



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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NHRC Diary No. 7302/IN/2020 for the complaint submitted online

Ref No: HRDA/West/GJ/01/06/2020

June 04, 2020

To,

Mr. Debindra Kundra

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 – Gujarat: Mr. Arvind Makwana and Ms. Niruben Chorasiya, booked in a fabricated case for intervening in a case of caste atrocity and physical assault by police personnel - Regarding

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 grave concern regarding police misusing laws against Mr. Arvind Makwana and Ms. Niruben Chorasiya, RTI activists and HRDs associated with the Navsarjan Trust, for intervening in a case of caste atrocity and police inaction.

Source of Information:

- Director of Campaigns, DHRDNet
- Regional Coordinator of HRDA for West India
- Communication with the HRDs in the region
- Media Reports

Date of Incident:

April 09, 2020

Place of Incident:

Dhasa police station, Botad, Gujarat

The Perpetrators:

Police of Dhasa police station, Botad, Gujarat

About the Human Rights Defenders

Navsarjan Trust is a grassroots organisation dedicated to ensure human rights for all. Their mission is to eliminate discrimination based on untouchability practices. They also campaign for equality of status and opportunities to all, regardless of caste, class or gender, and ensure prevalence of the rule of law. Mr. Arvind Makwana and Ms. Niruben Chorasiya are associated with Navsarjan and undertake human rights interventions.

Background of the case

Mr. Makwana and Ms. Chorasiya, intervened in a case where on March 28, 2020, Dhasa police personnel physically assaulted a Dalit youth Mr. Ankitbhai Raghavbhai Vaniya and seven other members of his family in Vikaliya village of Gadhada block in Botad district. A case was registered as FIR No. 11190003200099/2020 at the Dhasa police station by intervention of these two activists on April 5, 2020, against Sub Inspector (SI) Mr. Raval and other police personnel of the Dhasa police station. However, the FIR did not mentioned relevant sections of the Prevention of Atrocities, Act 2015 (PoAA) and the Indian Penal Code (IPC). Hence, the complainant Mr. Vaniya requested Mr. Makwana and Ms. Chorasiya to accompany him to meet the Deputy Superintendent of Police (DySP) Mr. Nakum at Botad Police Station. The HRDs resisted given the lockdown and potential risk to their health. However, the Dasada MLA Naushad Solanki pressurised them and insisted saying that he has sought oral permission for three people to go to Botad. It was only following this, it was decided to visit the DySP. Botad on April 9, 2020.

Details of the incident

On April 09, 2020, Mr. Makwana and Ms. Chorasiya accompanied Mr. Vaniya to meet the DySP. Botad at his office in Botad. Upon reaching the DySP's office, they met him and a written application was submitted by Mr. Vaniya, complainant in FIR No. 11190003200099/2020, seeking the addition of relevant sections according to the PoAA.

After reading the said application, DySP Mr. Nakum got infuriated and raised his voice intimidating the HRDs and the victim. He questioned, how they managed to travel during lockdown. However, even after informing Mr. Nakum that they had obtained oral permission through Dasada MLA Mr. Naushad Solanki to travel inter-district, he continued to intimidate them. He continuously asked the HRDs not to intervene in this matter. Thereafter, the HRDs and the victim left the police station and returned back to their place of residence.

However, on the following day, April 10, 2020, HRDs Mr. Makwana and Ms. Chorasiya were informed through a newspaper report that they have been booked in a case at the Dhasa police station. Later, it was gathered that FIR No. 11190003200104/2020 has been registered against them. The FIR is based on the complaint of one of the police personnel, Mr. Ashwinbhai Kanjibhai Chavda. The content of the complaint discloses that on April 09, 2020, HRDs went to the police station and intimidated DySP Mr. Nakum. The FIR alleges that the HRDs were aggravated when asked for an authorised permit to travel and said “we can go wherever we want to go in Gujarat”. This FIR mentions offences under Section 209 (dishonestly making false claim in court), 270 (malignant act likely to spread infection of disease dangerous to life), 188 (disobedience to order duly promulgated by public servant), 506 (Criminal Intimidation), 114 (Abettor present when the offence is committed) of the Indian Penal Code.

We would like to bring to the notice of the Hon'ble Commission that on the pretext of the COVID-19 lockdown and the guidelines, the HRDs are being incriminated in a false case. The police instead of accepting the application presented by the HRDs and victim, seeking remedy under the PoAA, misused their powers and criminalised them in a fabricated case. This is just another attempt to intimidate the dissenting opinion of the HRDs, as they were insisting a free and fair investigation in the physical assault of Mr. Vaniya and seven members of his family, by Dhasa police personnel.

Appeal

We therefore urge you to immediately take necessary steps to:

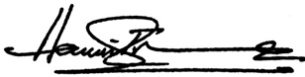
- Order an immediate, thorough, transparent, effective and impartial investigation, through Hon'ble Commission's investigation wing, into the above-mentioned case of misuse of law to harass HRDs Mr Arvind Makwana and Ms. Niruben Chorasiya.
- Recommend FIR against DySP Mr. Nakum and other police personnel of the Dhasa police station under section 4 of the SC/ST Prevention of Atrocities Act

and provide interim relief to the victim and his family and the two HRDs in this case.

- Recommend FIR against DySP Mr. Nakum and other police personnel of the Dhasa police station under section 3(1)(p) of the SC/ST Prevention of Atrocities Act for implicating HRDs Mr Arvind Makwana and Ms. Niruben Chorasiya in a false case.
- Recommend in the FIR registered by Mr. Ankitbhai Raghavbhai Vaniya against Dhasa police station personnel's to invoke appropriate sections of the SC/ST Prevention of Atrocities Act and Indian Penal Code

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