



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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December 06, 2021

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 – Jharkhand: Fabricated charges against HRDs Ms. Anita Das and Mr. Dipak Kumar Singh by Jharkhand Police in collusion with administrative officials.

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 concern over fabricated charges against HRDs Ms. Anita Das and Mr. Dipak Kumar Singh by Jharkhand Police in collusion with administrative officials.

About the Human Rights Defenders:

Ms. Anita Das and Mr. Dipak Kumar Singh are General Secretary and President, respectively of the Ranchi Footpath Dukandar Hawker Sangh (RFDHS), a trade union of hawkers, street vendors and shopkeepers in Ranchi. They are also associated with the National Hawkers Federation, and have participated in many struggles seeking recognition and protection for hawkers and street vendors for several years.

Source of Information:

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

The Perpetrators:

- Mr. Om Prakash Toppo, Sub Inspector, Doranda Police Station
- Mr. S Mahasha, Sub Inspector, Doranda Police Station
- Other personnel from Doranda Police Station
- Personnel from the Enforcement Team of Ranchi Municipal Corporation

Date of Incident:

November 22, 2021

Place of Incident:

Ranchi, Jharkhand

Background of the incident:

On November 22, 2021, at around 10 AM, 5-6 officials from the Enforcement team of Ranchi Municipal Corporation arrived in the Birsa Chowk area in Ranchi in an official vehicle and launched a hawkers eviction drive. Although there were many female hawkers and vendors in the stretch between Birsa Chowk and Hinu Chowk, all the officials were men. They forcibly seized the goods and properties of hawkers and street vendors leading to heated arguments, pushed and shoved hawkers when they came in the way, and loaded their goods in the official truck. Some hawkers also tried to unload their goods from the truck.

The eviction drive was illegal as the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, mandates that eviction drives can be conducted only after clearance from the local town vending committee. In case of Ranchi, the Town Vending Committee (TVC) met on October 26, 2021, and cleared eviction drives in some areas enlisted in Notice no. 665/DAY-NULM of Ranchi Municipal Corporation, however, there was no mention of the stretch between Birsa Chowk and Hinu Chowk in this list.

Details of the Incident:

Around 11 AM, leaders of the RFDHS Ms. Anita Das and Mr. Dipak Singh arrived at the eviction spot, and demanded to see the TVC's permission and the seizure list, as required under Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. Enforcement officials claimed the eviction was being conducted following orders from the Commissioner of Ranchi, but they failed to show any official papers, and had prolonged arguments with the HRDs.

Meanwhile, the enforcement team informed the Daronda Police Station, and at around 12 PM, 3-4 police personnel including Officer in Charge Mr. S Mahasha, arrived at the spot and intervened on behalf of the enforcement team. They left after 15-20 minutes. The arguments and counter-arguments between the enforcement team and the HRDs continued till 1 PM, after which the eviction was called off. Enforcement officers video-recorded most parts of the argument on their mobile phone.

On November 22, 2021, a fabricated case (FIR no 261/ 2021) was registered in the Doranda Police Station against Ms. Das, Mr. Singh and others in reprisal for opposing the illegal eviction drive. They were charged under Sections 341 (wrongful restraint), 186 (obstructing public servant in discharge of official duties), 34 (common intention) of the Indian Penal Code, and Section 3 (mischief causing damage to public property) of the Prevention of Damage to Public Property Act.

The case was based on a complaint signed by Mr. Manoj Kumar and 10 other enforcement team officials, who alleged some people led by Ms. Das prevented them

from conducting the eviction drive, misbehaved with them and abused them. Ms. Das and others also damaged the official vehicle and forcibly unloaded some seized goods, they claimed. The FIR was registered by the Officer in Charge of Doranda Police Station Mr. S Mahasha, and Sub Inspector Mr. Om Prakash Toppo was designated as the Investigating Officer in the case.

It is clear that the police and enforcement team officials acted with malafide intentions to target the HRDs who were opposing the violation of laws protecting the interests of street vendors and hawkers. Police officials were present at incident spot and witnessed a large part of the arguments and counter-arguments. Yet, they registered an FIR against the HRDs immediately upon receiving the complaint from enforcement officers without even conducting a preliminary probe.

These actions of the police and enforcement team 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 Ms. Anita Das and Mr. Dipak Singh are targeted and implicated in false cases for opposing the violation existing laws and Supreme Court guidelines, these rights are grossly violated.

Appeal:

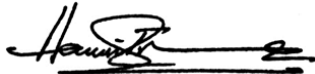
We thus request the Hon'ble Commission to urgently:

- Direct the Director General of Police of Jharkhand to initiate an independent inquiry into the fabricated case against the HRDs, examine video footage of the incident captured by the enforcement team, and submit a report to the NHRC in two weeks.

- Ensure that HRDs are protected from further harassment and/ or arrest by police in violation of due procedure.
- Depending on the result of the inquiry, take stern action against errant police and administrative officials guilty of framing the HRDs and take steps to quash the false charges against the HRDs.
- Direct the Chief Secretary of Jharkhand to initiate to initiate an independent inquiry into eviction drive in the Birsa Chowk area of Ranchi on November 22, 2021, including the violation of laws during eviction, and submit a report to the NHRC in two weeks.
- Depending on the result of the inquiry, take stern action against administrative officials guilty of conducting the eviction drive and seizing goods.
- Direct the state government to provide adequate compensation to hawkers for seized goods and physical and emotional distress, and to the HRDs towards legal costs on account of the fabricated case.

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
National Working Secretary