



# HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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June 6, 2018

**Ref No:- HRDA/North/UP/2/5/2018**

To,  
The Hon'ble Chairperson and Members,  
National Human Rights Commission,  
New Delhi – 110023

Respected Sirs and Madam,

**Subject: Reference to HRDA Urgent Action Petition HRDA/North/UP/2/5/2018 sent on May 4, 2018 in the case of human rights defender Mr. Chandrashekhar Azad Ravan who has been arrested under National Security Act**

Human Rights Defenders Alert – India (HRDA) had petitioned before the Hon'ble Commission in the case of Chandrashekhar Azad Ravan on May 4, 2018. Chandrashekhar has been arrested under the National Security Act (NSA) since November 3, 2017. He was initially arrested for three months which was then extended for another three months on January 27, 2018. The second three months period was till May 2, 2018, however on the same day his custody has been extended for another three months, till August 2, 2018. Some media reports also confirm his custody been extended for six months, till November 2, 2018. Hon'ble Commission should note that the detention under NSA is ordered by non- judicial advisory board (administrative tribunal) established under the NSA.

In the same case, [World Organisation Against Torture](#) (OMCT) and [Asian Forum for Human Rights and Development](#) (FORUM-ASIA) have also written to the Hon'ble Commission seeking urgent action. FORUM-ASIA's petition dated May 25, 2018, has been registered as case number 13766/4/64/2018 however, HRDA's petition dated May 4, 2018 is yet to be registered.

HRDA believes that the Uttar Pradesh (UP) government has imposed NSA on Chandrashekhar in an attempt to crush Dalit movement in western region of the state and a reprisal against those who demand equality, justice and freedom from caste atrocities. Chandrashekhar has been arrested under NSA and now kept in custody for over seven months. This is a serious violation of his human rights and affecting his life and liberty guaranteed under Articles 14, 19 and 21 of the Indian Constitution.

Hon'ble Commission must note that that the NSA is not in accordance with the international human rights law and since 1980 several governments have misused it to curb dissent. NSA restricts fundamental freedoms guaranteed by the Indian Constitution and provisions of the Universal Declaration of Human Rights and the International Convention on Civil and Political Rights, i.e. freedom of association, freedom of speech, freedom of movement and impose restrictions on the rights to a fair trial. NSA is a reflection of the colonial India's Rowlatt Act which permitted detention without trial.

A three-judge bench of the Supreme Court in the case *Rekha vs State of Tamil Nadu* stated that "Prevention detention is, by nature, repugnant to democratic ideas and an anathema to the rule of law..... however, Article 22(3)(b) of the Constitution of India permits preventive detention, we cannot hold it illegal but we must confine the power of preventive detention within very narrow limits, otherwise we will be taking away the great right to liberty guaranteed by Article 21 of the Constitution of India which was won after long, arduous, historic struggles."

In the case of *V.Shantha vs State of Telengana*, the Supreme Court stated that "Preventive detention cannot be resorted to when sufficient remedies are available under the general laws of the land for any omission or commission under such laws.... The order of preventive detention, though based on the subjective satisfaction of the detaining authority, is nonetheless a serious matter, affecting the life and liberty of the citizen under Articles 14, 19, 21 and 22 of the Constitution. The power being statutory in nature, its exercise has to be within the limitations of the statute, and must be exercised for the purpose the power is conferred... if the power is misused, or abused for collateral purposes, and is based on grounds beyond the statute, takes into consideration extraneous or irrelevant materials, it will stand vitiated as being in colourable exercise of power."

In the case of *Chandrashekhar*, it is to be noted that the Allahabad High Court granted him bail on November 2, 2018, in all the 23 cases that were filed against him and was arrested on June 8, 2017. The state police failed to provide evidence of his specific role in any incident of violence and according the media reports, the High Court commented that charges against Chandrashekhar appear to be politically motivated. It was only after the bail granted by the High Court, the very next day i.e. on November 3, 2018, he was arrested under the NSA. This is a clear case of indiscriminate and arbitrary use of NSA by the UP government against a human rights defender and

restricting him from undertaking his legitimate human rights work. This continued detention without any trial is completely contrary to established national and international laws and standards.

HRDA urgently appeals to the Hon'ble Commission to –

- Register HRDA's petition dated May 4, 2018, Ref No:- HRDA/North/UP/2/5/2018.
- In this case of a human rights defender Mr. Chandrashekhar Azad Ravan, exercise powers under the Protection of Human Rights Act 1993 and undertake an independent investigation in this case. This is a case of indiscriminate and arbitrary use of NSA and Hon'ble Commission shouldn't restrict to calling for comments from the UP state authorities.
- Given that over seven months have lapsed after his arrest and this being determined by a non-judicial administrative tribunal, the Hon'ble Commission should also note the urgency in this matter as the life and liberty of human rights defender guaranteed by Articles 14, 19 and 21 of the Indian Constitution is being affected.
- This case shouldn't be transferred to the UP State Human Rights Commission (SHRC). The is a case of human rights defender and hence HRDA has approached the Hon'ble Commission through the National Focal Point on Human Rights Defenders. Further, out of two members required there is vacancy of one member in the UP SHRC. The arrest under this case is by UP government and it would only be fair that it is investigated by the Hon'ble Commission.

Looking forward to your immediate action in this regard.

Yours Sincerely,



Henri Tiphagne

National Working Secretary

Human Rights Defenders Alert – India