken photographs and have misused them by depicting that the employees of the foundation are beating and threatening the patients. The report denies the allegations made in the complaint by stating that there was no threatening or using of vulgar language or demand for money, etc in the foundation. It is further stated that the foundation is running seamlessly from 2015 and that there are no complaints registered either against Shri. Sheshadri Shekar or Dare Foundation or against any of the employees.

4. It appeared from the record submitted to the Commission that an independent report must be obtained and, therefore, by its order dated 23.12.2020, the A.D.G.P attached to Karnataka State Human Rights Commission was ordered to hold an independent enquiry from the staff and inmates of Dare Foundation and report on 22.01.2021.
5. On perusal of the enquiry report dated 18.02.2021 submitted by the Dy.S.P, K.S.H.R.C, it appears that the building of the foundation is not constructed and maintained as per the Rules governing rehabilitation centres. There is no distance of 3 feet between the beds, no proper ventilation and it has only four toilets for 30 inmates instead of 6 toilets, which are as well very unhygienic and badly maintained. It is opined that other than the counsellors and one staff member who administered medicine, there were no care takers for the inmates. The attendance registers of the inmates at the centre were also not

produced. Furthermore, when a few in-mates namely K. Pullarao Achari, Venkatesh. M, Chandra Babu, Shivakamal Singhal, C. Manohar Reddy, Sathish Gowda, Valiant, Kumar and Shridhar were enquired, none of them complained of any harassment or torture meted by Shri Sheshadri Shekar or any other staff members.

However, one Shri Deepak who previously received treatment in August 2019 at the foundation and who is also one of the respondents in the complaint was enquired and according to his statement he complained of no proper treatment and food. He stated that if any inmates questioned or complained of any insufficiencies or improper treatment, they would be stripped and beaten with a fiber stick by Shri Sheshadri Shekar. Even after completion of treatment of three months, they were not allowed to go and anyone questioning them was beaten. The inmates were made to clean the toilets, cook and paint the walls. According to Deepak the reason why he has been included as respondent in this complaint is that he had collected CCTV footage of these incidents and approached one Shri. Ramesh who took him to a lawyer named Shri. Suresh Babu and all the matter about the harassment and ill-treatment meted out by Shri. Sheshadri Shekar was intimated to him alongwith the video clippings and photographs. Since, Deepak did not pay the advocate (complainant) he lodged a complaint against Shri Sheshadri Shekar and included his name as well in the complaint. Lastly, the CCTV footages provided by Deepak clearly depict the harassment and ill-treatment at the foundation. However, the face of the person beating the inmates with a fiber stick is not clear and the time or period of the CCTV footage is

also unknown. When Shri Sheshari Shekar was asked to provide the CCTV footage from the cameras installed at the centre for the period between 02.02.2020 till date of the enquiry, he sent a letter stating that the CCTV installed at Dare foundation captured only live incidents and did not have the capacity to record the events.

6. A copy of the above report dated 18.02.2021 was sent to the complainant, Deputy Commissioner, Bengaluru Urban District, Bengaluru and Dare Foundation for their comments. Accordingly, the comments dated 17.09.2021 from the complainant were received, wherein the complainant agreed with the report and humbly requested the commission to issue necessary directions to the BBMP officials and other competent authorities who issued license to Dare Foundation. The complainant also requested to cancel the NOC for not following the rules and not running the rehabilitation centre as per the guidelines.
7. Comments were also received from Deputy Commissioner, Benagluru, dated 28.09.2021, wherein it is submitted that Revenue Inspector had personally inspected the premises of Dare Foundation and found no violations. A mahazar was also drawn in the village where localites expressed orally that there was no information either of physical abuse or of lack of space and quality treatment in terms of numbers of patients in Dare Foundation. Hence, the Deputy Commissioner requested to close the matter.

8. On the other hand, Shri Sheshadri Shekar, represented by his Advocate Shri. N. Sriram Reddy delayed submission of his comments or defence. Even after providing sufficient opportunity to Shri Sheshadri Shekar, he only generally denied the allegations in the complaint and stated that the photographs depicting the state of affairs at the centre were false. He has not produced any reliable documentary evidence to prove his defence. A counter affidavit was finally placed on record on 18.02.2022 only denying the allegations, without any reasonable explanation. His stand is that, in the absence of the date of incident and narration of the incident, the allegations were bald and vague.
9. Considering the above facts, there is a clear case of wrongful confinement, infliction of physical force on the in-mates of the foundation and functioning of the foundation in violation of the existing laws. The pictures reveal the physical abuse and torture to the in-mates and also portray the dilapidated condition of the building and the toilet facilities at the centre. The pictures annexed to the complaint depict atrocious acts being committed in the so called 'rehabilitation centre'. The appalling conditions at the centre also violate the "Manual on Minimum Standards of Services for the Programmes under the Scheme for Prevention of Alcoholism and Substance (Drug) Abuse (Prepared by the National Institute of Social Defence and Regional Resource and Training Centres, 2009)". Additionally, the provisions of advance directive under section 5 of the Mental Healthcare Act, 2017 also appears to be not followed at the centre. Section 5 of the Mental Helathcare Act, 2017 provides as follows-

“Section 5 - Advance directive

- (1) Every person, who is not a minor, shall have a right to make an advance directive in writing, specifying any or all of the following, namely:--
 - (a) the way the person wishes to be cared for and treated for a mental illness;
 - (b) the way the person wishes not to be cared for and treated for a mental illness;
 - (c) the individual or individuals, in order of precedence, he wants to appoint as his nominated representative as provided under section 14.
- (2) An advance directive under sub-section (1) may be made by a person irrespective of his past mental illness or treatment for the same.
- (3) An advance directive made under sub-section (1), shall be invoked only when such person ceases to have capacity to make mental healthcare or treatment decisions and shall remain effective until such person regains capacity to make mental healthcare or treatment decisions.
- (4) Any decision made by a person while he has the capacity to make mental healthcare and treatment decisions shall over-ride any previously written advance directive by such person.
- (5) Any advance directive made contrary to any law for the time being in force shall be ab initio void.”

All these facts and disobedience to the manual and provisions of law manifest disregard for human rights of the in-mates in the foundation.

10. In the above facts and circumstances, after careful consideration of the material coming on record, the Commission is constrained to make its recommendations as under:

(a) The Deputy Commissioner, Bengaluru Urban District and Deputy Commissioner of Police, Bengaluru Urban District should maintain vigilance and make spot inspections without advance notice to find out and record violations of human rights, if any, or criminal offences, if any, are committed at the Dare Foundation; and take steps to cancel or not to renew the registration or licences issued to Dare Foundation, if serious irregularities or offences are found to be committed threat.

11. It may be appropriate to point out at the end that under the provisions of Section 18(e) of the Protection of Human Rights Act, 1993, the State Government or the authority concerned is duty bound to forward within a month, its comments on this report and also report the action taken or proposed to be taken. It is hereby brought to kind notice of the authorities concerned that, under the provisions of Regulation 22 of the Karnataka State Human Rights Commission (Procedure) Regulations 2020, if any application seeking modification or review of order or proceeding passed by the Commission for appropriate order.

12. A copy of this Opinion, Report and Recommendations shall be sent by e-mail to the complainant and respondents forthwith.

Sd/-
(Justice D.H. Waghela)
Chairperson

