

Handcuffing is unconstitutional - but practiced openly by police of Mekhliganj, Cooch Behar

Kirity Roy <kirityroy@gmail.com>

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To: NHRC Complaint <cr.nhrc@nic.in>

Cc: Chief Secretary Gov of WB <cs-westbengal@nic.in>, "Home Secretary Govt of W.B." <wb.secyhome@gmail.com>, "DG & IGP, West Bengal Police." <dgpwestbengal@gmail.com>, SP Cooch Behar <spcbr@policewb.gov.in>, SDO Mekhliganj <sdomkg@gmail.com>, DM Cooch Behar Kaushik Saha <dmcoochbehar@gmail.com>

To
The Chairman
National Human Rights Commission
Manav Adhikar Bhawan
Block-C, G.P.O. Complex, INA
New Delhi-110023

9 April 2022

Respected Sir,

I would like to attract your attention towards the continuous practice of roping and handcuffing of prisoners inside court premises. On March 31, 2022 at around 12:32 pm it has been noticed that one prisoner, who was taken inside the Additional District & Sessions Judge's court, Mekhliganj from the lock up of Mekhliganj Police Station by one civic volunteer (not police), was tied with handcuff by his hand. It is a pitiful sight to witness the process of dragging the under-trial prisoner.

The situation establishes that still fetters either handcuff or rope is used to hold on to the prisoner. No doubt that the use of handcuffs and ropes in securing the prisoners is a use of force and therefore it must stand the test of rationality where the following court verdicts held that no handcuff is the rule and issued guidelines for police and jail authorities to pass the test of reasonableness before putting handcuffs or other fetters on prisoners during transit from jail to court and back.

Prem Shankar Shukla vs. Delhi Administration 1980 SCC 526- The Supreme Court of India held that

handcuffing is prima facie inhuman, and therefore unreasonable, is over harsh, and at first flush arbitrary.

Citizens for Democracy vs. State of Assam and others-(1995)3SCC743- In this judgment the Supreme Court of India issued specific guidelines for putting handcuffs.

Despite the Supreme Court of India's order to prohibit using handcuffing and other fetters, flagrant violations continue in West Bengal. Handcuffing and roping of detainees and prisoners remain widely prevalent despite judicial interpretation clearly establishing that it is against the protection of right to life guaranteed under Article 21 of the Constitution of India. It may also be noted that MASUM is continuously fighting to stop such ill practices.

Under the circumstances, I request you to look into the matter so that handcuffing and roping of the detainees in West Bengal in arbitrary way can be stopped immediately in compliance of the directives issued by the Supreme Court of India.

I also demand that the whole matter must be enquired into by one neutral enquiring agency preferably by the Commission's own investigating wing and the perpetrators involved in this case must be punished accordingly.

Thanking You
Yours truly

Kirity Roy
Secretary, MASUM
&
National Convener, PACTI

