

KARNATAKA STATE HUMAN RIGHTS COMMISSION

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

H.R.C. No: 2926/10/31/2019-JCD

Date: 18-05-2022

PRESENT

Justice D.H. Waghela
Chairperson

Shri K.B. Changappa
Member

Shri R K Dutta
Member

Informant: Chief Superintendent,
Central Prison,
Bengaluru.

V.

Respondent: Additional Chief Secretary,
Department of Home,
Govt. of Karnataka.

OPINION, REPORT AND RECOMMENDATION

- 1) This case was registered upon a g-mail report sent by the Chief Superintendent, Central Prison, Bengaluru stating that E.N.R Prisoner No. 8149, Thippeswamy @ Thippaiah, S/o Krishna Reddy aged about 26 years from Arakeri Gate, Bannerughatta Bengaluru, who was accused in CC

No.4637/18 before learned II Additional Civil and JMFC Court, Tumkuru died on 22.07.2019 at about 11.46 p.m at Victoria Hospital due to burn injuries suffered in prison kitchen.

- 2) Upon issuance of notice and an enquiry, the MER report and opinion of in-charge A.D.G.P, K.S.H.R.C were received and the Superintendent of Jail, District Jail, Tumkuru was summoned and examined. The Superintendent of Jail was requested to bring and produce the papers and documents related to the victim, treatment provided to him and the names of witnesses as also the relevant hospital records of District Hospital, Tumkuru, Victoria Hospital, Bengaluru and Central Prison Bengaluru.
- 3) According to the MER under Section 176 (1-A) of Cr.P.C and final opinion of the doctors, death of the victim was caused by Toxemia as a result of burn injuries and Antemortem burn injuries. The victim Tippeswami was in Tumkuru Prison and had sustained burn injuries due to leakage of L.P.G gas in the kitchen. He was shifted to Bengaluru Central Jail on 19.07.2019, after providing first aid and then he was shifted to Victoria Hospital, Bengaluru,

where he died on 22.07.2019. It appears that the jail authorities had not taken any proper step or precautionary measures and due to that alleged incident happened due to leakage of L.P.G gas in kitchen and whether the incident in question occurred due to negligence of jail authorities could be ascertained by detailed investigation. According to the MER report, the alleged place of incident and the final opinion of the doctor in the post-mortem report created doubt regarding natural death in view of the allegations of witnesses. The jail authorities were required to hold an enquiry, and a copy of such report was also ordered to be sent to this Commission.

- 4) Upon reference to the A.D.G.P attached to the Commission the Findings and Opinion as under, is placed on record;

“Findings

The following documents are unavailable, in the file.

- 1. Medical records of the treatment given at Tumkur district hospital,*
- 2. Medical records of the treatment given at Victoria hospital,*
- 3. FIR report,*
- 4. Requisition letter to the Magistrate,*

5. Final Report submitted by the police to the court,

“Opinion

The Honorable Magistrate mentioned 4 burn injury marks on the body of the deceased in column no: 7 of the inquest.

The P.M report also mentions the burn injury marks on the body of the deceased and opined “death is due to Toxemia as a result of Burn Injuries Sustained”.

In the inquest the Honorable Magistrate has mentioned in his MER that an enquiry should be conducted to ascertain if there has been a negligence on the part of the Tumkur Jail Authority which caused the leakage of gas and fire in the prison kitchen or any other reason for the same, but no enquiry has been initiated.”

- 5) Then the Superintendent of Jail, Tumkuru was called upon to remain personally present and the records of treatment of the victim have been placed on record. Ms. Shantamma, Assistant Superintendent, District Prison Tumkuru has been examined on oath before this Commission. She has stated *inter alia* that on 18.07.2019, upon hearing shout of her staff, she rushed to the kitchen

and called staff to douse the fire. Two prisoners, who were cooking in the kitchen, came out and were provided first aid. She called hospital staff to apply oil with cotton on the spots of burn injuries. There was no medical staff or even a nurse in the jail dispensary. There is no sanctioned post of medical staff or nurse in the jail dispensary. Thippeswamy had burn injuries on the head and his hair was actually on fire. So she called driver and a vehicle to take injured prisoners to hospital and sent them to hospital at 8.05 p.m. Upon an enquiry she found that the accident had happened when tempering was being given by a mixture of oil, mustard and curry leaves in the kitchen by which it caught fire. In discharge summary of deceased Thippeswamy from the District Hospital, Tumkuru at 9.30 p.m. the prisoner was shown to have been referred to plastic surgery department of Victoria Hospital with diagnosis of 30% burns. He was shifted to Bengaluru Prison at 9.55 p.m. on 18.07.2019 from Tumkuru Prison and early morning at 2.45 a.m. on 19.07.2019 the prisoner was shifted from Bengaluru Prison to Victoria Hospital. The Victoria Hospital recorded in the history of the case that “the incident took place when the patient went to switch on the leaking gas

stove unknowingly and the cylinder burst leading him to sustain injuries to his upper limbs, both the lower limbs and his face”

6) From her enquiry, her assumption was that the cooking stove valve was not fully and properly shut and therefore gas might be leaking, while performing oggarane (Tadka). The free gas in the air might have caught fire and injured the cooks. The deceased prisoner was working in the kitchen as a cook since April-2019. That jailor is responsible for proper maintenance of equipments of the jail kitchen. She had never called any technical person for servicing or maintenance of any of the kitchen equipments. The accident in the present case could have been prevented if one warder and jailor were present or taken necessary care for prevention of such incident. As far as she knew the deceased prisoner had in his family his father, mother and a brother who were living in Chitradurga.

7) The report dated 24.09.2020 of Superintendent, District Prison, Tumkuru stated that, as desired by the deceased prisoner by himself, he had been assigned the kitchen duty on 01.04.2019. He used to work about 6 to 7 hours daily in

preparing breakfast, lunch and dinner for prisoners. As per rule a daily cooli of Rs.100/- had to be transferred to his bank account directly. Since there was delay in furnishing the bank account details, the amount in that regard had not been paid. After the incident an emergency call was made to Bharat Gas Company asking them to verify the gas equipments. After verifying the gas equipments, the Gas Company has stated that everything was in order and no repair was necessary.

- 8) Rule 96 of Karnataka Prison Rules, 1974, reads as under;

“Compensation- No claim for compensation by relatives of the prisoners shall be entertained by the Government if he meets with accidental death or injury while employed on work undertaken by the prison, provided that if a prisoner while employed inspite of having taken all reasonable precautions meet with an accident resulting in physical or mental disability or serious injury or death or loss of health due to occupational diseases, if so certified by the Medical Officer, the Superintendent shall make

recommendations to the Inspector-General for transmission to Government and Government shall decide the amount of compensation to be paid to the prisoner or his dependents.”

- 9) In the facts of the present case no claim for compensation by relatives of the deceased prisoner appears to have been made. However, as required under the proviso, an accidental injury has resulted in the death of the prisoner and no recommendation to the Inspector General is stated to have been made to decide and pay the amount of compensation required to be paid to the dependents of the prisoner. It is clear from the reliable material on record that, the deceased prisoner died of burn injuries while discharging his duties as cook, for which he was to be paid Rs.100/- per day. It is an admitted position that, the Superintendent, District Prison, Tumkuru had never called any technical person for servicing or maintenance of any of the kitchen equipments; and the accident could have been prevented if one warder or jailor were present and necessary care for prevention of such incident were taken. No independent enquiry has been held into the accident of fire

to find out the real cause. And there was no medical staff or even a nurse in the jail dispensary. There was no sanctioned post of medical staff or nurse and critical time after injury to the prisoner was wasted in transferring the prisoner from Tumkuru Prison to the Prison in Bengaluru, and then to the Victoria Hospital, where he was admitted at 2.45 a.m. on 19.07.2019. That means, immediate necessary treatment was neither available nor provided by the jail authorities. Such lapses in providing health care and medical care is persisting across the State inspite of several recommendations in so many cases made by this Commission in last 3 years. That amounts to negligence on the part of State by failing to take responsibility of ensuring protection of right to life of the prisoners whose average population in the State is reported to be above fifteen thousand.

- 10) In the fact of the present case the victim of the accident was made to work at below the minimum wage in a hazardous operation and he was only an under-trial prisoner not convicted of any offence. Still, he was earning

a paltry amount of Rs.300/- per day and his age was only 26 years with a family of dependents.

11) In the above facts and circumstances the State is required to pay a reasonable amount of compensation for negligence, accidental injuries sustained during employment and incarceration and for failure in providing immediate appropriate medical care after the accident.

12) Therefore, it is recommended that,

a) The State of Karnataka, in its Department of Home/Prisons should pay to the father of the deceased, Shri Krishna Reddy the sum of Rs. 9,00,000/- with interest @ 9% p.a from the date of death, i.e. 27.02.2019 till the date of payment, within one month by Demand Draft or account pay Cheque in his name by way of interim compensation for violation of Human Rights of the deceased prisoner Shri Thippeswamy.

b) As already recommended in H.R.C No. 1156/10/31/2021-JCD order dated 23.03.2022 the State Government should ensure as under:

“The Additional Chief Secretary of the departments concerned of the Government of Karnataka should look into the issues involved in generally pathetic health care conditions in the prisons across the State, so as to improve the standard of medical care in prisons and improve the system so as to provide regular, adequate and emergency medical help to all the prisoners as, where and when required.”

- c) The State Government is at liberty to recover the amount of compensation recommended to be paid under this order from such of its officials as may be found to be responsible or negligent, after holding an enquiry in accordance with law.
- 13) It may be appropriate to point out at the end that under the provisions of Sec.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 this Commission is received, it may be considered by the Commission for appropriate order.

- 14) A copy of this Opinion, Report and Recommendations shall be sent to the informant and respondent forthwith.

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

Sd/-
(K.B. Changappa)
Member

Sd/-
(Shri R. K. Dutta)
Member

PSD