



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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HRDA/NHRC-SM/East/WB/34/02/2024

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To
Justice (retd.) Mr. AK Mishra
Chairperson,
National Human Rights Commission,
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA,
New Delhi –110 023
Email: chairnhrc@nic.in

Dear and respected Sir,

Subject: Requesting to initiate a suo moto proceedings in the case of illegal detention and arrest of civil society fact-finding team which had gone to conduct a fact finding spot enquiry in Sandeshkhali by the West Bengal Police at Lal Bazar, West Bengal on 25th February, 2024 – Regarding.

We are writing to you to bring to your kind urgent attention that on 25 February 2024, an “independent fact-finding” team had gone to conduct a spot enquiry for alleged human rights violations in Sandeshkhali in Bengal. However, at about 11 AM on February 25, the members of the team were detained by the police officials of West Bengal at Bhojerhat 70 km away from Sandeshkhali. They were then taken to the Lal bazaar thana where they were arrested and later released.

The six 6 member fact-finding team [FFT] was led by former Chief Justice of Patna High Court Justice Mr. L Narasimha Reddy, a former IPS officer, Mr. Raj Pal Singh, a former member of the -National Commission for Women, Ms. Charu Wali Khanna, Advocate O. P. Vyas and former Joint Registrar of the NHRC Mr. O. P. Vyas, Advocate Ms. Bhavna Bajaj, Consultant of the -NHRC and NCPDR, and senior journalist Sanjeev Nayak. According to the members of the fact-finding team, the exercise was organised by the organisation, “Lawyers For Justice”.

The members of the FFT team were arrested under section 151 of IPC, and taken to the police HQ at Lal Bazar and later released. The members of the FFT fact finding have accused the

police officials of manhandling them and that their conduct was "improper and unbecoming of law enforcement officials".

The Deputy Commissioner (Bhangar Division) said to the media that " We were requesting them [panel members] to not cross from here [Bhojerhat in West Bengal's South 24 Parganas district], but they were trying to break the police barricade unlawfully. So, we had to arrest them under Section 144 CrPC.."

The incident has been reported widely in the media and links are shared here for your reference

1. Independent fact-finding team stopped by police on way to Sandeshkhali - The Hindu
2. <https://timesofindia.indiatimes.com/india/sandeshkhali-row-fact-finding-team-led-by-former-chief-justice-briefly-arrested-enroute-to-meet-victims/articleshow/107983455.cms>

HRDA strongly believes arresting members of a fact finding team investigating a human rights violation is an act of reprisal against their activism and denial of the fundamental right to assembly and express their opinion. .

A FFT fact finding regarding a human rights violation is a can be undertaken under the fundamental rights under s in Art 19 & 21 of the Indian Constitution, the Fundamental Duties in Art 51(a) of the Indian Constitution, Article 19 of the Universal Declaration of Human Rights 1948 and under Art 6 and 13 of the United Nations Declaration on the Rights and Responsibilities of Individuals, Group and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms 1998.

The United Nations Declaration on Human Rights Defenders 1999 states the following:

- Article 6 (c): "To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters."
- Article 9 (1): "In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights".
- Article 9(3)(c) "Everyone has the right, individually and in association with others "To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms."

- Article 11: "Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession".
- Article 12 (2) and (3) "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."

We urgently appeal to you to exercise Section 12 (a) of the Protection of Human Rights (Amendment) Act, 2019, and take suo moto cognizance of this incident and initiate an independent inquiry through NHRC's investigation wing and uphold the right of human rights defenders to assembly and express. .

It is pertinent to point out that this Hon'ble Commission had on 21st February resolved through its press note that a spot inquiry into the same incident would take place and it is only since the same had not been undertaken, that this independent FFT had to undertake this mission. May this incident once again remind the Hon'ble Commission that its voice is strongly raised whenever such rights to association, assembly and expression. This what the Commission is mandated by several resolutions of the Global Alliance of National Human Rights Institutions [GANHRI] and the Asia Pacific Forum of NHRIs [APF]. It is such suo moto urgent actions that will demonstrate the Hon'ble Commission's true independence and effectiveness and its being truly Paris Principles compliant.

We hope and expect that the NHRC will urgently and impartially intervene in this case impartially and in a time bound manner.

Yours Sincerely,



(Henri Tiphagne)

National Working Secretary