



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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October 24, 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 – Jammu & Kashmir –
Delegation of National Alliance of People's Movements (NAPM)
detained at Srinagar airport and forcibly returned to Delhi /denied
the right to liberty of movement and freedom of association –
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 the members of National Alliance of People's Movements (NAPM)'s delegation led by prominent social activists and human rights defenders including Ramon Magsaysay Award winner, Dr. Sandeep Pandey, Prafulla Samantara of Lok Shakti Abhiyan, Odisha, Mr. Faisal Khan and Mohammed Javed from Delhi and Kerala's Musthafa Mohamed of the Khudai Khidmatgar who were prevented from entering the locked down Kashmir valley. They were detained at the Srinagar airport on the orders of the Budgam district executive magistrate and were then forcibly sent back to Delhi.

About the Human Rights Defenders:

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 2002. Dr. Sandeep Pandey also co-founded the well-known grassroots organisation National Alliance of People's Movements (NAPM). Mr. Prafulla Samantara is a well-known Odisha-based anti-

displacement activist, columnist and writer. He is a winner of the Goldman Prize for his struggle against indiscriminate mining in the Niyamgiri Hills in Odisha. Mr. Prafulla Samantra is currently president of an organisation called Lok Shakti Abhijan (LSA). Mr. Samantara has been at the forefront of the struggle for village communities mainly tribal people in Odisha fighting to save their lives and livelihood from the land mafia, multinational companies and corporate sector. Mr. Faisal Khan, a Gandhian, is a grassroots activist attached with National Alliance for People's Movement (NAPM). He has revived the "Khudai Khidmatgar" (Servants of God's Creation). Mr. Mohammed Javed, and Mr. Musthafa Mohamed are associated with the Khudai Khidmatgar group that works for Justice, Peace and communal harmony. The organisation has also worked for peacekeeping and rehabilitation practices in various fields and cases.

Source of Information on the Incident:

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

The Perpetrators:

District Magistrate Budgam district, Jammu and Kashmir

Date and Place of incident:

4 October, 2019

Srinagar Airport, Jammu & Kashmir

Details of the Incident:

According to sources on 4 October, 2019 around 7.30 am, a delegation of senior activists and globally recognised faces of Indian environmental and peace movement facilitated by National Alliance of People's Movements (NAPM) landed at Srinagar airport in the state of Jammu and Kashmir. The team included Lucknow's Ramon Magsaysay awardee Sandeep Pandey, Odisha's Prafulla Samantara, winner of the Goldman Prize for his struggle against indiscriminate mining in the Niyamgiri Hills, Delhi's Faisal Khan and Mohammed Javed, and Kerala's Musthafa Mohamed of the Khudai Khidmatgar group. The team was restrained in the VIP lounge of the airport while they were preparing to visit the locked down Kashmir valley.

The team was then forcibly sent back to Delhi on two separate commercial flights filled with soldiers between 4 and 4.30pm in the evening. They were detained at the airport on the orders of the Budgam district executive magistrate. According to sources individual notices in the name of Prafulla Samantara, Faisal Khan and Sandeep Pandey were issued by District Magistrate of Budgam. The notice issued referred to "credible inputs" from various agencies that they intended to organise protests in different parts of Kashmir on the issue of abrogation of Article 370 and the withdrawal

of special status of Jammu and Kashmir which could pose a threat to law and order situation in Kashmir. The notice also said that their entry into Jammu & Kashmir is being restricted till further orders.

In a press conference held at Press Club of India in Delhi on 5 October, 2019, the returned activists informed that they had gone on a two-day visit to meet Kashmiri people and extend humanitarian assistance and solidarity to the communities in distress. The police at the spot told them they would be arrested under prohibitory orders — Section 144 of the Criminal Procedure Code — which was in force in the Kashmir Valley. Countering the government's claim that there was no curfew, the activists told the fact is that with Section 144 of CrPC in force people were not free to move about freely and even the Kashmiri officers of J&K government were being subjected to frisking and security checks by Central security forces.

Since removing several constitutional provisions in August 2019 Indian authorities have flooded the Kashmir Valley with thousands of additional troops. Mobile internet and phone services were cut and landline phone access remained spotty, disrupting daily life and business in the valley, home to about 7 million people. More than 2,000 people, including mainstream political leaders, have been locked up or under house arrest. Kashmir Valley was placed under curfew, with severe restrictions on freedom of movement and ban on association and assembly of more than four people. There were strict restrictions on the movements of journalists, media reporters and publishers, resulting in a virtual blackout and a complete lockdown.

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.

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.

In the present case, interception of the human rights defenders and detaining them is an attempt to harass and intimidate the members of National Alliance of People's Movements (NAPM)'s delegation led by prominent social activists and human rights defenders including Ramon Magsaysay Award winner, Dr. Sandeep Pandey, Prafulla Samantara of Lok Shakti Abhiyan, Odisha, Mr. Faisal Khan and Mohammed Javed from Delhi and Kerala's Musthafa Mohamed of the Khudai Khidmatgar who were prevented from entering the locked down Kashmir valley amounting to blatant denial of their rights to liberty of movement and freedom of association guaranteed by the Indian constitution and other international instruments.

Appeal:

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

- Order an immediate, independent, thorough, transparent, effective and impartial investigation into the above-mentioned incident of violation of the right to liberty of movement and freedom of assembly and association of social activists and human rights defenders representing the team of National Alliance of People's Movements (NAPM) by the District administration of Budgam in Jammu and Kashmir;
- Ensure that social activists and human rights defenders in the state of Jammu and Kashmir 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 of Budgam, Jammu and Kashmir to prevent social activists and human rights defenders mentioned above and deny them their legitimate human rights to move freely and assemble 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 Jammu and Kashmir administration and police in future;
- Guarantee in all circumstances the physical and psychological integrity and security of human rights defenders as they continue to be under risk of further

attacks by the perpetrators and give this assurance to the NHRC of India in writing immediately and urgently;

- Ensure provision of apology to the defenders for the psychological sufferings they are undergoing because of their harassment and denial of entry to the Kashmir valley by the district authorities and provide a re-assurance of not engaging in such acts against the HRDs;
- 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 Jammu and Kashmir 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 Jammu and Kashmir.

Looking forward to your immediate action in this regard,

Yours sincerely,



(Henri Tiphagne)

Honorary National Working Secretary