

It's a Slaughter House Sajid Kamaal

Information is the oxygen of democracy. Without information citizens cannot possibly participate in decision making process —access facilitates public knowledge and discussion.

In replying to the RTI application dated 22-1-09 about

(i) No. of persons died under judicial and police custody from 1977-2008 (name and address of the victims) in West Bengal,

(ii) Name and Rank of the police officers who were involved,

(iii) Action taken by the state govt against the guilty police officer,

(iv) Compensation if any given to the victims family.

The Govt of West Bengal (Special Inspector General, State Crime record Bureau) provided some hard truth which is beyond the imagination of any concerned citizen.

Figures are not really for fun :

Judicial Death-228, Police Station Death-33, Hospital Death-39, Not mentioned-30, Total Death-330.

The chilling figures reveal the nakedness of the govt. in protecting the rule of law and basic human rights of its citizens. Article 21 of the constitution lays down that nobody may be deprived of his life or liberty except according to the procedure established by the law. International Human rights standards require that govt. undertake full investigation into all reports of torture and death in custody, bring those responsible to justice. Failure to do so means that victims and their relatives are denied justice and truth is withheld from the society at large.

According to RTI Act information must be provided to the applicant within 30 days. But the applicant received information after eight months and the way information is given it seems that govt. is determined to check transparency of its department or reveals its weakness itself. Applicant's second quarry was the names and ranks of the police officers who were involved in custodial killing. It is a matter of regret that out of 330 killings only in 19 cases the list has been provided and in the rest of the cases either it is mentioned nil or records not available or doesn't arise. It is ridiculous that a person has been killed and the govt. fails to find its guilty police officer. This information mocks the commitment of the govt. in protecting the human rights of its citizens.

Custodial death can't be prevented unless the govt. take action according to the law against the guilty police officer. If the govt. doesn't do so then it reveals that govt. is promoting this extra-judicial killing. Section 330 and section 331 of the IPC says that torture of an individual to extract information is a crime punishable with upto 10 years of imprisonment. Death due to torture is murder as defined in section 302 of IPC for which the maximum punishment is death. Section 29 of the police Act 1861 makes a police official who commits any unwarrantable personal violence to any person in his custody liable to loss of pay of three months or imprisonment not exceeding three months. Sections 24,25,26,and 27 of the Evidence Act are also meant to protect persons suspected of crimes from police custody.

The supreme court in a series of cases has come down heavily on the police. In D K Basu vs the State of WB the SC observed that custodial torture is a

naked violation of human dignity and degradation which destroys to a very large extent, the individual personality. It is a calculated assault on human dignity and whenever human dignity is wounded the civilization takes a step backward. The court hoped that the state at the highest administrative and political level organize special strategies to prevent and punish brutality, otherwise the credibility of the rule of law in the republic will deteriorate.

According to RTI information the govt. took action against the 16 accused police officers during the period 1977 to 2008. Out of 330 total custodial deaths only in 7 cases the accused police officers were suspended but what the departmental action being taken was not known to anyone. And in the rest of the cases only the increment was stopped. Rest of the column are filled with nil, guilty couldn't be established, records not available. It is ironical that a person has been killed because of custodial violence and the govt. itself accepts that guilty couldn't be established and records not available.

Out of total 330 custodial deaths only in two cases govt. has given compensation. One as per the recommendations of WBHRC of Rupees 10000 and to other Rs 100000 against whom the CBI cases is pending.

Article 21 of the constitution is a remedy. Since the purpose of the law is not only to civilize public but also to assure the citizens that they live under the legal system. But the RTI responses reveal that govt. persistently resisted all attempts to establish the right to monetary compensation for wrongful actions by their agents. The SC in many instances awarded the monetary compensation. In 1981 Bhagalpur blinding case the SC awarded Rs 75000 compensation to Mrs Kamlesh Kumari whose 9-year-old son was beaten to death by Delhi Police. The SC while awarding the compensation said that the plea of sovereign immunity has no application in the custodial death and is no defence for the state to escape from its liability to pay compensation which again shows its commitment to the human rights as well as to curtail custodial violence.

The RTI application also reveals that in 51 cases the name and address of the victims has not been mentioned which is again the violation of the guidelines laid down by the SC in D K Basu vs State of W.B.

Out of total 330 custodial deaths in whole state 123 killings took place in south 24 parganas alone and out of this 93 killings took place in Alipore Correctional Home. This is the face of democratic rule in what is called the red citadel. □□□