



Human Rights Defenders Alert – India

National Coordination Office

No. 6 Vallabai Road, Chokkikulam, Madurai-625002, Tamil Nadu, INDIA

Tel: +91-9994368540 Email: hrda.india@gmail.com

September 21, 2015

Shri Cyriac Joseph,
Hon'ble Acting 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 – Tamil Nadu: HRDs and social activists of Tamil Nadu Kisan Sabha and workers of central trade union physically assaulted and ill-treated / denied of their rights to freedom of peaceful assembly and association to register their protest in Chidambaram town of district Cuddalore, Tamil Nadu – 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 writing to express our grave concern regarding the criminal physical assault, inhuman and cruel treatment of human rights defenders and social activists of Tamil Nadu Kisan Sabha and workers of the Central trade Union by the Tamil Nadu Police. Social activists and trade union workers were observing a day long peaceful general strike on September 2, 2015 in the town of Chidambaram in Cuddalore district of Tamilnadu to protest against the anti-workers, anti-peasant polices of the Central Government. In the police action several activists and workers were beaten in the most brutal manner with lathis. Among the injured persons Mr. K. Balakrishnan, an HRD, President of Tamil Nadu Kisan Sabha and a member of Tamil Nadu Legislative Assembly representing Chidambaram Assembly Constituency suffered

severe physical injuries for which he was hospitalised in the local hospital.

Source of Information on the Incident:

The State focal point for HRDA for Tamilnadu based on information provided personally and in writing by Mr. K. Balakrishnan MLA.

The Human Rights Defenders:

The peaceful general strike including picketing program was organised by the Mr. K. Balakrishnan, President of Tamil Nadu Kisan Sabha and a member of Tamil Nadu Legislative Assembly from Chidambaram Assembly Constituency and other Central Trade Union workers of the southern Indian state of Tamil Nadu. Tamil Nadu Kisan Sabha under the leadership of Mr. K. Balakrishnan, who has been for long fighting for the rights of students, peasants, workers and other downtrodden section of the society. Tamil Nadu Kisan Sabha has been active in defending human rights and exposing the excesses committed by the police personnel within the premises of police stations and other human rights violations in the state of Tamil Nadu. Mr. K. Balakrishnan on behalf of his organisation has been instrumental in exposing crucial criminal cases such as sexual assault on an innocent young woman and the brutal custodial death of her husband within the precincts of Annamalai Nagar Police Station at Chidambaram and the custodial death of Rajakannu, an Adivasi at Kammapuram Police Station. In all these cases the accused police personnel were brought to the book before law and currently serving the prison terms. At present Mr. K. Balakrishnan on behalf of his organisation has been following a case of custodial death of a Dalit youth who was taken to Neyveli Police Station in July 2015 and killed within the police station premises.

The Perpetrators:

Mr. Sundara Vadivel, ADSP Chidambaram,

Mr. Thirumalai Samy ADSP,

Mr. Lamech, Inspector of Police, Chidambaram,

Ms. Meena, Inspector of Police, All Women Police Station

Mr. Ramesh Raj, Inspector of Police, Bhuvanagiri

Mr. Udaya Kumar, Inspector of Police, Parangipettai

Mrs. Vasanthakumari, Inspector of Police, Chidambaram Taluk

Date of Incident:

2nd September, 2015

Place of Incident:

Chidambaram Railway Station, Chidambaram town, district Cuddalore, Tamil Nadu

Incident detail:

According to the source, the Central Trade Unions called for a general strike on September 2, 2015 across the country opposing the anti-workers, anti-peasant policies of the Central Government. As part of the strike, there were picketing programme held across the country at important railway stations, public roads as well as in front of central government Offices. Tamil Nadu Kisan Sabha and Tamil Nadu based Trade Unions planned peaceful protests and picketing programme at Chidambaram Railway station to obstruct the train movement. It was a symbolic peaceful protest to express solidarity with workers and other marginalised section. Local police authorities were informed in advance about the programme. It is normally a practice that during such picketing programmes, the protesters are formally arrested by the police, removed from the spot and then taken to the police station and released after some time or remanded as the case may be based on decisions of the government. The protestors also resort to no violence whatsoever on such occasions since these are symbolic protests of nationally reputed trade unions.

On September 2, 2015, the activists, volunteers and workers led by Mr. K. Balakrishnan reached Chidambaram Railway Station around 11.45 a.m. There was a heavy police presence of about 250 police men and women in the vicinity of the proposed venue for the protest. The police force was led by the Chidambaram DSP Sundara Vadivel, ADSP Cuddalore Thirumalai Samy, Town Inspector Lamech, the All Women Police Station Inspector Inspector of Police Meena, Inspector of Police Bhuvanagiri, Inspector of Police Ramesh Raj, and Parangipettai Inspector of Police Udaya Kumar and Vasantha Kumari Inspector of Police Chidambaram Taluk. The police had put up barricades at a distance of 50 metres around the station to prevent people from either entering or leaving the Railway Station.

When the protesters tried to enter the station to conduct the picketing as planned and informed, the above mentioned police officials and other police personnel surrounded and prevented them from moving beyond the erected barricades. Raising his hands in a threatening manner, the ADSP said 'whoever crosses the barricades will be beaten black and blue'. On his part the Chidambaram DSP shouted at the police personnel present ordering them to charge, chase and disperse whoever comes near the barricades.

When the protesters including Mr. K. Balakrishnan asked them "Is it not a routine practice to allow the proposed picketing of the train and then arrest us and thereafter release the protesters in the evening. Now why are you threatening us with such a large police force and unruly exchange of words?" The police personnel replied that "this is an order by the District Superintendent of Police of the District who has instructed his subordinates not to allow anyone to go beyond the barricades. If anyone tries to come near the barricade, even if he is an MLA, we have been ordered to beat them black and blue and he has assured us that he will take care of any repercussion". The protesters told the police that on the same day at many places in Tamil Nadu like Thiruvavur, Thanjavur, Mannargudi, Villupuram, Chennai and Chengalpattu volunteers are being allowed to picket in front of trains and getting arrested thereafter according to the information that they have been receiving from their own colleagues. They further asked why they were obstructing the protesters only at Chidambaram which was unheard of till then. . Immediately DSP Sundara Vadivel asked them not to raise any such questions and threatened them stating that if the protesters were to move further they would be beaten to death. Thereafter the policemen present nearby pushed Mr. K. Balakrishnan, the Chidambaram Town Secretary Mr. Ramachandran, the Parangipettai Union Secretary Mr. Ramesh Babu and the Keerappalayam Union Secretary Mr. Vanchinathan into the portico of the Railway Station. He ordered the police personnel to beat and throw all others in the crowd behind into the vans. On his orders, the police men pushed down the volunteers forcefully and stepped on them with their boots. They pushed all of them into the vans. The protesters tried to resist such brutal beating by the police and argued with them why they are wantonly acting in such a violent manner when all of them were behaving peacefully. The ADSP, DSP and Chidambaram Inspector reacted violently and pushed everyone down. The

police officials pushed their lathis above Mr. K. Balakrishnan's hip on the side of backbone and physically injured him. Thereupon the ADSP Thirumalai Samy shouted at the police and asked them to take him like a dead body and throw him into the van. Mr. K. Balakrishnan's condition worsened after the incident and he was therefore immediately admitted at the Chidambaram Kamaraj Government Hospital and then shifted to Annamalai University, Raja Muthaiha Medical College Hospital where he was till 03.09.2015 around 11 a.m. After the assault Mr. K. Balakrishnan had been suffering from severe emotional distress damages. In a similar manner the police also brutally assaulted Mr. Ramesh Babu (Parangipettai Union Secretary), Mr. Ramachandran (Chidambaram Town Secretary) and Mr. P. Vanchinathan (Keerapalayam Union Secretary). DSP Sundara Vadivel pushed down Ramesh Babu with his boots. Several others were also pushed down and stamped with their police boots.

HRDA would like to insist that according to the Indian Constitution every Indian citizen has the right to peaceful assembly under Art 19 of the Constitution. The UN Special Rapporteur on the right to Peaceful Assembly and Association, Mr. Maina Kiai has, in his several reports to the United Nations Human Rights Council and the General Assembly in the past few years emphasised on the right to peaceful assembly. The Code of Conduct for Police In India under Sec 4 reads, 'In securing the observance of law or in maintaining order, the police should as far as practicable, use the methods of persuasion, advice and warning. When the application of force becomes inevitable, only the irreducible minimum of force required in the circumstances should be used.' Art 4 and 5 of the The UN Basic Principles on the use of force and firearms reads as follows:

4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

(a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;

(b) Minimize damage and injury, and respect and preserve human life;

(c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;

(d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment. ‘

Thus what has been met out to Mr. K. Balakrishnan in particular and all his colleagues named in this complaint are human rights violations arising from the indiscriminate use of force completely contrary to established national and international standards.

Appeal :

We, therefore urge you to immediately direct the Chief Secretary Tamilnadu in co-ordination with the District Magistrate Cuddalore district to ensure complete medical check up of Mr.K. Balakrishnan MLA totally at state cost in the best medical facility in the state, preferably in Chennai totally at state cost to ensure that he is not suffering from any internal medical ailments.

We also urge you to immediately take necessary steps to ensure that the Director General of Police of Tamilnadu:

- Orders an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned events of the targeting of the human rights defenders and causing obstructions in holding a peaceful assembly by a special team of officials senior to the SP of Cuddalore district without engaging any of the local police officers and police stations in Cuddalore district;
- Take immediate action on the perpetrators in this case the police of Tamil Nadu for the brutal assault and denial of the right to assemble and associate freely of Mr.K.Balakrishnan MLA and all the other human rights defenders who participated in the peaceful assembly and protest especially from trade unions of Tamil Nadu and Tamil Nadu Kisan Sabha;
- Guarantee in all circumstances at the cost of the state, the physical and psychological integrity of the defenders from the trade unions of Tamil Nadu and Tamil Nadu Kisan Sabha who are still under risk of further attacks from the perpetrators.

- Ensure provision of reparation, compensation, apology to each of the defenders for the physical and psychological sufferings they underwent because of the harassment and ill - treatment and provide a re-assurance of not engaging in such acts against HRDs such as the defenders from the trade unions of Tamil Nadu and Tamil Nadu Kisan Sabha;
- Put an end to all acts of harassment against all human rights defenders in the State of Tamil Nadu to ensure that in all circumstances they carry out their activities as defenders of human rights without any hindrances;
- Guarantee under all circumstances the constitutional right provided under Article 19 (1) (b) of the Constitution of India which accords all citizens the right to assemble peaceably and without arms;
- Take steps to ensure the provisions contained in the Human Rights Council resolution 15/21 adopted in October 2010 which reaffirms that everyone has the rights to freedom of peaceful assembly and of association free of restrictions that is subject only to the limitations permitted by international law, in particular international human rights law;
- 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 Tamil Nadu 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 that the SHRC in Tamil Nadu convenes 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 Tamil Nadu for the protection of the rights of human rights defenders.
- Recommend urgently and speedily during the pendency of this complaint, the State Government of Tamil Nadu in collaboration with the SHRC Tamil Nadu 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