

Human Rights Defenders Alert - India

National Coordination Office

No.6, Vallabhai Road, Chokkikulam, Madurai 625 002, Tamil Nadu, INDIA

Tel: +91-452-2539520 Cell Phone: +91-9994368540 Email:hrda.india@gmail.com

Madurai, 22nd October 2010

Shri A. K. Parashar
Focal Point - Human Rights Defenders
National Human Rights Commission
Faridkot House
Copernicus Marg
New Delhi-110001

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action - Tamil Nadu: Handcuffing of trade unionists protesting Foxconn Management - 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 about the handcuffing of 13 trade union leaders including CITU state secretary A. Soundarajan after their arrest for going on strike for union recognition and wage rises at the Foxconn plant located in a Special Economic Zone in Tamilnadu, despite Court rulings against it.

Issue

On October 9, police arrested hundreds of workers who had been picketing and striking the plant for 18 days. Around 319 workers including the trade union leaders ITU state secretary A. Soundarajan and its Kanchipuram district secretary E. Muthukumar were remanded into judicial custody and transferred to Vellore central jail. On October 13, the court granted bail to 307 workers. The remaining 12 workers and union leaders remain in jail, including A. Soundhirarajan, CITU State General Secretary and E. Muthu Kumar, CITU District Secretary, Kanchipuram and Foxconn India Thozhilalar Sangam (FITS) President. Soundhirarajan and the 12 other members of the

union were handcuffed when they were produced before the court in Uthiramerur on the 13th of October 2010. When they were handcuffed outside the prison at 1.30 p.m. Mr. Soundhirarajan protested saying that there are Supreme Court Judgments against handcuffing and he himself is a person who has lodged cases against handcuffing, police officials Ayyanu and Selvarani ridiculed him and asked him if he could produce the court orders and added, "What use is there in us being police if we are not able to do what we want to".

The journey from Vellore Prison to the Uthiramerur Court takes 4 to five hours and they remained handcuffed in the van that took them to the court in a handcuffed state during this time. The handcuffs were removed just before they were produced before the Magistrate. Mr. Soundhirarajan reported this to the Magistrate. They were not handcuffed on return to the Prison.

Mr. A. Soundararajan wrote to Director General of Police (DGP) Letika Saran that he and other members of the union were handcuffed when they were produced before the court in Uthiramerur. "It is against human rights," he said. But DGP Letika Saran on Tuesday October 19, 2010 denied handcuffing of union leaders, including CITU general secretary A. Soundararajan, when they were taken to court at Uthiramerur. She said in a statement that police personnel who accompanied the 11 unionists and Mr. Soundararajan did not handcuff them. They did not even attempt to do so. As they were charged under Tamil Nadu Public Properties Damage and Loss Act, the police, as a precautionary measure, took handcuffs, but never even attempted to handcuff the trade union leaders while taking them to the Uthiramerur court, the DGP clarified.

The Court has granted the 12 persons bail today the 22nd of October, 2010 and the 12 persons are expected to be released by this evening.

Law of handcuffing:

In the case, *Sunil Gupta v State of Maharashtra*, (1990) 3 SCC 119 the Supreme Court held that handcuffing petitioners who are educated and not likely to flee from jail is unjust and unreasonable. In this case, the Supreme

Court directed the government to ensure that appropriate action is taken against the 'escorting party,' namely the cops, for handcuffing the petitioners. In a landmark case, *Citizens for Democracy v State of Assam*, (1995) 3 SCC 743, it was held that when a person is arrested based on a warrant of arrest that is issued by a Magistrate, the police shall not handcuff the said person unless the Magistrate has ordered handcuffing. It was also held that when the police arrest a person without a warrant, the person maybe handcuffed in consonance with the Supreme Court guidelines. However, once he is produced before the Magistrate, he cannot be chained or handcuffed without the orders of the Magistrate. In the same case, the Supreme Court had observed that handcuffing and chaining in public, "degrades and puts to shame finer sensibilities, and is a slur on our culture." It was further observed that handcuffing should be shunned as violative of human dignity.

Appeal:

We therefore request you to ensure that

- i) An enquiry is urgently ordered in this matter and Mr. A. Soundararajan, the General Secretary of CITU and the eleven other leaders be personally summoned and examined
 - ii) If it is proved that their handcuffing was carried out, each one of the handcuffed are paid a compensation of Rs.25,000 for the loss of dignity suffered by them and the same is paid from the personal salaries of the concerned policemen who actually escorted the trade union leaders
 - iii) NHRC conducts an enquiry to find out why and how the Judicial Magistrate of Uthiramerur who remanded them did not initiate action against the police
 - iv) Enquiry is done into how and from whom the DGP of Tamil Nadu came to find out that handcuffs were not used in this case
- and render justice.

Looking forward to your immediate action in this regard,

Yours sincerely,

Henri Tiphagne

National Coordinator

Human Rights Defenders Alert - India