



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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August 23, 2019

To

Mr. Khaleel Ahmad

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

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action – Uttar Pradesh – Preventing a group of social activists and human rights to participate in a conference by Uttar Pradesh Police – Regarding

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 writing to express our grave concern over the attempt to harass and intimidate a group of social activists and human rights defenders including Ramon Magsaysay Award winner, Dr. Sandeep Pandey, Scholar Dr. Ram Puniyani, Rajeev Yadav of Rihai Manch, activist Anurag Shukla and Hafeez Kidwai who were prevented from entering the town of Ayodhya in Uttar Pradesh by the Uttar Pradesh Police on 17 August 2019.

About the Human Rights Defenders:

- Dr. Ram Puniyani is a noted scholar, anti-communalism activist and a writer. He was a professor of biomedical engineering at the Indian Institute of Technology - Mumbai, had taken voluntary retirement in December 2004 to work full-time for communal harmony in India. He is a member of EKTA, Committee for Communal Amity, Mumbai and has been associated with different secular initiatives for many years.

- Dr. Sandeep Pandey is a well know social activist, a Gandhian and an educationist. He is a recipient of the prestigious Ramon Magsaysay award – considered the ‘Asian Nobel’ – in the ‘emergent leadership’ category in the year 2002. Dr. Sandeep Pandey co-founded Asha for Education, one of the most respected NGOs of Asia to provide education to underprivileged children. Dr. Sandeep Pandey also co-founded the well-known grassroots organisation National Alliance of People’s Movements (NAPM).
- Rajeev Yadav is a human rights activist and general secretary of Lucknow-based human rights advocacy group Rihai Manch which works on issues of police atrocities, “illegal” detention and communal harmony. The group also addresses scores of issues that afflict the weaker sections of society. Anurag Shukla and Hafeez Kidwai are social activists from Uttar Pradesh.

Source of Information on the Incident:

- The Coordinator of HRDA for the North of India
- Media Reports

The Perpetrators:

Uttar Pradesh Police and district administration

Date and Place of incident:

August 17, 2019

Raunahi toll plaza, near Ayodhya, Barabanki district, Uttar Pradesh

Details of the Incident:

According to sources on 17th August, 2019 morning a group of social activists and human rights defenders including Dr. Sandeep Pandey, Scholar Dr. Ram Puniyani, Rajeev Anurag Shukla and Hafeez Kidwai were prevented from entering the town of Ayodhya from Lucknow and were detained at Raunahi toll plaza in Barabanki district just before Ayodhya on the Lucknow-Ayodhya highway by the Uttar Pradesh police. The activists and human rights defenders were on their way to Ayodhya to participate in a conference to promote peace and communal harmony to be attended by college students and social activists from various parts of the state and was being organized by Acharya Jugal Kishore Shastri. Sources also informed that Acharya Jugal Kishore was also detained from Ayodhya and was brought to Raunahi. The activists were told that Section 144 of Code of Criminal Procedure was imposed in the city and hence congregations of more than four persons would not be allowed.

The programme was to take place within the premises of a temple and was not scheduled for a public audience. It was to be attended by around 35 people. The Ayodhya conference was to hold lectures and discussions on subjects such as constitution, Ambedkar and communal harmony. Sources also informed that participants of the programme were threatened by the police and were pressurized to return home.

It is pertinent to note that Dr. Sandeep Pandey was kept under illegal house arrest in Lucknow on August 11, 2019 by the Uttar Pradesh police who was scheduled to hold a protest dharna called "Stand for Kashmir" at the Gandhi statue, Hazratganj in Lucknow against the revocation of article 370 and communication blockade in Jammu and Kashmir.. Even though, the present program had nothing to do with Kashmir issue, the said prominent activists were being denied permission to participate in the meeting at Ayodha. It is reported that there was no formal order with the state administrative and police authorities who had detained the group of activists and human rights defenders, banning the meeting in Ayodhya and that they were carrying a general order dated 10 July 2019 signed by District Magistrate banning any programme which could potentially disturb communal amity. Dr. Ram Punyani was sent back to Lucknow by the police as he had an air ticket for flying back to Mumbai. The rest were, however, kept under detention at Raunahi toll plaza.

The activists and human rights defenders in Uttar Pradesh and other parts of the country are facing severe restrictions on their constitutional rights and facing crackdown from the police in the wake of the abrogation of Articles 370 and 35A. There is a clampdown on anybody even outside of Jammu and Kashmir who wants to stand for the human rights of people of Kashmir. On August 16, 2019 Dr. Sandeep Pandey along with other activists including Rihai Manch chief Mohammed Shoaib were again placed under house arrest as they were planning to hold candle-light march in support of the people of Kashmir.

Article 19 of the Universal Declaration proclaims the right to freedom of expression, which includes freedom "to seek, receive and impart information and idea through any medium regardless of frontiers". Further Article 19 of the International Covenant on Civil and Political Rights sets forth the right to freedom of opinion, expression and information.

Article 19 (1) (a) guarantees to all its citizens the right to freedom of speech and expression. The Hon'ble Supreme Court of India in *Union of India Vs. Association for Democratic Reforms* (2002) 5 SCC 294 had observed that “*one sided information, and non information, all equally create and uninformed citizenry which makes democracy a farce. Freedom of speech and expression includes right to impart and receive information which includes freedom to hold opinion*”, and can be read in the present case through participation in the said meeting.

Further, in the Supreme Court in *Shreya Singhal v. State* (2015) had observed that there are three concepts which are fundamental in understanding the reach of this most basic of human rights which are discussion, advocacy and incitement. Mere discussion or even advocacy of a particular cause howsoever unpopular is at the heart of Article 19(1)(a). It is only when such discussion or advocacy reaches the level of incitement that Article 19(2) kicks in. It is at this stage that a law may be made curtailing the speech or expression that leads inexorably to or tends to cause public disorder or tends to cause or tends to affect the sovereignty & integrity of India, the security of the State, friendly relations with foreign States, and so on.

The protection of human rights defenders is critical to ensure that they are able to work in a safe, supportive environment and be free from attacks and reprisals. Article 21 of the Constitution of India ensures to all its citizen right to life – a life to live without fear, intimidation, harassment or mental torture. Also, The Declaration on Human Rights Defenders, adopted in 1998 by the UN General Assembly, states that governments are under a duty to “take all necessary measures to ensure the protection of human rights defenders by the competent authorities against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary actions” as a consequence of their efforts to promote human rights. Therefore, the government is bound by its international legal obligations to ensure that all activists and human rights defenders are provided with security against harassment or intimidation so that they may enjoy their constitutional right to due process, life and liberty under Article 21, and the right to freedom of speech and expression under Article 19(1)(a) of the Constitution of India.

Article 9 of the International Covenant on Civil and Political Rights (ICCPR) recognizes and protects both liberty and security of person. In the Universal Declaration of Human

Rights, Article 3 proclaims that everyone has the right to life, liberty and security of person.

In the present case, interception of the human rights defenders and detaining them midway so as to stop them from participating in the meeting amounts to denial of right to liberty and freedom of movement as well as speech and expression as guaranteed by the Constitution of India.

Appeal:

- Order an immediate, independent, thorough, transparent, effective and impartial investigation into the above-mentioned incident of intimidation and denial of freedom to participate in a conference on communal harmony and peace to above mentioned activists and human rights defenders by the Uttar Pradesh police;
- Ensure that social activists and human rights defenders in the state of Uttar Pradesh and elsewhere are allowed to carry out their genuine human rights work as per the fundamental rights enshrined in the Constitution;
- Take immediate action on the perpetrators in this case the district officials and Uttar Pradesh police personnel to prevent social activists and human rights defenders mentioned above from participating in a peaceful social programme and deny them their legitimate human rights to freely assemble and freedom of speech and expression and using all provisions of law to ensure that the defenders are not harassed, intimidated or prevented in any way while doing their legitimate human rights work by the Uttar Pradesh administration and police in future;
- Take steps to ensure the provisions contained in the Human Rights Council resolution 15/21 adopted in October 2010 which reaffirms that everyone has the rights to freedom of peaceful assembly and of association free of restrictions that is subject only to the limitations permitted by international law, in particular international human rights law;
- Take 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 which recognises the legitimacy of the activities of human

rights defenders, their right to freedom of association and to carry out their activities without fear of reprisals;

- Put an end to all acts of harassment and intimidation against all human rights defenders in general in Uttar Pradesh to ensure that in all circumstances they carry out their activities as defenders of human rights without any hindrances;
- 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 Uttar Pradesh.

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