



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 - Appeal for Action – West Bengal: Arbitrary arrest, detention and harassment in police custody of human rights defender, Mr. Durbadal Majumdar by the police at Kotowali police station in Jalpaiguri district of West Bengal - 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 arbitrary arrest, detention and custodial harassment of human rights defender Mr. Durbadal Majumdar by the West Bengal police at Kotowali police station in Jalpaiguri district of West Bengal.

Source of Information on the Incident:

The Regional Coordinator of HRDA for East of India

Communication from Mr.Kirity Roy of MASUM

Status of the Human Rights Defenders:

Mr. Durbadal Majumdar is the District Human Rights Monitor associated with Banglar Manbadhikar Suraksha Mancha (Bengal Human Rights Protection Platform) known as MASUM which is a West Bengal based human rights organization. MASUM promotes human rights awareness against all sorts of torture practices in all sections of the society. It provides legal, medical, psychological and social supports to torture survivors. As a human rights monitor, Mr. Majumdar has been involved in campaigns against the use of torture by the state police and the paramilitary forces mainly the Border Security Force (BSF) deployed at the international border of the region. Recently, Mr. Durbadal Majumdar was involved in a fact finding exercise related to the alleged incidents of torture suffered by Ms. Namita Barman, a middle-aged woman who has a marital dispute with her husband serving as a police constable in Siliguri Police Station in Jalpaiguri District of West Bengal.

The Perpetrators:

Mr.Prithiraj Narayan Barman, Police Constable posted at Siliguri Police Station and other police personnel of New Jalpaiguri Police Out Post, West Bengal.

Date of Incident:

2nd August 2015.

Place of Incident:

New Jalpaiguri Police outpost under Bhaktinagar police station, District Jalpaiguri, West Bengal

Incident detail:

According to the sources, on 2nd August 2015, Mr. Durbadal Majumdar visited Bhaktinagar Police Station in Jaipaiguri district, West Bengal along with Sub Divisional Officer Court's order for the recovery of belongings of one Ms.Namita Barman. Ms. Barman and her lawyer had made the request to the court for the recovery. At that time, police official on duty in the police station told Mr. Majumdar that they would inform Ms. Barman over phone in a couple of days. However, Ms.

Barman did not receive any call from the police till 5th of August. She consulted the matter with her lawyer and as per lawyer's advice she decided to collect her belongings from the mentioned police station on her own. On 6th August, 2015, Ms. Barman accompanied with Mr. Majumdar reached Lake town (the place where her belongings were dumped) to collect her belongings. For this purpose, she rented a minivan from Tinbati area. After collecting her belongings and putting them in the van, they left in a bus. In the meanwhile, Mr. Sintu, the driver of the minivan, informed Ms. Barman that the rented van had been confiscated by the police. The driver informed that van was intercepted by a team of three police men near Shrikrishna dhaba. Ms. Barman and Mr. Majumdar reached the spot at about 2.30 pm. While they reached the spot, the police personnel forced the three (Mr. Majumdar, Ms. Barman and the driver) to go to New Jalpaiguri outpost for further enquiry. Police took them in their blue colored van to the police outpost. At the police outpost, the police seized all the articles kept in the minivan and released the van at around 6.30 pm from the outpost. In between, Mr. Prithiraj Narayan Barman, the estranged husband of Ms. Namita Barman; a police constable by profession, came to the outpost. He asked Mr. Majumdar about his profession and his involvement in the matter. While Mr. Majumdar replied that he was working with a human rights organisation, that did not satisfy Mr. Prithiraj and he again asked Mr. Majumdar to prove his credentials. Mr. Majumdar only had his Voter Identity card at that moment and he showed it to him. The duty officer photocopied his voter identity card and returned. Meanwhile Mr. Prithiraj Barman kept gazing at Mr. Majumdar and made some derogatory comments. Mr. Prithiraj accused him of having illicit relations with his estranged wife. The police personnel present at the post were reported to be enjoying his verbal abuses and did not intervene. Mr. Barman concocted a story that Mr. Majumdar has an illicit relation with his wife Ms. Namita Barman for last 6 months and now he is staying with his wife in Kolkata. According to sources, Mr. Barman had lodged a complaint against Mr. Majumdar alleging that Mr. Majumdar had been threatening him.

Mr. Durbadal Majumdar was arbitrarily detained and remained in police custody at New Jalpaiguri police out post from 3.30 pm on 6th August, 2015 till 10.30 am on 7th August 15, 2015. During his detention he was deprived of food and water. Later, at the time of his release, he was forced to sign a written paper by the police officer. Mr.

Majumdar was not permitted to read the written document and asked to report after three days at the police station because they had already lodged a criminal case against him.

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 Jalpaiguri District:

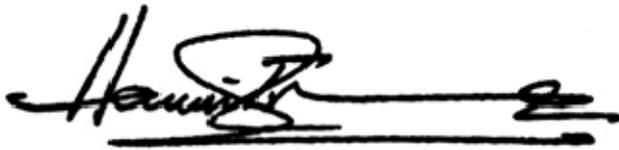
- Order an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned incident of illegal arrest, detention and custodial harassment of Mr. Durbadal Majumdar;
- Take immediate action on the perpetrators, in this case police personnel of New Jalpaiguri police out post, West Bengal for arbitrary arrest, detention and custodial harassment of Mr. Durbadal Majumdar and using all provisions of law to ensure that the defender is not harassed, ill treated and falsely implicated by the police in future;
- Guarantee in all circumstances the physical and psychological integrity of Mr. Durbadal Majumdar who is under risk of further reprisals from the perpetrators;
- Ensure provision of compensation and apology to the defender for the psychological sufferings he has undergone because of the ill treatment and detention and provide a re-assurance of not engaging in such acts against HRDs such as Mr. Durbadal Majumdar;
- Put an end to all acts of attack and harassment against all human rights defenders like Mr. Durbadal Majumdar in the State of West Bengal 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 West Bengal 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 West Bengal 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 West Bengal for the protection of the rights of human rights defenders;
- Recommend urgently and speedily during the pendency of this complaint, the State Government of West Bengal in collaboration with the NHRC Focal Point on HRDs and the SHRC West Bengal 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 West Bengal in collaboration with the SHRC, West Bengal 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 West Bengal.

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 drawn underneath it.

(Henri Tiphagne)

Honorary National Working Secretary