



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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February 18, 2021

To,
Mr. CS Mawri,
Focal Point - Human Rights Defenders & Assistant Registrar,
National Human Rights Commission,
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA,
New Delhi – 110 023
Email: hrd-nhrc@nic.in

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action- Uttar Pradesh: FIR filed against HRDs in Varanasi by the Uttar Pradesh Police for organising peaceful protests.

Greetings from Human Rights Defenders Alert - India!

HRD Alert - India is a forum of Human Rights Defenders for Human Rights Defenders. It endeavours to initiate actions on behalf of Human Rights Defenders under threat or with security concerns.

We are writing to express our grave concern regarding the FIR lodged on HRDs Mr. Nandlal Master, Mr. Sunil Master, Ms. Anita Patel, Mr. Shyam Sunder and Mr. Amit by the Varanasi police for organising a peaceful protest against the new farm laws and police repression.

Source of Information:

- Communication with the HRDA North Regional Consultant
- Media Reports
- Communication with local HRDs

Date and Time of Incident:

January 29, 2021

Place of Incident:

Nagepur, Varanasi, Uttar Pradesh

The Perpetrators:

- Police Personnel of Mirzamurad police station, Varanasi, Uttar Pradesh
- Mr. Sunil Dutt Dubey, In charge of Mirzamurad police station, Varanasi, Uttar Pradesh.
- Mr. Parveen Kumar Mishra, Sub-Inspector, Mirzamurad police station, Varanasi, Uttar Pradesh.

About the Human Rights Defenders:

- Mr. Nandlal Master (43) is a convener of “Lok Samiti Sanstha” and has been providing free education to poor children through his organisation and working for education of backward and Dalits for last 27 years. He also runs the “Asha Samajik School” in village Nagepur, adopted by the Prime Minister. He is also associated with several social and human rights organisations.
- Mr. Suneel Master (32) is a teacher and member of “Lok Samiti Sanstha”. He works for the education of backward and poor children.
- Ms. Anita Patel (27) is associated with “Lok Samiti Sanstha” and works for education of the village women and against domestic violence and gender discrimination.
- Mr. Shyam Sunder (37) is a social worker and has been teaching and working for the poor, backward and Dalit children for almost 20 years. He is associated with “Lok Samiti Sanstha” and several social and human rights organisations.
- Mr. Amit (also known as Munna Rajbhar) (30) is a Dalit activist and has been teaching poor, backward and Dalit children. He was instrumental in relief work in backward areas in the lockdown period.

Details of the incident:

On January 29, 2021, the villagers of Nagepur held a rally and dharna in Nagepur, Varanasi under the banner of "Lok Samiti Sanstha". Copies of new agricultural law and effigy of central government were burnt in protest and the participants demanded withdrawal of all three agricultural laws and to remove fake cases against farmers. The protest ended peacefully.

After the protest, there were several newspaper and social media reports regarding this protest in the village adopted by the Prime Minister Mr. Narendra Modi. Around 9:00 pm, Mr. Nandlal was informed by an unofficial call that a FIR is being registered on him.

On January 29, 2021, at 11:34 pm an FIR was registered by Mr. Parveen Kumar Mishra, Sub-Inspector, Mirzamurad police station, Varanasi, under IPC Sections **188-** (disobedience to order duly promulgated by public servant); IPC **504-** (intentional insult with intent to provoke breach of the peace.); IPC **270-** (malignant act likely to spread infection of disease dangerous to life); and, IPC **269** – (negligent act likely to spread infection of disease dangerous to life.)

On February 02, 2021, Mr. Mishra and another policeman reached Nagepur with a notice which asked the above named HRDs to assist in the investigation and to appear at the summons of the court if the need arises. The names of five people are listed in the FIR but Ms. Anita's name was not in the notice. Rather, the new name is Ms. Chandramukhi, another WHRD in Nagepur, Varanasi. It is beyond comprehension, why one of the names listed in the FIR was removed from the notice and a new name is inserted in notice.

We believe that this FIR is completely arbitrary, illegal, and serious violation of constitutionally guaranteed right to free assembly and expression by the Uttar Pradesh police. Their purpose is to gag democratic dissent against the government.

The Indian Constitution gives its citizens the right to peaceful protest. It's a breach of Article 19 (1) (a) of the Indian Constitution which guarantees to all its citizens the right to freedom of speech, assembly and expression. The Supreme Court in Shreya Singhal v. State (2015) had observed that there are three concepts which are fundamental in understanding the reach of this most basic of human rights which are discussion, advocacy and incitement. Mere discussion or even advocacy of a

particular cause howsoever unpopular is at the heart of Article 19(1)(a). It is only when such discussion or advocacy reaches the level of incitement that Article 19(2) kicks in. Article 21 of the Constitution ensures to all its citizen right to life – a life to live without fear, intimidation, harassment or mental torture. Article 19 (1) (b) of the Constitution guarantees the right to peacefully assemble and it is evident that the acts of police by criminalising a peaceful protest by the HRDs is violative of this fundamental right.

Article 19 of the Universal Declaration of Human Rights (UDHR) also proclaims the right to freedom of expression, which includes freedom “to seek, receive and impart information and idea through any medium regardless of frontiers”. Article 19 of the International Covenant on Civil and Political Rights (ICCPR) sets forth the right to freedom of opinion, expression and information. Also, The Declaration on Human Rights Defenders, adopted in 1998 by the UN General Assembly states that governments are under a duty to “take all necessary measures to ensure the protection of human rights defenders by the competent authorities against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary actions” as a consequence of their efforts to promote human rights. Therefore, the Indian government is bound by its international legal obligations to ensure that all activists and human rights defenders are provided with security against harassment or intimidation so that they may enjoy their constitutional right to due process, life and liberty under Article 21, and the right to freedom of speech and expression and peacefully assemble under Articles 19(1)(a) and (b) of the Constitution of India.

Appeal:

HRDA would like to express our grave concern about the abuse of power by the district administration and police personnel of Varanasi, Uttar Pradesh. The Hon'ble Commission should urgently:

- Direct the Director General of Police of Uttar Pradesh to conduct an immediate, independent, thorough, transparent, effective and impartial investigation into the above-mentioned incident of fabricated FIR against HRDs for a peaceful protest and submit the report to the Hon'ble Commission within 2 weeks.

- Direct the Director General of Police of Uttar Pradesh to take steps to file closure report in the FIR against the five HRDs for exercising their constitutional right to peaceful protest and initiate disciplinary and penal proceedings against the police personnel for misuse of powers.
- Direct the Chief Secretary of Uttar Pradesh to provide compensation of Rs. 1,00,000 each to all five HRDs for the mental and psychological sufferings they continue to undergo because of arbitrary police actions.
- Direct the Chief Secretary of Uttar Pradesh to ensure that social activists and human rights defenders in the state of Uttar Pradesh are allowed to carry out their genuine human rights work as per the fundamental rights enshrined in the Constitution.
- Take steps to conform to the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998 which recognizes the legitimacy of the activities of human rights defenders, their right to freedom of association and to carry out their activities without fear of reprisals.

Looking forward to your immediate action in this regard

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a horizontal line underneath it.

(Henri Tiphagne)

National Working Secretary