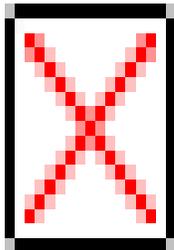


## Has Kolkata Customs turned a 'killer'? Should National Human Rights Commission step in to bring the truth to surface!

By TIOL News Service



**KOLKATA, Sept 26, 2005 : WHAT**

a glaringly unfortunate contrast! - Union Government is bracing up to commit itself to higher levels of trade facilitation measures but Kolkata Customs seems to be going back to its 'killer instinct days' when smuggling was a serious threat to exchequer's interests. "Kolkata Customs has turned a killer." This is how a senior Customs official commented when TIOL referred to the recent, widely reported incident in which officers of West Bengal Preventive Commissionerate have been accused of killing a young but poor boy at Malda Customs House. What was his fault?

After scrutinising inputs received from various quarters and facts reported by various newspapers the TIOL News Room found that the story goes like this : The West Bengal Preventive Commissionerate got some intelligence that one of its field formations at Raiganj Customs has seized a consignment of locally grown ganja but the quantity was underreported in the seizure memo and the same was sold out to some traders. Quick, a posse of super sleuths from Special Investigation Unit from headquarters was dispatched to stem the rot or mess up the issue!

But the super sleuths, having got unlimited mandate from their seniors, went berserk! They first searched the house of the trader who had supposedly bought the unreported quantity from the allegedly corrupt officers. But nothing was found except a statement that the same was sold off to another petty trader. Soon landed up the team to the petty trader's house and found about 50-60 kg ganja after rummaging his premises. A statement was recorded where the petty trader reportedly admitted that the same was bought from the earlier trader and he had no information about the smuggling or illegal nature of the consignment.

Anyway, he was picked up along with his 30-year-old son. Though the father vouched that his son does not work with him and he finances his own studies by undertaking tuitions but the Customs sleuths did not agree and dragged him as well to Malda Customs House. His father once again told the Customs that his son may be set free as he knew nothing about his business and he has recently qualified in the Staff Selection Commission exams. But no compassion was apparently shown and the duo of father and the son were locked up. All this reportedly happened on September 21.

Then on September 24, sources said that the body of the petty trader's son was found hanging in the bathroom of the Custom House. Though the Customs Commissioner, Ms Lipika Majumdar, defends her team and says with aplomb that her officers would not have possibly beaten him to death and the boy might have committed suicide but could not answer TIOL query whether the duo of father and son were picked after following proper legal procedures. An allegation has been made against the Customs that they had picked up the duo without proper arrest warrants.

While the Customs does not actually require an arrest warrant to arrest people, they are bound by the orders of the Supreme Court in **DK Basu vs STATE OF WEST BENGAL & STATE OF U.P.** - [2002-TIOL-230-SC-MISC](#). The Supreme Court had laid down the following guidelines to be followed while arresting:

- 1) The personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such personnel who handle interrogation of the arrestee must be recorded in a register.
- 2) That the officer carrying out the arrest shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest.
- 3) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as

practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

- 4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.
- 5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon he is put under arrest or is detained.
- 6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.
- 7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer affecting the arrest and its copy provided to the arrestee.
- 8) The arrestee should be subjected to medical examination by trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory. Director, Health Services should prepare such a panel for all Tehsils and Districts as well.
- 9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the Magistrate for his record.
- 10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

The Court had also clarified that what applies to Police applies to other arresting agencies – including Customs.

**Has the Customs followed any of these requirements?**

With the news spreading out in the township, a mob collected and attacked the Custom House; ransacking furniture and papers and also damaging vehicles. Having seen the irate mob, the super sleuths quietly sleathered away to Kolkata, **leaving behind poor local officers to fend for themselves.** Quick came the local police which had to resort to lathicharge to control the mob. An FIR has been lodged against the Customs officers.

Local councilor has been reported by the local media, stating that the boy was beaten to death by the Customs officers as his feet were found touching the ground when his body was spotted in the bathroom and one cannot possibly commit suicide in this state.

Though a major chunk of this story calls for detailed and intensive investigation which the local police cannot do impartially, what calls for a proper clarification from the Customs senior officers is that did the Customs lock up the duo of father and the son without doing any proper paperwork? Was the arrest proper and **did they follow the Supreme Court guidelines?**

Was the offence so grave that the Customs had resorted to such brutal approach? Or, Customs did not do anything and the boy hanged himself to death out of humiliation or frustration arising from the fact that his career was ruined after his arrest?

At this stage it is difficult to say what actually happened there but there are many gaping holes in the Customs story and Customs will have to do a lot of explaining before it can be acquitted of all these charges. But, unfortunately, the West Bengal Preventive Commissionerate has of late come to be known for messing up sensitive issues like the sea lions which had Menaka Gandhi to take up the cudgel but who will do for this poor boy who lost his life for no valid reason?

Going by the present set of reports and facts being reported, it appears to be a fit case for the National Human Rights Commission to step in and bring the truth to the surface so that the Customs' claim that they did not do anything could be upheld. But, worse was the response of the senior most Customs officer in Kolkata. The Chief Commissioner, Mr S Basu, when contacted by TIOL News Service, simply passed the buck to the Commissioner rather than taking charge of the delicate scenario. Given that serious human rights violation allegations have been flying thick he should have briefed the media at least about the Customs official stand, leave aside their notorious unofficial behaviour. It is learnt that Mr Basu has so skillfully specialised in this art of keeping himself inactive and away from sensitive issues that he **has so far not even briefed the Ministry of Finance about the details of what happened there?**

As we upload this we are informed that the Customs administration has taken action against a few innocent officers of the Malda Customs who had nothing to do with this sordid drama. Is it always the innocent who get punished? We also understand that the high profile MP from this area and Water Resources Minister Priya Ranjan Das Munshi has already been approached by the local people and he might be writing to the Finance Minister soon. It is also learnt

that Mr Munshi was never impressed by the working style of West Bengal Preventive Commissionerate in the past and had urged the MoF top brass for a change.

It is high time the MoF top brass does something drastic to enforce some discipline in Kolkata Customs which has of late come to be known for its growing graph of arbitrariness, indiscipline and shoddy habits of making news for wrong reasons!