



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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HRDA/North/DEL/09/05/2023

May 30, 2023

To,
Mr. Indrajeet Kumar,
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 – Urgent Appeal for Action – Delhi – Lathi-charge, assault, intimidation and fabricated FIRs on peacefully protesting wrestlers by the Delhi Police.

Greetings from Human Rights Defenders Alert!

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 regarding the brutality, illegal detention, and fake FIRs by the Delhi Police on an ongoing unarmed and peaceful protest by Indian sportspersons against sexual violence inflicted on them.

Source of Information:

- Information from HRDA North Regional Consultant
- Media Reports

Date of Incident:

- May 28, 2023

Place of Incident:

- Jantar Mantar, New Delhi

Perpetrators:

- Police personnel of Delhi
- Mr. Dependra Pathak, Special Commissioner of Police (Law and Order) Delhi

About the Human Rights Defenders:

A group of wrestlers from India, including Olympic medallists Mr. Bajrang Punia and Ms. Sakshi Malik, and Asian Games Gold medallist, Ms. Vinesh Phogat, and Ms. Sangeeta Phogat who have been peacefully protesting against sexual violence inflicted on them by Mr. Brij Bhushan Sharan Singh, the President of Wrestling Federation of India.

Background of the Incident:

In January 2023, women wrestlers including Ms. Vinesh Phogat, Ms. Sakshi Malik, and other women wrestlers alleged that the Indian Wrestling Federation's president Mr. Brij Bhushan sexually harassed female wrestlers. The incidents of sexual violence ranged from 2012 to 2022. They demanded action against the president of the federation for his sexual harassment. The government assured them of action after an investigation.

On 23 April 2023, a peaceful protest was started at Jantar Mantar Delhi, by the wrestlers because no action was taken by the government. The protest was supported by various women organizations, farmers organizations, and various civil rights organizations. The protestors demanded that the police file an FIR against Mr. Brij Bhushan and his arrest.

On 28 April 2023, after an intervention by the Indian Supreme Court, the Delhi Police registered two FIRs against Mr. Brij Bhushan Singh. An FIR was registered under the POCSO Act (Protection of Children from Sexual Offences Act, 2012) for offenses against minors. A second FIR was lodged on the same basis on the complaint of some women wrestlers.

Details of the Incident:

On May 28, 2023, a peaceful march was organised by the protesters from Jantar Mantar to the Parliament to demand the arrest of Mr. Brij Bhushan. To stop the march Delhi police set up barricades and the protesters were forcibly stopped. Security was heightened and many farmers groups who were planning to join the wrestlers' protest were stopped from entering the national capital.

The police brutally lathi charged the protestors and the protesting wrestlers including Ms. Sakshi Malik, and Ms. Vinesh Phogat. The sportspersons were summarily dragged, forcibly pushed to the ground, manhandled, thrown into buses, and taken to unknown destinations. They were released late at night. Tents at their protest site were dismantled and their bedding was thrown away by the police.

Apart from the wrestlers, others who supported the protest were detained including lawyers, bloggers and journalists like Mr. Mandeep Punia. They included former MP Subhashini Ali, social activist Annie Raja, Kawaljeet Kaur and Dipti Bharti of the National Federation of Indian women, Poonam of Pragatisheel Mahila Sangathan, Sucheta De of CPIML (L) and AICCTU, Jagmati Sangwan and Maimoona Mollah of AIDWA, activists Maya John and others of CSW, Purogami Mahila Samiti and AIMSS activists Ritu Kaushik and others, Krantikari Yuva Sangathan activists, student activists were also picked up and detained. Farmers leaders were also detained or picked up from the protest site at Tikri, Singhu and Ghazipur border. Those picked up from the Haryana borders of Singhu and Tikri included Charanjit Kaur Dhulia, Davinder Kaur Hardaspura, Gurnam Singh Chaudhuri, Amarjit Singh Mohri, Ravi Azad and Jagdeep Aulakh.

All those detained were taken to different police stations and not allowed to meet lawyers. The protesting wrestlers were also separated and sent to four different police stations and subjected to intimidation and to illegal detention and isolation.

On May 28, 2023, an FIR was registered against the protestors by police personnel under section 188 (disobedience to order duly promulgated by public-by-public servant), 186 (obstructing public servant in discharge of public functions), 353 (assault or criminal force to deter public servant from discharge of his duty) and 332 (voluntarily causing hurt to deter public servant from his duty) of the Indian Penal Code. Section 352 (assault or criminal force otherwise than on grave provocation). 147 (rioting) and 149 (unlawful assembly) of the Indian Penal Code and Section 3 (mischief causing damage to public property) of the Prevention of Damage to Public Property Act have also been invoked.

The Delhi police said that 700 people were detained across the national capital. As many as 109 protestors including the three wrestlers, were detained at Jantar Mantar. The police also claimed the wrestlers broke and crossed the barricades, misbehaved, and pushed the police personnel including the women constables.

Mr. Dependra Pathak, Special Commissioner of Police (Law and Order) claimed the protesters ignored repeated requests and warnings and "wrestled" with police personnel who tried to stop them. Today (May 28, 2023) was an important day for the country as the new Parliament building was to be inaugurated and despite warnings and repeatedly urging protesters at Jantar Mantar to not march beyond the protest the protest site, they continued to do so," he said, adding the behaviour of the wrestlers was highly irresponsible. The wrestlers have denied damaging public property.

Mr. Pathak also said that the detained protesting wrestlers will not be allowed to continue with their protest at Jantar Mantar and the protest venue at Jantar Mantar has been cleared.

We believe that the brutality on a peaceful assembly of sportspersons is an arbitrary, illegal, and serious violation of constitutionally guaranteed right to life and peaceful assembly. The right to freedom of peaceful assembly is an essential right in a democracy and Article 19 (1) (b) of the Indian Constitution guarantees the right to peacefully assemble.

The illegal detention of the protestors, the denial of their legal rights and their intimidation and harassment in police stations for protesting are multiple violations of the DK Basu guidelines of Detention and Arrest as directed by the honorable Supreme Court of India.

Article 21 of the Indian Constitution ensures to all its citizen right to life – a life to live without fear, intimidation, harassment, or mental torture. Unprovoked lathi-charge on unarmed protestors is a violation of the Articles 19 and 21 of the Indian Constitution. A peaceful assembly is 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, 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. The potential for violence is not an excuse to interfere with or disperse otherwise peaceful assemblies."

The principle of proportionality applies in use of force during peaceful assemblies. A brutality by the police unprovoked by any physical violence, is a violation of the principle of proportionality and non-adherence to standard operation protocols for management of assemblies.

Appeal:

We urge the Hon'ble Commission to take cognisance of the above case and urgently:

- Direct the investigation wing of the NHRC to initiate an immediate, independent, thorough, transparent, effective, and impartial investigation into the above-mentioned incident of lathi-charge of an unarmed peaceful protestor and who gave the order for the brutality and submit the report to the NHRC within two weeks.
- Direct the Director General of Police of Delhi to quash all the fabricated FIRs against the women wrestlers and activists be dropped.
- Direct the Director General of Police of Delhi to arrest Mr. Brijbhushan Sharan Singh against whom complaints of sexual violence has been lodged by the women wrestlers.
- Return the tents and belongings of the protestors and recognise their fundamental right to assemble peacefully and protest for their demands.
- Ensure that social activists and human rights defenders in the state of Delhi and elsewhere are allowed to carry out their genuine human rights work as per the fundamental rights enshrined in the Constitution.

We hope to hear from you soon,

Yours Sincerely,



(Henri Tiphagne)

National Working Secretary