



# Human Rights Defenders Alert - India

National Coordination Office

6, Vallabai Road, Chokkikulam, Madurai 625 002.

Tamil Nadu, INDIA

Tel: +91-9994368540 Email: [hrda.india@gmail.com](mailto:hrda.india@gmail.com)

**April 16<sup>th</sup> 2015**

The Chairperson  
National Human Rights Commission,  
Manav Adhikar Bhawan,  
Block-C, GPO Complex, INA,  
New Delhi – 110 023  
Email: [covdnhrc@nic.in](mailto:covdnhrc@nic.in)

**Sub: HRD Alert - India - Urgent Appeal for Action – Maharashtra: RTI Activist threatened while attempting to inspect files u/s/ 4 (1) of RTI Act – Regarding**

Dear Sir,

Greetings from Human Rights Defenders Alert - India!

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

We are now writing to express our grave concern regarding the threats issued to Right to Information (RTI) Activist Mr. Vijay Kumbhar while attempting to inspect files pertaining to a construction site in the Aundh-Pimple Saudagar area at the Pune Municipal Corporation office under Section 4 (1) of the RTI Act, 2005, called the “proactive disclosure” section.

#### **Source of Information on the Incident:**

- The Regional Coordinator of HRDA for the South of India
- The Human Rights Defender, Mr. Vijay Kumbhar
- Ms. Kamayani Mahibal of [www.kractivist.org](http://www.kractivist.org)
- Media reports

#### **The Human Rights Defender:**

Mr. Vijay Kumbhar is a 52 year old journalist and noted RTI activist from Pune in Maharashtra and has exposed corruption and financial irregularities in civic bodies and laid bare the builder-politico nexus by his effective use of the RTI Act. His

columns appear in Marathi newspapers like *Lokmat*, *Sakal* and *Pudhari*. He was Proprietor-Editor of a weekly named *Bimb-Pratibimb*. He has authored a book on Right to Information "*Pailu mahitichya adhikarache*" published by Prajakt Prakashan

### **The Perpetrators:**

1. Kailas Gaikwad, Congress Corporator, Pune Municipal Corporation (PMC) and brother of Dattatrey Gaikwad the Mayor of Pune
2. Gaikwad's builder acquaintance who urged for a peaceful resolving of the issue afterwards

### **Date of Incident:**

31<sup>st</sup> of March, 2015

### **Place of Incident:**

At the Pune Municipal Corporation in Pune in the Western Indian State of Maharashtra

### **Incident details:**

According to the sources, Mr. Kumbhar had tried to get information from the files pertaining to a construction site in the Aundh-Pimple Saudagar area (in which the Corporator Mr. Kailas Gaikwad of the Congress Party had interests) under the 'proactive disclosure' section 4 (1) of the RTI Act, 2005. At that time Mr. Gaikwad, who is also the brother of the Mayor of Pune Mr. Dattatrey Gaikwad, stormed in and brazenly threatened Mr. Kumbhar in front of PMC officials for "poking his nose" into affairs ostensibly not of Mr. Kumbhar's concern.

Mr. Kumbhar had told him that he was a resident of the neighbourhood where the construction was coming up, but Mr. Gaikwad who was present there with 10-12 persons is said to have menacingly told Mr. Kumbhar that he had to know that the project was the corporator's and that he would have to bear the consequences if he attempted to stymie it. Mr. Kumbhar politely told him that that since they did not know each other he could tell the officer whatever he wanted to. Then Mr. Gaikwad apparently said that it was his project and Kumbhar would have to bear the consequences if he attempted to stall it. Then Mr. Kumbhar left the office after telling the PMC official that it was not the way of giving file inspection.

An official complaint was filed with the Commissioner of Police Mr. Satish Mathur, describing the corporator's threat in detail and further requesting to take serious note of the complaint in the backdrop of continuous threats to whistle-blowers.

According to Mr. Kumbhar, Later the builder called him and said that corporators might not know him and he responded that it was not about who he was

and that anybody could inspect any file in the PMC and none should be threatened or intimidated while taking the information for that. Then in the evening the corporator called him apparently and asked him and asked why he lodged the complaint. When Mr. Kumbhar said that he had lodged complaint, the corporator is said to have apologized and said that a senior activist like him should not make issue of such things.

The next day, the office of the Commissioner of Police said that he could contact Shivajinagar Police Station as his complaint had been forwarded to them and Mr. Kumbhar then sent a copy of his complaint to the said police station too.

On the 4<sup>th</sup> of April, Mr. Gaikwad called the defender again and apologized and claimed that he did not have anything to do with the project which the defender feels is false because he needn't have threatened him or be present at the PMC at that time if he was not involved with the construction.

**Appeal :**

We, therefore urge you to immediately take necessary steps to ensure that the Superintendent of Police and the District Collector and District Magistrate of Pune

- Order an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned events of the threats issued to RTI Activist Mr. Vijay Kumbhar
- Take immediate action on the perpetrators for the threats issued to the human rights defender and using all provisions of law to ensure that the rights of Mr. Kumbhar are protected.
- Guarantee in all circumstances the physical and psychological integrity of Mr. Vijay Kumbhar, who is still under risk of further attacks from the perpetrators, at the cost of the state.
- Ensure provision of an apology to the defender for the psychological sufferings he underwent because of the threats and provide a re-assurance of not engaging in such acts against HRDs such as Mr. Vijay Kumbhar;
- Put an end to all acts of attack and harassment against all human rights defenders including RTI Activists like Mr. Vijay Kumbhar in the State of Maharashtra to ensure that in all circumstances they carry out their activities without any hindrances;
- Ensure the right to seek information guaranteed by the RTI Act and the Article 21 of the Constitution of India which guarantees personal liberty.

- Takes 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, especially:
  - Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels
  - Article 12.2, which provides that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”;
- Recommend urgently and speedily during the pendency of this complaint, the SHRC in Maharashtra to also take necessary steps to establish a state focal point for HRDs in order that HRDs in the have a new protection mechanism in their own state.
- Recommend urgently and speedily during the pendency of this complaint, the SHRC in Maharashtra to convene a meetings of all state human rights institutions in the state [women, minorities, right to information, disability, children etc] to ensure that a co-ordinated strategy is developed within the State of Maharashtra for the protection of the rights of human rights defenders.
- Recommend urgently and speedily during the pendency of this complaint, the State Government of Maharashtra in collaboration with the NHRC Focal Point on HRDs and the SHRC Maharashtra to provide sensitization training to law enforcement and security forces on the role and activities of human rights defenders as a matter of priority, with technical advice and assistance from relevant United Nations entities, NGOs and other partners.
- Recommend urgently and speedily during the pendency of this complaint, the State Government of Maharashtra in collaboration with the SHRC Maharashtra to publicly acknowledge the importance and legitimacy of the work of human rights defenders, i.e. anyone who, “individually and in association with others, ... promote[s] and ... strive[s] for the protection and realization of human rights and fundamental freedoms at the national and international levels” (art.1 of the Declaration on Human Rights Defenders).

- More generally, ensures in all circumstances the respect for human rights and fundamental freedoms in accordance with in accordance with the Universal Declaration of Human Rights and with international human rights instruments ratified by India.

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.

**(Henri Tiphagne)**

Honorary National Working Secretary