

Human Rights Defenders Alert - India

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May 17, 2012

Ms. Margaret Sekaggya

Special Rapporteur on the situation of human rights defenders,

c/o Office of the High Commissioner for Human Rights - Palais Wilson

United Nations Office at Geneva

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Dear Ma'am,

Sub: HRD Alert - India - Urgent Appeal for Action -India/New Delhi/Vasant Kunj - Death of RTI activist Ravinder Balwani under mysterious circumstances - Reg

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 now writing to express our grave concern over the mysterious death of RTI activist Mr. Ravinder Balwani in Vasant Kunj.

Incident

Name of the Perpetrators: Unidentified

Place of incident: Vasant Kunj Market, New Delhi

Date of incident: 23rd April 2012

About the activist:

Mr. Ravinder Balwani (61) was an RTI activist, a crusader against corruption and an aide of RTI activist Arvind Kejriwal and a member of his NGO, Parivartan. Balwani was a retired manager of Delhi Transco Limited.

Balwani had been filing RTI queries since 2001. He used the RTI to probe corruption particularly in the power sector and could have made powerful

enemies. Recently he had pursued a case pertaining to alleged misuse of resources by a senior power sector official in the Delhi high court.

He is survived by his wife, Anjana, a former school teacher, daughter Sonia, who is a physiotherapist, and son Varun, who works in the hotel industry.

After retiring from Delhi Transco, a government power utility in 2010 as a manager, Balwani had levelled charges of corruption against senior government officials and politicians. In 2009, he had complained to the Indraprastha Police Station Station House Officer (SHO) on getting threat calls. He was receiving so many threats that he stopped sharing them with his family in the past year.

Case Narrative:

According to the information, on April 23, 2012, Mr. Ravinder Balwani was reportedly hit by a vehicle while he was returning from a case hearing in the Delhi High Court. He was found fatally injured in Vasant Kunj Market, which is less than 2km from his house, in the evening and died of head injuries on April 26, 2012 at AIIMS Trauma Centre.

Meanwhile, his daughter Sonia said that the family suspected that there could have been foul play behind his death and that he could have been murdered, as in the past he had also lodged a complaint at the IP Estate Police Station stating that he feared for his life. Mr. Balwani had in the complaint stated that he apprehended a threat from a senior power official against whom he had lodged a complaint with the Lokayukta.

But the Delhi Police had refused to take a complaint from the family in the matter after Mr. Balwani's death under mysterious circumstances. The Investigating Officer ASI Rai Singh approached his son while he was in a Gurgaon hotel, where he works. The police officer later received the complaint from the family. Balwani's family alleged that he was killed after repeated threats and that police were writing it off as an accident. No arrests have been made and police claim there were no witnesses to the incident in Vasant Kunj market. Vasant Kunj (North) police said there was enough evidence that it was an accident. Balwani's family has alleged that

several papers on court cases which Balwani was carrying with him were "frantically searched" and important documents could have gone missing. The family wants a thorough probe and justice.

The postmortem report handed over to the family on 14th May 2012 states that, "The cause of death is head injury and its implications as a result of blunt force impact. All injuries are ante-mortem in nature."

The family alleged that the postmortem showed only head injury, which was improbable given that Balwani stood 6 feet 3 inches tall and a collision impact would have left other injuries as well.

Denying the charges, police maintained that investigations were on and efforts being made to locate the vehicle in the accident. There are no witnesses or arrests yet.

Balwani's family had met the Information Commissioner Shailesh Gandhi seeking his intervention in directing the police and other agencies to investigate the case and actively pursue the corruption cases. Balwani's death also renews focus on RTI activists' increasing vulnerability.

Background incident:

Just a week before he sustained fatal injuries in a mysterious hit and run case in Vasant Kunj, Ravinder Balwani had withdrawn a petition before the Delhi Lokayukta as he wanted to bring in a fresh application with more details in the matter of installation of power plants in Delhi without allocation of gas for them.

It is reported that he has filed three complaints in the office of the Lokayukta. One was against a senior official in Transco for allegedly misusing his official position for personal benefit. Another was against two former members of Delhi Electricity Regulatory Commission. This case was regarding revision of electricity tariff by DERC. The order of the Lokayukta had been reserved in this matter.

A third case was against Delhi Chief Minister Sheila Dikshit and Power Minister Haroon Yusuf in a matter concerning installation of power plants

without adequate allocation of gas to them. This had been dismissed by the Lokayukta as it was withdrawn by Balwani later.

In his order of April 16, Delhi Lokayukta Manmohan Sarin had “dismissed as withdrawn with liberty” the application by Mr. Balwani in the complaint bearing No. C-1297/Lok/2009 which he had filed against Delhi Chief Minister and others since the complainant had wanted inclusion of more people as respondents in the case.

Mr. Sarin had said in the order that Mr. Balwani had noted that the Office of Lokayukta had allowed on March 14 the amendments by which the name of a power company official was added as respondent No. 4 in the complaint.

On April 16, the order said, Mr. Balwani had submitted that “he had moved RTI applications” and “replies in response to the complaints had revealed involvement of other public functionaries. The Lokayukta had noted that Mr. Balwani “would like to amend the complaint and include them as parties and add additional facts as disclosed.”

Mr. Sarin had also stated in the order that “complainant (Mr. Balwani) had submitted that in view of the fresh material that had come to his knowledge, he would like to file a consolidated complaint and seek leave to withdraw the present complaint with liberty to file the same incorporating the facts as gained from RTI responses and add two more respondents.”

“In view of the fact that the complainant appears to have worthwhile and relevant material as a result of RTI responses” and the fact that “in these fact finding inquiries, considerable freedom and latitude is given to the party to put up its best case”, Mr. Sarin had allowed Mr. Balwani's appeal for withdrawal of his complaint “with the liberty to file a fresh complaint with additional material and adding two respondents against wh-om he has cause for action”

However, Mr. Balwani could not file the fresh complaint as he was hit by a vehicle under mysterious circumstances.

Additional Information:

The Central Information Commission (CIC) will intervene in the alleged murder of RTI activist Ravinder Balwani. The CIC will also direct the public authorities concerned to declare suo moto on the website all the information that Balwani had asked for.

The Central Information Commission had passed a resolution in September 2011 in wake of the increasing attacks on RTI activists which would prove to be a deterrent to those seeking to silence activists. Incidentally, the Commission had taken up the matter in the wake of a series of attacks on RTI activists across the country.

The commission had resolved that 'if it receives a complaint regarding assault or murder of an information seeker, it will examine the pending RTI applications of the victim and order the department(s) concerned to publish the requested information suo moto on their website as per the provisions of the law'.

The Information Commissioner Shailesh Gandhi explained the thought behind this is that if the results of attacks on RTI users leads to ensuring that such information is put in public domain, the purpose (of attacking the activist) will be defeated.

Many activists routinely face serious physical assaults as well as other punishment for bringing the corrupt under a scanner and demanding greater government transparency.

It would be a cruel joke if RTI remains on the statute books, but the law and order machinery fails to protect those who make use of its provisions.

Appeal

We, therefore, urge you to immediately take necessary steps to

1. Conduct a prompt, thorough and impartial investigation into the alleged murder of RTI activist Mr. Ravinder Balwani, the result of which must be made public, with a view to identify and bring those responsible to justice in accordance with national and international standards;

2. Ensure that the possible connection between the RTI activist's murder and his activities related to sort information in exposing officials, politicians and vested interest of the area for their lapses and corrupt practices to be investigated along with other suspicions by a high level probe team;
3. Ensure that the government takes adequate measures to protect RTI activists and also that the police take complaints about threats to RTI activists seriously;
4. Create an enabling environment and guarantee in all circumstances that RTI activists in India are able to carry out their legitimate activities without fear of reprisals, and free of all restrictions including judicial harassment.

Looking forward to your immediate action in this regard,

Yours sincerely,



Henri Tiphagne

Hon. National Working Secretary,
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