



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

February 21, 2016

To

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 – Delhi: Illegal arrest and detention under sedition charges of Mr. SAR Geelani, a former teacher of University of Delhi of Kashmiri origin on 16 February, 2016 by Delhi police in New Delhi – 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 over Illegal arrest and detention under sedition charges of Mr. SAR Geelani, a former teacher of University of Delhi of Kashmiri origin on 16 February, 2016 by the Delhi police in New Delhi. He was arrested around 3 am at the Parliament Street police station under IPC sections 124A (sedition), 120B (criminal conspiracy) and 149 (unlawful assembly) for organizing an event at the Press Club, New Delhi on February 10, 2016 in which a group had allegedly shouted slogans hailing Afzal Guru.

Status of the Human Rights Defender

Mr. SAR Geelani is of Kashmiri origin and taught Arabic at a college in University of Delhi. He left Kashmir before the insurgency began in the region. He studied in other parts of India before joining Delhi University in the early 1990s. He has been

speaking out against atrocities in Kashmir as a human rights activist. He was accused in Indian Parliament attack case in December 2001 and was awarded death sentenced on extremely flimsy evidence by the session's court on charges of abetting terrorism. Mr. Geelani's conviction led to a "massive legal and civic campaign". He was tortured in police after his detention in jail. After a relentless battle fought by his legal team, the Delhi High Court set aside his conviction and acquitted Geelani on all charges in October 2003, a decision upheld by the Supreme Court in August 2005. Mr. Geelani has expressed his displeasure with the State's treatment of Afzal Guru, accused in Parliament attack case and his hanging. He has held numerous protests and events in the past. It is because of his dissenting voice he has been the target of Indian government and police agencies and described as an 'enemy of the state'.

Source of Information on the Incident:

- Media Reports

The Perpetrators:

Officials of Delhi Police from Parliament Street police station, New Delhi

Date of Incident

16 February, 2016

Details of the Incident

According to sources, on February 16, 2016 former Delhi University lecturer Mr. SAR Geelani was arrested by Delhi police on sedition and other charges for allegedly organising an event marking the death anniversary of Parliament attack convict Afzal Guru at the Press Club of India in New Delhi. Geelani was arrested around 3 am at the Parliament Street police station under IPC sections 124A (sedition), 120B (criminal conspiracy) and 149 (unlawful assembly).

According to the police Mr. Geelani was called for questioning to the police station on 15th night and asked about the "anti-India" slogans raised by participants at an event where he was the speaker. At a Press Club event on February 10, 2016 in which Mr. Geelani was present on the dais along with three other speakers, a group

allegedly had shouted slogans hailing Afzal Guru. Taking suo motu cognisance of the matter, the police registered a case against Geelani and other unnamed persons on February 12, 2016. Police had claimed that Mr. Geelani was booked as he is presumed to be the “main organiser” of the event. Following the registration of the FIR, the police questioned for two consecutive days Delhi University professor Ali Javed, a Press Club member, under whose membership number the hall for the event was booked. After his arrest, Mr. SAR Geelani was taken to RML Hospital for a medical examination. The police produced Geelani before Metropolitan Magistrate Harvinder Singh and sought two-day police custody. Police submitted to the court that Geelani’s custody was required to identify and confront him with those who were involved in “anti-India slogans demanding independence of Kashmir” and present at the event. Amid heavy security Mr. SAR Geelani was sent to two-day police custody by the court on 16th February 2016.

Geelani’s arrest comes in the context of increasing political tensions over the so called ‘anti-national’ protests that took place at Jawaharlal Nehru University which spilled over to a Delhi court where a mob of lawyers thrashed reporters before a hearing in a sedition case against student union leader Kanhaiya Kumar. JNU students’ union president Kanhaiya Kumar was arrested on sedition charges in connection with an event on the university campus allegedly against the hanging of Parliament attack convict Afzal Guru on February 9, 2016. In March 2015, Mr. Geelani expressed serious concern about the “very dangerous” trend of rights activists being labeled as anti-national and targeted while those convicted for mass murders and fake encounters walking out free, some even reinstated to the positions they had held.

This is the latest in a series of rows on university campuses that have involved the Indian ruling party. The BJP was the target of a months-long stir at Pune’s Film and Television Institute of India against the appointment of actor Mr. Gajendra Chauhan as chairperson. At University of Hyderabad last month, thousands of students gathered to demonstrate against the Union Government after the death of Dalit scholar Rohith Vemula, following revelations that Union Minister Bandaru Dattatreya wrote a letter that led to the PhD student’s suspension.

Civil rights activists and legal experts have long asserted that the Indian state authorities have been misusing the sedition law to target citizens who simply express their legitimate views. The British gave India the sedition law in 1860, to be able to detain those who spoke against the colonial government. After Independence, a Constitution Bench of the Supreme Court upheld the validity of Section 124-A in the case of Kedar Nath Singh vs. State of Bihar in 1962, but laid down that a person can be charged with sedition only if there is incitement to violence in his speech or writing or an intention or tendency to create disorder or disturbance of law and order. According to Supreme Court ruling, Sedition must be accompanied by violence, or direct incitement to violence. Raising anti-India slogans to protest the hanging of Afzal Guru does not amount to incitement of violence. The threat of violence has to be real and credible. In Shreya Singhal v. Union of India, the famous 66A judgment, the Supreme Court drew a clear distinction between “advocacy” and “incitement”, stating that only the latter could be punished. Moreover, the trial courts have mostly disregarded or ignored the Supreme Court’s interpretation of sedition law. The offence is punishable with imprisonment for life.

Appeal:

We, therefore urge the Hon’ble Commission to urgently:

- Order for a thorough, transparent, effective and impartial investigation by senior investigation officials of the Hon’ble Commission into the events complained off since the 10th of February events to identify exactly who has been directly and openly responsible for raising the slogans and bringing in pressure upon the police administration and the others who have been responsible for conspiracy leading to the illegal arrest of Mr. SAR Geelani and initiate action upon each one of them;
- Take immediate action on the perpetrators in this case, the police officials of the Delhi police for the illegal arrest, detention and harassment of Mr. SAR Geelani and use all provisions of law to ensure that the human rights defender is immediately released on bail and not harassed, ill-treated and falsely implicated by the police in future;
- Ensure immediate appointment of a competent senior lawyer practicing

on the criminal side in Delhi to defend the HRD in all the criminal cases registered against him at State cost and with the counsel so appointed reporting to this Hon'ble Commission at periodic intervals as determined by the Hon'ble Commission on the development in these cases;

- Put an end to all acts of attack and harassment against all human rights defenders including Mr. SAR Geelani as well as others in the State of Delhi to ensure that in all circumstances they carry out their activities as writers, teachers and journalists as defenders of human rights without any hindrances;
- Conform with 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”;
 - -Article 8.2 provides that human rights defenders have the ‘ right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.”.

- Recommend urgently and speedily during the pendency of this complaint, the SHRC Delhi to also take necessary steps to establish a focal point for HRDs in Delhi in order to ensure that HRDs have a new protection mechanism for them;
- Recommend urgently and speedily during the pendency of this complaint, the NHRC to convene a meeting of all state human rights institutions in the state [the SHRC, the SCW, the SCPCR, the SCM, the SIC, State Commissioner for PWDs, etc.] to ensure that a coordinated strategy is developed within Delhi for the protection of the rights of human rights defenders;
- Recommend urgently and speedily during the pendency of this complaint, the Government of Delhi in collaboration with the NHRC Focal Point on HRDs 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 Government of Delhi 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, ensure 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 Delhi.

Looking forward to your immediate action in this regard,

Yours sincerely,



(Henri Tiphagne)

Honorary National Working Secretary