



Human Rights Defenders Alert - India

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Shri A. K. Parashar

National Focal Point - Human Rights Defenders & Joint 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 – Maharashtra: Political Prisoner Hem Mishra assaulted in front of prison for protesting the use of handcuffs – Regarding

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 brutal assault of human rights defender Hem Mishra in the Nagpur Prison premises for protesting his illegal handcuffing while being taken to the hospital for treatment.

Source of Information on the Incident:

- The Regional Coordinator of HRDA for the South of India
- Ms. Kamayani Mahabal, www.kractivism.org

The Human Rights Defender:

Mr. Hem Mishra. S/o. Keshavdutt Mishra is a 31 year old meritorious student in the Centre for Chinese and South East Asian Studies of Jawaharlal Nehru University, Delhi originally from Almora in the State of Uttarakhand. He is an activist who has voiced his protest over violations of human rights on numerous occasions. He has a congenital problem in his arm and has undergone treatments for the same in the

recent past. He was arrested in 2013 on false charges of being a Naxal Courier when he went to Gadchiroli in Maharashtra for one such treatment.

The Perpetrators:

- Personnel of the Police Department, Nagpur, Maharashtra whose names are not known

Date of Incident:

The 20th of March, 2015

Place of Incident:

Within the premises of Nagpur Central Prison in the western Indian state of Maharashtra

Incident detail:

According to the sources, on the 20th of March 2015 at around 10-00 a.m. when the Human Rights Defender Mr. Hem Mishra, now an inmate of Nagpur Central Prison was being taken out for treatment to the Govt. Medical Hospital, the police wanted to handcuff him as he was led outside the prison gate within the prison premises. When Hem Mishra objected to this and informed the police of the orders of the Supreme Court, the police did not pay heed and forcibly went on to handcuff him. When he persisted in attempting to put his point across, the police abused him and assaulted him brutally inflicting injuries on his person. They tore his clothes and also threatened him with dire consequences.

The Supreme Court of India in the Prem Shankar Shukla Vs. Delhi Administration Case, Citizens for Democracy Vs. State of Assam and other cases has decreed against handcuffing and fettering of convicts / under trials when being taken from prison to court or to the hospital. This same provision has also been incorporated in the Criminal Manual and the Jail Manual. This apart, the Assistant Inspector General of Police (Law and Order), Office of the Director General of Police has also issued a circular to the same effect. It was also decreed that in an exceptional circumstance where there is a need to handcuff or shackle the prisoner it is necessary to obtain prior judicial consent. All these directions of the Supreme Court and the DIG have been openly violated in this case.

Hem Mishra has filed a complaint at the Dhantoli Police Station through the Prison Superintendent calling for registration of an offence against the persons concerned

in this case and for their arrest and yet another complaint has also been filed at the concerned court of the Principal Judge, Gadchiroli Sessions Court.

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 Gadchiroli and Nagpur Districts

- Order an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned events of the attempt to handcuff without judicial consent in violation of Supreme Court orders and assault of the human rights defender Hem Mishra by the Police and into his imprisonment under false charges of being a 'Maoist' for which he has been denied bail too,
- Take immediate action on the perpetrators for the handcuffing and assault of the human rights defender Hem Mishra and see to it that his safety in the prison is ensured.
- Guarantee in all circumstances at the cost of the state the physical and psychological integrity of the human rights defender Hem Mishra who is still under risk of further attacks from the perpetrators.
- Ensure provision of reparation, compensation, apology to the defender for the physical and psychological sufferings he underwent because of the harassment and assault and provide a re-assurance of not engaging in such acts against HRDs such as Hem Mishra;
- Put an end to all acts of harassment against all human rights defenders in the State of Maharashtra to ensure that in all circumstances they carry out their activities as writers / activists without any hindrances;
- 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 and 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,



Henri Tiphagne
Honorary National Working Secretary