



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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To
Mr. C.S Mawri,
National Focal Point - Human Rights Defenders & Assistant 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 – Odisha: Fabricated charges against Mr. Goutam Das, Mr. Bikram Das, Ms. Shanti Das and other HRDs.

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 in to express our concern over attempted abduction and fabricated charges against Mr. Goutam Das, Mr. Bikram Das, Ms. Shanti Das and other HRDs by Odisha Police.

About the Human Rights Defenders:

Mr. Goutam Das, Mr. Bikram Das, Ms. Shanti Das and others are residents of Dinkia panchayat under Erasama block in Odisha's Jagatsinghpur district. They have been opposing efforts to set up large industries in the coastal belt for over 15 years fearing ecological destruction and loss of livelihoods.

Mr. Das and others began a peaceful movement opposing a steel plant and port by South Korean steel giant POSCO in 2005. Although the Odisha government forcibly acquired land for the project in 2013 and cut down over 3 lakh trees, opposition against the project remained strong, and in 2017, POSCO exited.

A year later, the state government announced that the Jindal Steel Works (JSW) would set up a mega project at the site comprising steel, power and cement plants and captive jetties. Mr. Goutam Das, Mr. Bikram Das, Ms. Shanti Das and other HRDs in Dinkia panchayat renewed their movement and in subsequent months and years, they conducted numerous public meetings, rallies and demonstrations opposing the JSW project. In recent months, they also opposed the project in public hearings conducted by the administration.

Source of Information:

- Communication with the HRDs
- Communication with other HRDs in the region
- Police records

The Perpetrators:

- Mr. Pradyumna Behera, Inspector In Charge, Abhyachandpur police station
- Mr. Subrajit Das, Sub Inspector, Abhyachandpur police station
- Mr. Ashutosh Hota, Sub Inspector, Abhyachandpur police station
- Mr. Chinmaya Pany, Sub Inspector, Abhyachandpur police station
- Mr. Swetapadma Das, Sub Inspector, Abhyachandpur police station
- Mr. Raghunath Behera, Sub Inspector, Abhyachandpur police station
- Mr. Jatindranath Patra, Assistant Sub Inspector, Abhyachandpur police station
- Other personnel attached to Abhyachandpur police station

Date of Incident:

November 21, 2021

Place of Incident:

Dhinkia panchayat, Jagatsinghpur district, Odisha

Background of the Incident:

On September 20, 2021, an FIR (90/2021) was registered at the Abhayachandpur Police Station against Mr. Goutam Das on the basis of a complaint which claimed Mr. Das stalked and molested a woman. Mr. Das was charged under Sections 294 (obscene acts and words), 341 (wrongful restraint), 354 (assault or criminal force to woman with intent to outrage her modesty), 34 (common intent) of the Indian Penal Code. Mr. Subrajit Das, Sub Inspector, Abhyachandpur police station, was designated as the investigating officer in the case.

Despite the serious nature of allegations against Mr. Das, the police did not question him even once or record his statement in the subsequent two months. Mr. Das participated in several public meetings and demonstrations in Dhinkia panchayat during this period, where the police was also present.

Details of the Incident:

On November 21, 2021, at around 11 AM, a public hearing was organised by the district administration at the Dhinkia panchayat office regarding a thermal power plant to be set up by JSW in the area. Mr. Goutam Das, Mr. Bikram Das and HRDs attended the public hearing and objected to the presence of JSW company officials on the dais while speaking at the programme.

On the same day, at 8.35 PM, an FIR (119/ 2021) was registered at the Abhayachandpur Police Station against Mr. Goutam Das, Mr. Bikram Das, Mr. Manas Bardhan, Mr. Prabhat Biswal, Ms. Kuni Mallick, Ms. Shanti Sethy, Ms. Shanti Das, Ms. Latika Parida and nine other unnamed persons.

The complaint in the case Mr. Subrajit Das, Sub Inspector, Abhyachandpur police station, claimed that when he and other policemen spotted Mr. Goutam Das, accused

in FIR no 90/2021, outside the panchayat office while the public hearing was ongoing, they nabbed him and tried to take him to the police station. However, the HRD's associates Mr. Bikram Das, Mr. Manas Bardhan, Mr. Prabhat Biswal, Mr. Kuni Mallick, Ms. Shanti Sethy, Ms. Shanti Das, Ms. Latika Parida and others forcibly snatched him from police custody and abused policemen in filthy language.

The accused were charged under Sections 341 (wrongful restraint), 323 (voluntarily causing hurt), 332 (voluntarily causing hurt to deter public servant), 353 (assault or use of criminal force on a public servant), 186 (voluntarily obstructing any public servant in the discharge of his public functions), 224 (resistance or obstruction by a person to his lawful apprehension), 225 (resistance or obstruction to lawful apprehension of another person), 294 (absence of complainant), 506 (criminal intimidation), 34 (common intent) of the Indian Penal Code. Sub Inspector Mr. Chinmaya Pany was designated as the Investigating Officer in the case.

We believe that the police acted with malafide intentions to target Mr. Das and other HRDs in reprisal for their opposition to the JSW Utkal project and as reprisal for their activities as environment activists. Though no one has been arrested in the case yet, Mr. Das and other HRDs in the area fear they might be illegally detained and arrested arbitrarily and illegally.

Despite registering an FIR (FIR no 90/2021) against Mr. Goutam Das in September 2021, police did not question him for over two months, during this period the HRD participated in several public meetings where police were also present. After he and others raised objections regarding the presence of JSW Utkal officials at the public hearing, police first tried to illegally abduct him from the spot, which was thwarted by fellow HRDs. Police then registered a fabricated case against him and those who resisted his abduction was an act of reprisal for their activism.

These actions on the part of police officials amount to a gross abuse of the HRDs' fundamental right to life and personal liberty granted by Article 21 of the Indian Constitution as well as a complete violation of their human rights as guaranteed by national and international laws.

The right to exercise freedom of speech and expression is enshrined under Article 19(a) and the right to assemble peacefully under Article 19(b) of the Indian Constitution. The Human Rights Council resolution 15/21 adopted in October 2010 reaffirms that everyone has the right to freedom of peaceful assembly free of restrictions that is subject only to the limitations permitted by international law, in particular international human rights law.

Further, the Declaration on human rights defenders adopted in 1998 by the UN general Assembly was Clauses 2 and 3 of Article 12 of the declaration state: *"The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure, or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to*

States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.”

When HRDs like Mr. Das, Ms. Shanti Das and others are targeted and implicated in false cases for opposing big industries, fearing they will cause massive environmental destruction and loss of livelihoods, these rights are grossly violated.


Appeal:

We thus request the Hon'ble Commission to urgently:

- Direct the Director General of Police, Odisha, to initiate an independent inquiry into the attempted abduction and fabricated case against the HRDs and submit a report within two weeks.
- Depending on the result of the inquiry, take stern action against police officials guilty of framing the HRDs and quash the false charges against them.
- Ensure that Mr. Goutam Das, Mr. Bikram Das, Mr. Manas Bardhan, Mr. Prabhat Biswal, Ms. Kuni Mallick, Ms. Shanti Sethy, Ms. Shanti Das, Ms. Latika Parida and other HRDs are not subjected to false criminal proceedings against them.
- Direct the Chief Secretary of Odisha to initiate to initiate an independent inquiry into violation of legal provisions and rules during the public hearing in Dinkia on November 21, 2021, including the presence of JSW company officials therein and submit a report within two weeks.
- Depending on the result of the inquiry, take stern action against errant administrative officials.

Looking forward to your immediate action in this regard.

Yours sincerely,



Henri Tiphagne

National Working Secretary