



Human Rights Defenders Alert- India

National Coordination Office
6, Vallabai Road, Chokkikulam, Madurai 625 002
Tamil Nadu, INDIA

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

26, September, 2015

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 - Seeking Hon'ble National Human Rights Commission's intervention in respect of continuing prosecution and harassment of human rights defenders, Teesta Setalvad and Javed Anand of Citizen of Justice and Peace—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.

On behalf of HRDA, we express our grave concern regarding the latest development in the investigation against social activists, journalist and human rights defenders Teesta Setalvad and her husband Javed Anand. In the latest move the Central Bureau of Investigation (CBI) has approached the Supreme Court of India seeking the cancellation of anticipatory bail provided to social activist Teesta Setalvad and her husband Javed Anand by the Bombay High Court in August 2015. The CBI has sought custodial interrogation of both, charging them with failing to cooperate in the probe in a case of alleged FCRA violation by misusing foreign funds received by them and posing a threat

to communal harmony. The allegations made by the CBI come despite both Teesta Setalvad and Javed Anand cooperating completely with the investigation.

CBI has sought cancellation of their anticipatory bail claiming that the high court had erred in giving relief after “prima facie” finding that Foreign Contribution Regulation Act (FCRA) provisions were violated, as their company, Sabrang Communication and Publishing Pvt Ltd (SCPPL), had received Rs. 1.8 crore from US-based Ford Foundation without mandatory approval from the Centre.

While granting them anticipatory bail in August 2015 the Bombay High Court observed that their custodial interrogation was not necessary as the case was based on documentary evidence of accounts and they were not likely to flee from justice. Repeated allegations of violation of FCRA against Teesta Setalvad, Javed Anand and the CJP were found to be without substance. According to section 3 of the FCRA, 2010 certain categories, including political parties and registered newspapers are barred from receiving foreign donations. However, Section (4) says that it will not apply if the foreign contribution is received in the form of salary or wages. Sabrang Communications, which published the monthly Communalism Combat, signed a consultancy agreement with the Ford Foundation in 2004 and 2006 to address the issues of caste and communalism through a clearly defined set of activities which had nothing whatsoever to do with Communalism Combat or remuneration to Javed Anand or Teesta Setalvad towards discharging editorial/managerial functions. The consultancy was signed by Sabrang Communications and the agreement was covered under the exclusion stipulated under Section 4 of the Act and, therefore, the consultancy fees (not grant or donation) received would not be in violation of the Act.

It is necessary to mention here that the accounts of Sabrang Trust and Citizens for Justice and Peace has already been inspected by the investigators of CBI and Teesta Setalvad and her organisations have submitted over 25,000 pages of documentation to the agency answering every query about funding. The CBI move is an attempt to intensify the harassment of the human rights defenders to prevent them to carry out their human rights work. Teesta Setalvad, Javed Anand and others of CJP have been in the forefront in defending the legal, constitutional and human rights of the victims of Gujarat Riots of 2002

and their intervention before the Hon'ble Supreme Court and other courts could obtain 117 convictions so far.

Considering that they are completely cooperating with the investigation, charges that need not require custodial interrogation and earlier observations made by the Bombay High Court, this act of CBI is no less than harassment and restricting HRDs to carry out their work.

Therefore, in the light of above mentioned facts and circumstances, HRDA most respectfully appeals that this Hon'ble Commission to urgently:

- **Intervene in the matter referred above, against human rights defenders Teesta Setalvad and Javed Anand under section 12(b) of the Protection of Human Rights Act (1993) which empowers the NHRC to intervene in any proceedings involving any allegation of violation of human rights pending before a court, with the approval of such court.**
- **Intervene using the section 18(b) of the Protection of Human Rights Act (1993) which empowers the NHRC to approach the Supreme Court, in this case appeal and represent itself through an eminent lawyer on behalf of human rights defenders Teesta Setalvad and Javed Anand against the CBI's appeal of quashing the anticipatory bail provided by the Bombay High Court.**

Take all other appropriate and necessary actions in respect of protecting human rights defenders, as per international and national human rights obligations.

At this juncture, we most humbly would like to recall to the hon'ble commission about the recommendation by the previous UN Special Rapporteur on HRDs, Ms. Margaret Sekaggya after her visit to India in 2011. Specific to the functioning of NHRC and its responsibility to protect HRDs she recommended that –

- **(153) The supportive role of the Commissions for human rights defenders should be strengthened by inter alia, conducting regular regional visits; meeting human rights defenders in difficulty or at risk; undertaking trial observations of cases of human rights defenders wherever appropriate; denouncing publicly on a regular basis violations against defenders and impunity. The defenders focal point should play a leading role in that regard. This focal point should be a member of the Commission, and have a human rights defender background to fully understand the challenges faced by defenders. A fast-track procedure for defenders within the National Human Rights Commission and State Human Rights Commissions should be considered.**
- **(156) The National Human Rights Commission should intervene on the issue of the Foreign Contribution Regulation Act and should monitor the denial of registration and permission to receive foreign funding for NGOs, with a view to amending or repealing the bill.**

In this particular case concerning HRDs Teesta Setalvad and Javed Anand, we appeal to the NRHC to stand by the HRDs. HRDA is not appealing the NHRC to intervene in the FCRA matter which is being investigated completely cooperated by the HRDs but to intervene in the Supreme Court against CBIs plea of quashing of the anticipatory bail. The matter already being investigated by the CBI need not require custodial interrogation of the HRDs also when all the information has been submitted and already available with the CBI.

Looking forward to your immediate action in this regard,

Yours sincerely,

Sd/-

(Henri Tiphagne)

Honorary National Working Secretary