



Human Rights Defenders Alert - India

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17 March, 2016

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 – Chhattisgarh – Human rights defender Dr. Saibal Jana, chief physician of Shaheed Hospital at Dalli Rajhara, Chhattisgarh, arrested by Chhattisgarh police from Additional Session Judge Court premises in Durg, Chhattisgarh - Regarding

Dear Sir,

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 arrest of human rights defender Dr. Saibal Jana, chief physician of Shaheed Hospital at Dalli Rajhara by the Chhattisgarh police. Dr. Jana has been charged under sections 147,148,149,333 &152 of Indian Penal Code. PC. The latest arrest of Dr. Saibal Jana in Chhattisgarh has only brought to the fore the extremely precarious condition of social activists, lawyers, journalists and human rights defenders in the state who are regularly

harassed, intimidated, attacked and falsely implicated for raising their voices against human rights abuses.

Source of Information on the Incident:

The Coordinator of HRDA for the East of India

Media Reports

Status of Human Rights Defenders:

Dr Saibal Jana is a chief physician at Shaheed Hospital in Dalli Rajhara city in district Balod of Chhattisgarh. The hospital was founded by Chhattisgarh Mukti Morcha, led by Late Shankar Guha Niyogi and run by money collected from the workers of the area. Dr. Jena, along with Dr. Ashis Kundu came to Dalli Rajhara in 1977, soon after he passed out from the National Medical College, Kolkata. They along with Dr. Vinayak Sen opted to live among the mineworkers. Dr. Jana along with Dr. Binayak Sen and Dr. Asish Kundu has been instrumental in setting up the Shaheed Hospital. At the time of the struggle of mine workers, Dr. Jana was a member of the central decision making committee of the Chhattisgarh Mukti Morcha, a political platform organising industrial and mine workers, agricultural workers and adivasis of the region. Dr Jana has served the people of Chhattisgarh selflessly for over three decades.

The Perpetrators:

Chhattisgarh police of Durg district

Date of Incident:

17th March, 2016.

Place of Incident:

Additional Session Judge Court premises, Durg city, district Durg, Chhattisgarh

Incident detail:

According to sources, Dr. Saibal Jana along with four other persons appeared before the chief judicial magistrate (CJM), Durg on March 16, 2016, in connection with a warrant that was issued almost 24 years back. They approached the court with the genuine assumption that they would be given regular bail as many others had already

been released at different point of time. But the CJM rejected the bail application and asked them to file the appeal on March 17, 2016, before the Additional Session Judge in Durg city. The Additional Session Judge granted bail to four others but kept Dr. Jana's matter under consideration and sent him in judicial custody.

Dr. Saibla Jana's arrest came in a case that happened way back on July 1, 1992, when he along with the staff and ambulance of Shaheed Hospital were present at the site of the agitation providing medical assistance to trade union activists of the Chhattisgarh Mukti Morcha who were injured in police action. The agitating mine workers were demanding equal pay for all, for same kind of work before Bhilai Industrial Area. The agitators went on to the nearby railway track and tried to block the movement of the trains. The police resorted to firing which resulted in the deaths of some of the workers. Police lodged criminal cases against 54 persons in 1992. Among them, 49 persons were set free from the charges at different point of time. Dr. Saibal Jana was among the 5 persons who were left out after their anticipatory bail applications were rejected at the Jabalpur High Court in 1992-93.

After his arrest Dr. Jana has been charged under sections 147,148,149,333 &152 of IPC. He was immediately taken to the Durg District Government hospital for check-up where he got admitted under judicial custody. On March 18, 2016 morning he was referred to Apollo Hospital, Durg due to health complications.

HRDA – India believes that the arrest of Dr. Saibla Jana proves that the action is clearly motivated by the vested political and ideological interests to target anyone who stands up for the democratic rights of workers, farmers, tribals and ordinary Indian citizens. The arrest of a person of the public stature like Dr. Saibal Jana after a gap of 24 years in a case of an old warrant is a great travesty of Indian justice system.

Appeal:

We, therefore urge you to immediately take necessary steps and ensure that this Hon'ble Commission to urgently order:

- immediate, thorough, transparent, effective and impartial investigation into the above-mentioned incident involving the arrest and detention of a reputed human rights defender Dr. Saibal Jana led by the investigation wing of the NHRC;
- Immediate action on the perpetrators, in this case police officers of district Durg, Chhattisgarh for the arrest, detention and harassment of human rights defender and using all provisions of law to ensure that the defender is immediately released on bail and all cases against him are withdrawn and he is not harassed, ill-treated and falsely implicated by the police in future;
- The granting and release on bail of Dr. Saibal Jana on his own bond and not insisting on sureties since he is a person of social repute in the state and give this assurance to the NHRC of India in writing immediately and urgently;
- The immediate appointment of a competent senior lawyer practicing on the criminal side in Durg District of Chhattisgarh to defend the HRD Dr. Saibal Jana in this cases registered against him at state cost with the counsel so appointed reporting to this Hon'ble Commission in periodic intervals as determined by the Hon'ble Commission on the development in the cases;
- Guaranteeing in all circumstances the physical and psychological integrity of Dr. Saibal Jana, who is still under risk of further reprisals from the perpetrators and give this assurance to the NHRC of India in writing immediately and urgently, especially because the growing trend of arbitrary and unwarranted restrictions on the basic freedoms supplemented with the impunity of the security forces threatens the very foundations of democracy;
- The provision of reparation, compensation, apology to the defender for the psychological sufferings he is undergoing because of the ill treatment and detention and provide a re-assurance of not engaging in such acts against HRDs such as Dr. Saibal Jana;
- An end to all acts of attack and harassment against all human rights defenders like Dr. Saibal Jana in the State of Chhattisgarh to ensure that in all

circumstances they carry out their activities as defenders of human rights without fear of reprisals, and free of all restrictions including police and judicial harassment;

- 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 Chhattisgarh 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 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 the State of Chhattisgarh for the protection of the rights of human rights defenders;
- Recommend urgently and speedily during the pendency of this complaint, the State Government of Chhattisgarh in collaboration with the NHRC Focal Point on HRDs and the SHRC Chhattisgarh 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 Chhattisgarh in collaboration with the SHRC, Chhattisgarh 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 Chhattisgarh.

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