



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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Ref No: - HRDA/East/OD/01/04/2019

April 5, 2019

To,

Mr. Khaleel Ahmed

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 against the illegal arrest and torture of human rights defender Mr. Tapan Padhi by Odisha police - 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 now writing to express our grave concern about the illegal arrest and torture of human rights defender Mr. Tapan Padhi by the Odisha Police under false charges.

Status of Human Rights Defender:

Mr. Tapan Padhi is the founder member of "Mission Justice" a registered organization which fights for the rights of marginalized communities in the state of Odisha. Mr. Padhi is also a RTI activist and a member of state-level RTI network 'Odisha Soochana Adhikar Abhijan' (OSAA). He is active in social work for the past two decades. Mr. Tapan Padhi is also actively engaged in social media. Towards this Mr. Padhi along with others have created and maintained various web pages to expose corruption in various governmental departments.

Source of Information on the Incident:

- Regional Coordinator for Eastern zone for HRDA
- Communications from HRDs Mr. Akhand & Mr. Pradip Pradhan
- Media report

Perpetrators:

1. Mr. Charan Singh Meena, Superintendent of Police, Jajpur, Odisha
2. Mr. Ajay Jena, IIC Panikoili PS, Jajpur, Odisha

Place of Incident:

Panikoili Police Station, Odisha

Date of Incident:

March 17, 2019.

Details of the Incident:

As per the sources, on 17-03-2019, at about 11.30 p.m, while Mr.Tapan Padhi was at his residence at Chowdar district, Cuttack and was about to go to sleep, Inspector In Charge (IIC) of Chowdar police station along with his colleagues came and asked him to accompany them to the police station. Mr.Padhi questioned, as to why was he is being asked to come to the police station, to which the IIC replied that there is some enquiry. While leaving, the IIC collected Mr. Padhi's mobile phone and laptop and other electronic items.

On the way, Mr.Padhi noticed that instead of being taken to the Chowdar police station, the police vehicle was being taken in some other direction. Mr. Padhi questioned the IIC as to why was he is being taken in some other direction. The IIC replied that instead of Chowdar, he was now being taken to Panikoli police station in Jajpur district which was about 35 km away.

Later, to the surprise of Mr. Padhi, he found himself tortured in police custody for two consecutive days (March 17th and 18th, 2019). Thereafter, false and fabricated charges were registered against Mr. Padhi, under sections 292, 294, 506, 507, 34 of the Indian Penal Code (IPC) and 66A, 66C, 67, 67A of Information Technology Act, 2000. It was only after the registration of the fabricated charges that Mr. Padhi was produced before the Court. Another FIR was filed against Mr. Padhi by Sub Inspector of Police, Panikoli, police station, Mr. Kailash Chandra Bhoi, bearing case No. 42/2019, under sections 292, 294, 506, 507, 34 IPC and 66(A), 66(C),67 and 67(A) of Information Technology Act, 2000.

It is brought to the notice of this Commission that the present case is gross and flagrant violation of set laws and principles on arrest and detention and thereby infringement of basic human rights of Mr. Padhi by also illegally torturing him in custody.

Article 22, of the Constitution has been infringed, which guarantees protection against arrest and detention and declares that no person who is arrested shall be detained in custody without being informed of the grounds of such arrest and shall not be denied the rights to consult and defend himself by a legal practitioner.

The present action of the Odisha police is also a breach of section 50 of the Code of Criminal Procedure Code (Cr. P.C) which requires a police officer arresting any person to "*forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest*". Also, the D.K. Basu guidelines on arrest and detention alongside guidelines of the National Human Rights Commission on pre-arrest, arrest and post-arrest has been violated, including but not limited to:

1. No arrest memo was made while arrest of Mr. Padhi;
2. While being detained or interrogated, Mr. Padhi was was given no access to any friend or relative;
3. The time, place of arrest and venue of custody was not notified to the next friend or relative of Mr. Padhi or to the District Legal Aid Authority;
4. Mr. Padhi was not even given time to inform about his arrest to anyone;
5. Mr. Padhi was not even made to go through the medical examination within 48 hours of his arrest; &
6. Mr. Padhi was not allowed to have access to lawyer during his interrogation.

Further, Mr. Padhi was subjected to custodial torture which was again violation of his basic fundamental right as Article 21 includes a guarantee against torture and no sovereign immunity can be pleaded against the liability of the State arising due to the use of such criminal force over the captive person.

Appeal:

We, therefore urge you to immediately take the necessary steps and:

- Order an immediate impartial enquiry into the above-said incident of illegal arrest and torture of Mr. Tapan Padhi
- Immediately order for his treatment outside the jail premises.
- Issue orders to Odisha Police to maintain the Apex court order regarding arrest and detention in each cases of arrest.
- Ensure provision of reparation, compensation, and apology to the defender for the psychological sufferings that he is undergoing because of the threats and intimidation to his life and give this assurance to the NHRC of India in writing immediately and urgently.

Looking forward to your immediate action in this regard,

Yours sincerely,

-sd-

Henri Tiphagne
National Working Secretary