



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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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 – Chhattisgarh: Threats and fabricated charges against journalist Mr. Ramhari Gupta by Chhattisgarh Police as reprisal for reporting on government project.

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 in to express our concern over the threats and fabricated charges against journalist Mr. Ramhari Gupta by Chhattisgarh Police as reprisal for his reportage on poor quality work in government project.

About the Human Rights Defender:

Mr. Ramhari Gupta is a resident of Basantpur village in Wadrafnagar block of Balrampur district of Chhattisgarh. He is a reporter with *The Rihand Times*, a Hindi language evening daily published from the Surguja region. Mr. Gupta has reported widely on local movements, development, corruption and pilferage in government programmes, illegal sand mining, and reprisals against journalists and activists in the past five years. He and fellow journalist Devkrishna Pandey were arrested and jailed for a week in July 2019 under fabricated charges after they published news reports showing the involvement of police and government officials in illegal sand mining. They are currently out on bail.

Source of Information:

- Communication with the HRD
- Communication with other HRDs in the region
- Media reports

The Perpetrators:

- Mr. Dhruvesh Kumar Jaiswal, Deputy Superintendent of Police, Surguja Range

- Mr. Rajendra Kumar Phute, Deputy Superintendent of Police, Anusuchit Jati Kalyan Police Station, Balrampur
- Mr. Baula Kispotta, Thana Prabhari and Assistant Sub Inspector, Anusuchit Jati Kalyan Police Station, Balrampur
- Mr. Raju Singh, Constable, Anusuchit Jati Kalyan Police Station, Balrampur
- Police personnel attached to Anusuchit Jati Kalyan Police Station, Balrampur

Date of Incident:

July 22, 2021 – August 27, 2021

Place of Incident:

Balrampur district, Chhattisgarh

Background of the Incident:

Residents of Basantpur village complained to the Sub Divisional Officer, Wadrafnagar, Mr. Rajaram Susham in early July 2021, regarding poor quality of construction of the library and laboratory complex of the Basantpur Government High School. Upon Mr. Susham's directions, Engineer Mr. Anand Dube visited the school on July 14, 2021, to examine the quality of construction. He was accompanied by several local villagers, including journalist Mr. Ramhari Gupta.

When Mr. Gupta and others were pointing out parts of the building where quality of work was extremely poor to the engineer, contractor Mr. Islam Ansari reprimanded them, saying, "Who are you to ask about quality?" Mr. Gupta responded saying he was concerned as a local resident, and covering the inspection was part of his job as a journalist. Mr. Ansari threatened to lodge a false case against Mr. Gupta if he dared to publish a report on the matter.

On July 15, 2021, Mr. Gupta's report regarding poor quality construction work in the school, visit by the engineer and threats issued by the contractor was published in *The Rihand Times*. Reports on the matter were also published in other publications in the Surguja region like the *Bharat Samman*, a Hindi daily published from Ambikapur.

Details of the Incident:

On July 22, 2021, at 1.50 PM, the Anusuchit Jati Kalyan Police Station in Balrampur received a written complaint against Mr. Ramhari Gupta from Mr. Hariprasad Ayam, a mason working in the same construction project.

In the complaint, Mr. Ayam alleged that while he was at work on July 15, 2021, at 10 AM, Mr. Gupta arrived asking for the contractor, and the commission that was due to him. He abused Mr. Ayam in casteist terms and threatened to physically assault him when he said he knew nothing about the commission or the contractor.

Constable Mr. Raju Singh lodged an FIR against Mr. Gupta at 1.50 PM on the direction of Thana Prabhari and Assistant Sub Inspector Mr. Baula Kispotta. Mr. Gupta was charged under Sections 294, 384, 506 of the Indian Penal Code, and Section 3(1)(10) of the SC/ ST Prevention of Atrocities Act, and Deputy Superintendent of Police Mr. Dhruvesh Kumar Jaiswal was assigned as Investigating Officer in the case. In spite of the grave charges against Mr. Gupta, he was not informed about the FIR officially. He learned about the FIR from sources on July 27, 2021.

On July 28, 2021, Mr. Gupta wrote to the Superintendent of Police, Balrampur, Mr. Ram Krishna Sahu and the Inspector General of Ambikapur Mr. Ratan Lal Dangi, complaining about the fabricated case against him, and asking for an impartial probe into the matter and strong action against the contractor and the mason if found guilty, for filing false complaints to harass journalists.

At 4 PM on July 28, 2021, he spoke to SP Mr. Sahu on the phone, and told him the he feared being arrested. He demanded the removal of Deputy Superintendent of Police Mr. Dhruvesh Jaiswal as investigating officer in his case, as the officer was involved in foisting a fabricated case against Mr. Gupta in 2019, and the HRD was arrested and jailed for a week. Mr. Sahu assured him of a fair probe. Subsequently, Deputy Superintendent of Police Mr. Rajendra Kumar Phute was made the investigating officer in the case.

Several local publications carried news stories in support of Mr. Gupta, including the *Bharat Samman*. On August 13, while the *Bharat Samman* Editor Mr. Kumar Jitendra was speaking to the SP Mr. Sahu, he asked if there had been any progress in investigation in Mr. Gupta's case. The SP said that Deputy Superintendent of Police Mr. Rajendra Kumar Phute had already visited Wadrafnagar, and complainant Mr. Hariprasad Ayam had recorded a statement under Section 164 of the Code of Criminal Procedure in India before a Magistrate. Consequently, Mr. Gupta feared being arrested.

On August 16, 2021, at 2 PM, he along with around 30-35 other journalists from the Surguja region met Balrampur SP Mr. Sahu at his office. They flagged rising instances of fabricated cases against journalists and the involvement of senior police officials in such cases, and demanded the SP's intervention in a two-hour meeting. When Mr. Gupta's case came up for discussion, fellow journalists pressed on the demand that the Investigating Officer Mr. Phute must visit the incident spot and speak to witnesses, whereas Mr. Sahu assured them of a fair probe.

On August 27, 2021, Mr. Phute visited the Basantnagar Government High School, and examined over 50 witnesses, including Sarpanch Mr. Rambriksh Japte, who said no confrontation as alleged by Mr. Ayam took place on July 15, 2021.

Mr. Gupta was advised to apply for anticipatory bail as an FIR had already been registered, and he was liable to be arrested. The HRD does not have the resources to engage a lawyer, and remains apprehensive of arrest.

We are shocked that a journalist Mr. Gupta was threatened, intimidated and implicated in a false case under serious charges in reprisal for reporting about corruption in a government project. This case also points to involvement of police officials in targeting the journalist. First, an FIR against Mr. Gupta was lodged at the very same time when the police station received a written complaint, showing no preliminary investigation was conducted despite the fact that the accused was a journalist. Second, as part of the investigation initially, police facilitated the recording of a statement of the complainant under Section 164 of Code of Criminal Procedure in India, and witnesses were examined only after several journalists pleaded for a fair probe with the SP,

showing police was more intent on harassing the HRD. The same is also evidenced in police not informing Mr. Gupta about the case against him.

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. A free media is an extremely important fourth pillar of the Indian democracy. These FIRs filed by functionaries violate his right to freedom of speech and expression under Article 19(a) of the Indian Constitution. The right to freedom of opinion and expression encompasses three different aspects: 1) the right to hold opinions without interference; 2) the right of access to information; and 3) the right to impart information and ideas of all kind. On the aforesaid, it is stated that the Declaration on Human Rights Defenders seeks to protect the monitoring and advocacy functions of defenders by recognizing their right to obtain and disseminate information relevant to the enjoyment of human rights. If journalists and HRDs like Mr. Gupta are targeted, these rights are grossly violated and the media is muzzled.

Appeal:

HRDA urges the Hon'ble Commission to:

- Direct the Director General of Police of Chhattisgarh to submit a report with the Hon'ble Commission within two weeks on the harassment of journalist Mr. Ramhari Gupta by police officials.
- Depending on the result of the inquiry, Direct the Director General of Police of Chhattisgarh to initiate stern action against policemen guilty of misuse of law and of fabrication of cases against Mr. Ramhari Gupta.
- Direct the Director General of Police of Chhattisgarh to take measures to quash charges registered against Mr. Ramhari Gupta.
- Direct the Director General of Police of Chhattisgarh to ensure physical security of journalist Mr. Ramhari Gupta and his family from further harassment and arrest by the police.

Looking forward to your immediate action in this regard.

Yours sincerely,



Henri Tiphagne

National Working Secretary