



Human Rights Defenders Alert - India

National Coordination Office

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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 - Appeal for Action – Odisha: Human Rights Defender Dr. Subhash Mahapatra threatened by the goons of builder mafia, physically assaulting two of his office employees and ransacking his office premise – 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 life threat issued against the human rights defender Mr. Subhash Mahapatra by the local goons hired by the builder mafia in Bhubneswar. The office of the human rights defender was ransacked and his two office staffs were physically assaulted.

Source of Information on the Incident:

The Regional Coordinator of HRDA for East of India

A communication with the HRD Mr. Subhash Mahapatra

Status of the Human Rights Defenders:

Dr. Subhash Mohapatra is a lawyer who is associated with “Global Human rights Communication”, a human rights organization registered under the Trust Act. Dr. Subhash and his organization has been filing Public Interest Litigations and writ petitions in Odisha High Court on social issues especially related to administrative irregularities in governance. In the recent cases Dr. Subhash had filed a petition before the Orissa High Court against the illegal buildings in Odisha violating the government rules. On the basis on his complaints Court has passed orders to demolish the illegal structures and put a check on this malpractice.

The Perpetrators:

1. Mr. Sarat Sahu, Inspeotr In charg, Khandagiri Police Station
2. Mr. Tapan Mahapatra- ASI Khandagiri Police Station
3. Mr. Rupak Badajena – Private Builder
4. Mr. Tirupati- Private Builder

Date of Incident:

9th August 2015.

Place of Incident:

At the office of HRD at Plot No.1215/1373, Police Station, Khandagiri, Bhubaneswar.

Incident detail:

The “Global Human rights Communication”, filed a writ petition recently in Odisha High Court against the illegal constructions of buildings in Bhubneswar, capital city of Odisha state, which were in clear violation of the prescribed state government rules bearing no. 4417 of 2015. On the petition, the Court ordered the Bhubaneswar Development Authority (BDA) to carry out demolition work in connection with 423 illegal constructions out of existing 5823 illegal structures in the city. Due to court’s interference many builders responsible for building structures illegally were facing severe monetary losses.

On 9th August 2015 at about 5PM in evening while the HRD was out of his office, two persons namely Mr.Rupak Badajena and Mr.Tirupati forcibly entered his office carrying hockey sticks and revolver with them. Two office staffs namely Mr.Dusmant Dhal and Mr. Sanatan Mahapatra were present in the office at that time. The two

assailants asked them about the HRD, Dr. Subhash. Two office staffs were not able to reply their questions; the assailants immediately started beating them. They also took the office articles and threw them here and there. They ransacked the whole office. They left the place after issuing a warning that if Dr. Subhash does not withdraw the case of illegal constructions from the High Court, he would be killed by them. Immediately one of the staffs informed the HRD and narrated the whole incident of attack in his office premise by the goons of builder mafia. After some time they all went to the nearest Khandagiri Police Station to register the complaint. Though the Inspector In charge received the complaint but refused to register it as an FIR.

The place where the attack took place is a residence cum office of Dr. Subhash Mahapatra where he lives along with his family. After this incident his family members have shifted out of fear and residing in another place. As the local police also are supporting the accused persons, the victim HRD is frightened and fears for his and his family's safety.

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 Khurda District:

- Order an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned incident of threat and assault on two staff members of Dr. Subhash Mahapatra and ransacking his office premise;
- Take immediate action on the perpetrators for issuing threats against him and using all provisions of law to ensure that the defender is not harassed in future;
- Guarantee in all circumstances the physical and psychological integrity of Dr. Subhash Mahapatra, who is still under risk of further reprisals from the perpetrators;
- Ensure provision of reparation, compensation, apology to the defender for the psychological sufferings he and his family underwent because of the threats and provide a re-assurance of not engaging in such acts against HRDs such as Dr. Subhash Mahapatra;

- Put an end to all acts of attack and harassment against all human rights defenders like Dr. Subhash Mahapatra in the State of Odisha to ensure that in all circumstances they carry out their activities as defenders of human rights 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 Odisha to also take necessary steps to establish a state focal point for HRDs in order to ensure that HRDs have a new protection mechanism in their own state;
- Recommend urgently and speedily during the pendency of this complaint, the SHRC in Odisha 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 Odisha for the protection of the rights of human rights defenders;
- Recommend urgently and speedily during the pendency of this complaint, the State Government of Odisha in collaboration with the NHRC Focal Point on HRDs and the SHRC Odisha 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 Odisha in collaboration with the SHRC, Odisha 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 the Universal Declaration of Human Rights and with international human rights instruments ratified by India is strictly adhered to in the state of odisha.

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