



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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May 30, 2017

To

Shri Srinivasa Kammath

National Focal Point - Human Rights Defenders & Deputy Registrar
National Human Rights Commission
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA,
New Delhi – 110 023
Email: hrd-nhrc@nic.in

***Sub: HRD Alert - India – Urgent Appeal for Action – Tamilnadu: - State ‘terror’
unleashed on Human Rights Defenders Mr. Thirumurugan Gandhi (42) of
‘May 17 Movement’ and three others- 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 endeavours 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 slapping of Goondas Act against Human Rights Defender Mr. Thirumurugan Gandhi (42) and Three others namely D.Arun Kumar (27), M.Tyson (27) MGR Nagar, Ilamaram @ U. Jagan (32) Coimbatore.

Source of Information on the Incident:

The Coordinator of HRDA for Tamil Nadu

Media sources

Communication with HRDs in the State

The Perpetrators:

A.K .Viswanathan – City Commissioner of Police who issued orders on Monday 29, May 2017; detaining Mr. Thirumurugan Gandhi and others under Goondas Act.

Other erring Policemen.

The Human rights defender:

Thirumurugan Gandhi (42) is a staunch supporter of Eelam Tamil Society's struggle for their separate Tamil Eelam.

He is also a supporter of Anti-Nuclear protests and championed the Kudankulam Anti-Nuke Protests along with other social movements.

The May 17 Movement was formed remembering the day in 2009 of the mass massacre of Tamils in the Srilankan civil war.

He consistently advocates for the democratic aspirations of Eelam Tamils, Palestinians, Kurds, Kashmiris, Western Saharans and Sikhs, he also regularly lobbies with the diplomats of the global South to realize the interests of the nations without states, indigenous peoples and communities which have faced war crimes against the imperial forces in the Geneva human rights sessions in the United Nations (UN) for the past three years.

He has also been in the forefront of the call for the justice of custodial murder of migrant laborers, water rights of the farmers , worker rights ,refugee rights, disability rights, campaign against death penalty, rights of the linguistic and religious minorities, tribal rights, transgender rights and has been active in protesting against the new WTO rules pertaining to public distribution system, privatization of electricity , Eco-sensitive projects like hydraulic fracturing, Nuclear reactors in dense populations.

In the recent past the movement also supported the protest for restoration of cultural rights; jallikattu (bull taming) and opposed the PETA organization in the Marina Protest in the year 2017.

Date of Incident:

May 21, 2017 onwards

Place of Incident:

In Tamilnadu at Chennai in Marina Beach near Valuvar statue and near Labors statue.

Incident details:

The 'May 17 Movement' as in the past years (they have been holding these type of meetings since 2010) on 21 May 2017 (Sunday) organized a gathering to remember the Tamil mortals who were massacred by the Srilankan Army in Mullivaikal in 2009. They had planned to hold a candle light vigil in respect of the dead. Earlier the police had denied permission for the gathering citing prohibitory orders under section 41 of Madras City Police Act. Yet about 300 members gathered and participated in the vigil. The Police foisted a case against the members who had assembled peacefully; under section 147,148,188,341,506(2) IPC 7(1) a criminal law amendment act and sec 3 of TN property (prevention of Damage and loss) Act In Cr No: 480 of Mylapore, Marina Police Station limit through the protestors were unarmed and did not indulge any violent act against the people, or public property. It is also well known that the same police stations were the venue of 'staged' state violence and damage of public property in January 2017 – popularly known as the Marina violence which was also enguised by HRDA and affidavits submitted to the Justice S. Rajeswaran Commission of inquiry. The police arrested all the members and let them free later but they had remanded Mr.Thriumurugan Gandhi along with four other members to judicial custody, and later on 29 May 2017 the City Commissioner of Police charged them under 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act', 1982, by the police on the 29th of May, 2017. As per the judgement of the Supreme Court of India in Arneesh Kumar Vs State of Bihar there could not have been any remand of Thirumurugan and the 30 others

under the same was carried out only with malafide interest the attention was therefore 'arbitrary'.

The above said act describes a 'Goonda' as "a person, who either by either by himself or as a member of a leader of a 'gang' habitually commits, or attempts to commit or abets the commission of offences, punishable under chapter XVI (of offences affecting the Human Body) or chapter XVII (of offences against property) or chapter XXII (of criminal intimidation, Insult and Annoyance). Where as in the Constitution of India Article 19 (1) (b) guarantees every citizen the right to peaceful assembly (right or ability of people to come together and collectively express, promote, pursue, and defend their 'ideas'.) without disturbing public order.

We urgently wish to bring to your kind attention that the arrest and remand of the defenders is totally arbitrary and in contravention of the established domestic and international standards related to the freedom of peaceful assembly by the United Nations. The remand of 4 of the accused alone while others were not remanded were an act of premeditated 'malice expressed by the Commissioner of Police of Chennai with not an iota of respect for the rule of law in this country. The Commissioner of Police seems totally ignorant of the definition of a human rights defender under the UN Declaration of human rights defenders and the fact that it is the role of the state and its functionaries to protect human rights defenders. Mr. A.K.Viswanathan IPS has in his ignorance and disrespect to the rule of law equated human rights defenders as 'goondas'.

Appeal:

We, therefore urge you to immediately take necessary steps to ensure that:

1. The Hon'ble Commission appoint a senior lawyer practicing on the criminal side to appear for the HRDs in the Advisory Board established under the Tamilnadu Goondas Act..
2. The Hon'ble commission to recommend the State to withdraw the cases foisted against the HRDs, since it is a blatant violation of the Declaration of HRDs.

3. The Hon'ble Commission to also appear before the Advisory Board through its lawyer expressing its own position on law HRDs should be treated even as they protest on issues causing an embarrassment to the government.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a horizontal line underneath.

(Henri Tiphagne)

National Working Secretary – HRDA

Executive Director – People's Watch