



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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HRDA/East/JH/03/01/2023

January 17, 2023

To

Mr. Indrajeet Kumar,
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 – Jharkhand: Disproportionate use of force, assault and arrest of tribal HRDs under fabricated charges by police and administrative officials in Latehar district.

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 disproportionate use of force, assault, and arrest of HRDs under fabricated charges by police and administrative officials in Latehar district.

About the Human Rights Defenders:

Residents of the six villages in Latehar district of Jharkhand have been protesting peacefully for several years against a coal mining project by Damodar Valley Corporation, a government-owned power generation company. The villages include Ambajharan, Dhobiajharan, Dihi, Nawari, Mangra and Tubed, and many of the

residents are Tana Bhagats – tribal followers of Mahatma Gandhi who have their own religion. Villagers are opposed to the project as they are dependent on the forests and farmlands within the project area, and their claims under the Forest Rights Act, 2006 are pending before the government. They also say that the rehabilitation package announced by the company is inadequate, and the public hearing preceding the environmental clearance was forged.

Source of Information:

- Communication with other HRDs in the region
- Fact-finding report by *Jharkhand Janadhikar Mahasabha, Akhil Bharatiya Adivasi Vikas Parishad* and *Human Rights Defenders Alert India*
- Media reports

The Perpetrators:

- Mr. Meghnath Oraon, Circle Officer, Latehar
- Mr. Santosh Kumar Mishra, Sub Divisional Police Officer, Latehar
- Mr. Amit Kumar Gupta, Thana Prabhari, Latehar Police Station
- Ms. Sunita Kumari, Mahila Thana Prabhari, Latehar
- Other personnel attached to Latehar Police Station

Date of Incident:

October 10, 2022

Place of Incident:

Latehar district, Jharkhand

Background of the Incident:

The Damodar Valley Corporation was allotted 460 hectares of land spread over six villages (Ambajharan, Dhobiajharan, Dihi, Nawari, Mangra, Tubed) in Latehar district vide Circular no. 3238 (A) issued by the Coal Ministry on July 2, 2019. The project area includes 230 hectares of agriculture land, 162.4 hectares of forestland, and settlements spread over 1 hectare. Land acquisition in the area is pending the and company has announced a compensation of 35 lakh per acre for land losers.

Local villagers, predominantly tribals, have been resisting the project. They say that Latehar is part of the Fifth Schedule of the Constitution, which bars transfer of land to non-tribals, and a petition filed by the All India Tana Bhagat Committee – an organisation of Tana Bhagats, who are followers of Mahatma Gandhi – demanding proper implementation of the Fifth Schedule is currently being heard in the Latehar Sessions Court.

Protestors also say that the mining lease area includes farm lands which they have been cultivating for several generations. While the rehabilitation plan covers those with land records (khatiyans), there is no provision for compensation of those without land records, although they will be displaced and shifted to a different location. Residents of the six affected villages had also applied for forest rights within the mining lease area under Forest Rights Act (FRA) 2006 in 2012-13, but only 40-45 persons have been granted individual rights, whereas no community rights have been granted till date.

Details of the Incident:

On October 10, 2022, at around 12.30 PM, around 500 residents of six affected villages gathered in front of the sessions court in Latehar to register their protest against land acquisition for DVC's coal mining project. Led by Tana Bhagats from the All India Tana Bhagat Committee, the protestors shouted slogans and planned to submit memorandums to the court demanding the strict implementation of the provisions of the Fifth Schedule of the Constitution in their villages.

Between 12.30 PM and 4 PM, the protestors tried to enter the court premises several times to submit the memorandum to the judge. But every time, they were stopped at the gate by police and administrative personnel led by Mr. Santosh Kumar Mishra, Sub Divisional Police Officer, Latehar, Mr. Amit Kumar Gupta, Thana Prabhari of Latehar Police Station, and Mr. Meghnath Oraon, Prakhanda Vikas Adhikari, Latehar.

At around 4PM, a large police contingent with about 800-1000 personnel including women reached the court premises, some outsiders who were not part of the protests pelted stones at the police. In response, the police force used water cannons and tear gas to disperse the protesters. They beat villagers including men and women with batons and chased them away. They also forcibly detained several protesters from the spot and took them to the Latehar police station.

Though most detained villagers and Tana Bhagats were released after a few hours, thirty protestors were formally arrested under FIR no 251/22, which was registered at the Latehar Police Station on October 10, 2022 at 8 PM. The complainant was Mr. Amit Kumar Gupta, Officer in Charge of Latehar Police Station, who claimed that the accused were part of an armed, unlawful assembly that obstructed government officials from performing their duty, attacked them with the intent to murder and vandalised government property. A total of 228 persons were named in the FIR and charged under Sections 147, 148, 149, 341, 342, 323, 324, 326, 307, 332, 333, 353, 354, 504, 506, 509 and 120(B) of the Indian Penal Code, and 228 persons were named as accused in it.

Six more villagers named in the FIR were arrested in November and December 2022, taking the total number of arrested persons to 36, includes six women. Residents of the six affected villages including those named in the FIR are frightened, anxious and disturbed, and many have left the village out of the fear that the police may harass or arrest them. Although this is the time of harvest, villagers are unable to work in their fields for fear of the police, and children are afraid to go to school.

It appears while some anti-social elements infiltrated the protest and pelted stones at the police, police used disproportionate force, including water cannons and tear gas, to break up the protest. It also appears that the police registered an FIR after the incident in a pre-meditated manner, naming over 200 residents of six villages protesting peacefully against land acquisition in order to muzzle dissent and topple the villagers' resistance movement.

Several facts of the case point at collusion between police and district administration authorities and their attempts to muzzle dissent:

- Mr. Hari Kumar, a Tana Bhagat, was not present at the incident spot in Latehar on October 10, but he was named in the FIR. He told a fact-finding team that the district administration and the Circle Officer targeted the tribals, especially the Tana Bhagats in the FIR, and that is why his name was included in the FIR.
- A person by name Mr. Monesar Oraon, who is from one of the affected villages but works in Ranchi, was not present in Latehar on October 10, 10-10-22, but he is named in the FIR.

- One of the named accused is Mr. Ethva Oraon from Ambajharan, a blind person who has never stepped out of his village; another paralysed person who is unable to walk is also named in the FIR.
- The time of arrest of 30 villagers on October 10 is mentioned in police records as 12 noon, though they were actually detained after 4 PM.

These instances 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.

A peaceful assembly is also protected under the Article 21 of the International Covenant on Civil and Political Rights (ICCPR). According to the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr. Clément Nyaletsossi Voule, *"states and their law enforcement agencies and officials are obligated under international law to respect and protect, without discrimination, the rights of all those who participate in assemblies, as well as monitors and bystanders."*

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 villagers who protest peacefully against land acquisition and demand implementation of the Fifth Schedule of the Constitution are subjected to reprisals, assaulted, arrested, and implicated under fabricated charges, these rights are grossly violated.

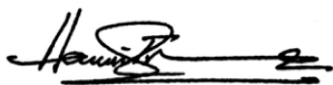
Appeal:

We appeal to the NHRC to treat this as a serious case of reprisal against human rights defenders for exercising their constitutionally guaranteed fundamental rights, and urge the NHRC to urgently –

- Direct the investigation wing of the NHRC to initiate an immediate, independent, thorough, transparent, effective and impartial investigation into the reprisals against protestors in Latehar and submit a report to the NHRC within 2 weeks.
- Depending on the result of the investigation, recommend legal actions against police officials who misused their powers to assault villagers, implicate them under fabricated charges and arrest them in violation of due procedure.
- Take adequate steps to ensure that freedom of peaceful assembly and expression is upheld in and around the project area of Damodar Valley Corporation's coal mining project in Latehar, Jharkhand.

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