



Human Rights Defenders Alert - India

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

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action – Maharashtra: Differently abled HRD Dr. GN Saibaba had to go on hunger strike for medical & other facilities in prison until court ordered it – Regarding. In continuation of the earlier appeal sent dated 18th September, 2013

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 hunger strike that human rights defender Dr. G.N. Saibaba, falsely alleged of being a Maoist sympathiser, had to undergo for medical treatment and facilities required due to his disability and health conditions in Nagpur Central Prison, Nagpur, Maharashtra, where he is currently lodged.

Source of Information on the Incident:

- The Regional Coordinator of HRDA for the South of India
- Ms. Kamayani Mahabal of www.kractivist.org
- Media reports

The Human Rights Defender:

Dr. G. N. Saibaba, is an Assistant Professor of English at Ram Lal Anand College, Delhi University. He is a well-known intellectual who has been at the forefront of the democratic movement in the country, is a productive member of the English department and the University teaching community, and is known for his sincerity and devotion to public causes. He suffers from 90% disability and is wheelchair-bound. He has multiple calculi in his gall bladder and atrophy of his shoulder muscles. There is also degeneration of his cervical spine and his rib cage is bending inwards.

Dr. G.N. Saibaba, joint secretary of the Revolutionary Democratic Front (RDF) and a tireless campaigner against the policies of loot and plunder of the successive governments in India, euphemistically called as Operation Green Hunt (OGH) had become the target of ire of the state with mounting criticism from the opinionated sections of the progressive, liberal middle-class as well as the rising protests of the vast sections of the people against the so-called development policies of the government which would and is resulting in the loss of livelihoods of hundreds of thousands of Dalits and Adivasis—the poorest of the poor in the subcontinent.

The Perpetrators:

The Maharashtra Police – the prison officials in Nagpur Central Prison in particular

Date of Incident:

11 to 17 April, 2015

Place of Incident:

Nagpur Central Prison in the Western Indian State of Maharashtra

Incident detail:

According to the sources, Dr. G. N. Saibaba, Delhi University Professor, presently lodged in the 'Anda' Barrack of the Nagpur Prison, embarked on an indefinite hunger strike from the 11th of April 2015 demanding proper medical treatment and food, both of which were being denied to him by the authorities of the Nagpur Central Prison. Dr. G. N. Saibaba has been denied bail twice by the Sessions Court, Gadchiroli and once by the Nagpur Bench of Bombay High Court. In the last order by the Sessions Court dated 4th March, 2015 the Sessions Judge referred to the reports of the Superintendent and the Chief Medical Officer of the Nagpur Central Prison which,

while admitting the delicate medical condition of Dr. G. N. Saibaba, stated that he was being treated at the Government Medical College Hospital as well as the Super Speciality Hospital in Nagpur and that they were providing food supplements as per his medical requirements. It was on the basis of such reports that bail on medical grounds was denied to Dr. G. N. Saibaba.

But despite such claims by the prison authorities made before the court, the prison administration not only continued to deny him proper medical treatment and food supplements, but also stopped certain items that were earlier allowed to him. Faced with a situation of a steady deterioration in his health condition, Saibaba decided to protest and completely stopped taking food from the 11th of April 2015. His lawyers, who met him on the 13th of April, 2015, immediately submitted a memorandum to the DIG (Deputy Inspector General) - Prisons East Region, the prison authority under whose jurisdiction the Nagpur Prison falls. The official however merely received the memorandum and refused to respond to the issues raised by Dr. G. N. Saibaba. He did not even indicate any willingness to allow the essentials that the prison report to the court has stated that they were providing.

Dr. G. N. Saibaba has withdrawn his strike around the 17th of April, 2015 after a court directive ordered jail authorities to provide medical treatment and facilities required due to his disability and health conditions.

It is noteworthy that in the Sunil Batra Vs. Delhi Administration case of 1978, the Supreme Court declared that even the prisoners cannot be denied the fundamental rights guaranteed by the Constitution.

Background to the incident:

Dr. G. N. Saibaba is lodged at Nagpur Central Prison as an under trial for suspected links with Maoists. He has been there since 09 May 2014 when he was apprehended by Maharashtra Police from the Delhi University North Campus premises. Dr. G. N. Saibaba was produced in the remote far flung Aheri police station in the Maharashtra-Chhattisgarh border to be charged under several sections of the worst draconian legislation the UAPA (Unlawful Activities Prevention Act), 1967. The bail of the polio-stricken professor was rejected by the high court twice.

HRDA has issued an Urgent Appeal against the police raid on Dr. G. N. Saibaba's residence on the 18th of September 2013 and a complaint against his abduction,

arrest and torture on the 5th of January 2014 both of which had been taken up by the Honourable National Human Rights Commission of India. With serious concerns over the news of his health deteriorating it is important that the NHRC intervenes.

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 Nagpur

- Order an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned events of denial of medical and basic amenities to Dr. G. N. Saibaba in Prison.
- Ensure that the Commission appoints independent prison - visit teams comprising of non-official members in all states and all districts in the state and trains them and receives regular reports on their prison visits. The NHRC, a few years after its inception used to constitute such independent prison - visit teams and this practice should be revived.
- Take immediate action on the perpetrators for the denial of medical and basic amenities to Dr. G. N. Saibaba in Prison by the prison officials and using all provisions of law, ensure that he is not denied such amenities in future.
- Guarantee in all circumstances the physical and psychological integrity of Dr. G. N. Saibaba, who is still under risk of further such denial of basic rights in the prison.
- Ensure provision of reparation, compensation, apology to the defender for the physical and psychological sufferings he underwent because of the ill-treatment at the hands of the prison officials and provide a re-assurance of not engaging in such acts against HRDs such as Dr. G. N. Saibaba;
- Put an end to all acts of denial of basic services in prison and harassment against all under trials in prisons and human rights defenders like Dr. G. N. Saibaba in the State of Maharashtra;
- Initiate an independent investigation into the situations of prisons all across the state of Maharashtra.
- 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 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,

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

Henri Tiphagne)

Honorary National Working Secretary