



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: Excessive use of force by Chhattisgarh Police including firing on peaceful Adivasi protestors, resulting in three HRD deaths and many more injured.

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 lathi-charge and firing on Adivasi villagers of Silger participating in peaceful protests against the establishment of a police camp in the Bastar division of Chhattisgarh. This resulted in deaths of at least three protestors and 22 HRDs were seriously injured due to lathi-charge, firing and the ensuing stampede.

About the Human Rights Defenders:

Residents of Silger and neighbouring villages who protested peacefully the establishment of security camps without the consent of their Gram Sabha.

Source of Information:

- Communication with HRDA eastern consultant
- Communication with HRDs in the region
- Media reports and social media posts

The Perpetrators:

- Mr. Ritesh Kumar Agrawal, DM, Bijapur;
- Mr. Vinit Nandanwar, DM, Sukma; and other administrative officials
- Mr. Kamlochan Kashyap, SP, Bijapur
- Mr. Ashok Yadav, Sub Inspector and Thana Prabhari of Jagargunda Police Station in Sukma district and other police personnel at the Police Station.

- CRPF's 153rd battalion and 168th battalion and state security forces at the Silger camp

Date of Incident:

13-17 May, 2021

Place of Incident:

Bijapur and Sukma districts, Chhattisgarh

Background of the Incident:

Mass protests against the proliferation of CRPF camps have been common in Sukma and Bijapur districts of Chhattisgarh, both Schedule Five areas, over the past few years, especially in areas along roads and highways.

Residents of Silger village, located close to the border between the two districts, and five neighbouring gram panchayats, participated in these peaceful protests on several occasions, decrying the lack of gram sabha consent for establishing security camps, as required by law in Schedule Five areas.

Although the residents of Silger and neighbouring villages apprehended the establishment of a new camp in Silger for the past several months, there was neither any official word on the same, nor was the matter placed for consideration before gram sabhas, as mandated in case of Schedule Five areas, and under the PESA Act.

On May 12, 2021, the security camp was eventually set up in the dead of night, at around 3 am, without informing the villagers. The people of Silger got to know about the camp later in the day from residents of a neighbouring village who had come to Silger for the weekly market.

On May 13, 2021, about 40-50 villagers from Silger went to the camp to discuss and register their protest with camp in charge. When they were not allowed to enter the camp by armed guards at the gate, they assembled in front of the camp peacefully. However, without any provocation, the police and CRPF personnel resorted to lathi-charge to disperse them, which left over 20 HRDs injured. The HRDs received traditional treatment for their injuries in their villages.

On May 14, 2021, about a thousand villagers from five gram panchayats nearby Silger began a peaceful protest on the road a few hundred meters away from the camp. Pictures and videos of the protests showed the camp was adjacent to the road and separated from it with two rows of concertina wire; two Mine Protection Vehicles were parked outside the camp.

From May 14-16, large numbers of women and men from Silger and neighbouring villages joined the peaceful protest and shouted slogans demanding the removal of the camp.

Between May 13 and May 16, 2021, police used excessive force to disperse peaceful protestors on several occasions, resorting to lathi-charge and firing of tear gas shells. Dozens of protestors sustained minor injuries during these days and returned to their villages for local treatment.

Details of the Incident:

On May 17, 2021, the protest witnessed massive turnout – according to one witness, around 10 thousand villagers were there that day to demand removal of the camp.

At around noon, police suddenly began a lathi charge to disperse peaceful protestors. This was followed by firing shots in the air from the two mine protection vehicles parked outside the camp. Many protestors ran helter-skelter causing a stampede.

Meanwhile, security forces took up position on both sides of the road in front of the camp, with protesters sandwiched in between, and opened fire. Three HRDs were killed on the spot; they included Ursa Bhima and Kawasi Waga from Gundam village, and a minor aged 16-17 years named Uika Pandu – also called Murali – from Timmapuram village, who was hit in the head by a bullet.

At least three more HRDs sustained bullet injuries from the police firing, including Punam Sukku from Pusbaka village who was shot in the back and is now admitted in the ICU in Bijapur District Hospital. Two other HRDs who were shot and were treated at the district hospital included Dodi Ayat from Gutpelli village and Bhima Mandavi from Tekalguda village. Around 40-50 other HRDs sustained serious injuries from the lathi charge incident and received traditional treatment in their villages.

In a press note issued on May 20, 2021, police claimed that on May 17, 2021, about 3,000 severely agitated protestors turned up at the site, and many of them were armed. Police claimed that these armed protestors attacked the camp with the intention of burning it down, leaving the forces with no choice but to open fire.

An FIR (06/2021) based on the police narrative was registered May 20, 2021, in Jagargunda Police Station under Sections 147 (rioting), 148 (rioting with deadly weapon), 149 (unlawful assembly with common objective), 307 (murder), 332 (causing hurt and obstructing public servants), 395 (dacoity) of the Indian Penal Code, and Sections 38, 38(2) (membership of a terrorist organisation), 39, 39(2) (support for a terrorist organisation) of the Unlawful Activities Prevention Act.

However, accounts of eyewitnesses and reports by independent journalists and researchers who visited the site including well-known HRDs Ms. Bela Bhatia and Mr. Jean Dreze, stressed that all protestors participating in the massive turnout on May 17, 2021, were unarmed, and the police firing was completely unprovoked.

Despite the police firing, local adivasis continued the protest during subsequent days, and several reports mentioned a rise in the number of participants after May 17, 2021. They also stated that the protests remains wholly peaceful, and villagers have built a memorial at the incident site to commemorate the deaths of HRDs.

We strongly believe that the excessive use of force by police and paramilitary personnel against peaceful protestors leading to the death of HRDs was an act of reprisal against local villagers for their opposition to the camp. While villagers located close to the camp feared harassment, including repeated searches, beatings, sexual assault, fabricated cases, fake encounters, the validity of their concerns were borne out most clearly in the police firing, that killed three HRDs and left others fatally injured.

The lack of any attempts by the administration in Bijapur and Sukma districts to seek the consent of concerned gram sabhas regarding use of land under their jurisdiction for the Silger camp and roads, as necessitated under the PESA Act, indicates high-ranking administrative officials worked in connivance with police to deny basic rights to indigenous communities residing in the area.

The DM and SP in denying basic rights to affected villagers and also obstructed independent journalists, researchers and HRDs like Ms. Bela Bhatia and Mr. Jean Dreze from reaching the site and talking to affected villagers in subsequent days. HRDA had filed an urgent appeal earlier describing these attempts, showing how they were targeted expressly towards curbing the right to peaceful assembly, free speech, and expression.

Despite these efforts and calls for a fair, independent probe into the firing incident by several civil society groups in Chhattisgarh and other parts of the country, police seem to be creating hurdles to prevent fact-finding teams, activists, journalists and politicians from reaching the protest site and talking to affected villagers by misusing pandemic laws and setting up barricades and checks at different points.

The only motorable road from Bijapur district to Silger was declared a containment zone and several fact-finding teams, leaders of political parties and well-known activists and journalists being stopped at the five police stations and 15 security camps between Bijapur and Silger, and not allowed to proceed further.

On May 24, Ms. Bhatia and Mr. Dreze helped the villagers of Silger prepare a formal complaint against the police and CRPF guilty of firing on unarmed protestors on May 17, 2021, and accompanied one of them to the Jagargunda Police Station. The complaint demanded that an FIR be lodged against the perpetrators under IPC sections 302 (murder) and 307 (attempt to murder). But instead of registering an FIR based on this complaint, personnel at the Jagargunda police station consulted Sub Inspector Mr. Ashok Yadav, also the Thana Prabhari, over phone as he was not present in the premises. They then informed Ms. Bhatia and the complainants that since an FIR regarding the incident had already been registered and a police inquiry was underway, any complaint pertaining to the incident would have to be submitted at the district police headquarters in Sukma, located over 80 km away. Ms. Bhatia and others insisted on their right to lodge the complaint at Jagargunda Police Station itself as the incident occurred within its jurisdiction and all the complainants resided within its purview. Personnel at the police station consulted Mr. Yadav several times on the phone and received the complaint only after three hours of argument with Ms. Bhatia and others.

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. The right to assemble peacefully is also enshrined under Article 19(b) of the Indian Constitution.

The Code of Conduct for Police In India under Sec 4 says, 'In securing the observance of law or in maintaining order, the police should as far as practicable, use the methods of persuasion, advice and warning. When the application of force becomes inevitable,

only the irreducible minimum of force required in the circumstances should be used.' The provisions should also be ensured in conformity with Articles 4 and 5 of the UN Basic Principles on the use of force and firearms.

The UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, states that "everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels; (article 1). That "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" (Article 12.2).

Appeal:

HRDA urges the Hon'ble Commission to:

- Like in the case of killing of peaceful protestors in Tuticorin, following a direction of the Delhi High Court, the Hon'ble Commission undertook spot inquiry, in this matter initiate an immediate, independent, thorough, transparent, effective and impartial investigation through its investigative wing into the incident of firing on May 17, and allegations of use of excessive force or misuse of law by police in preceding and subsequent days.
- The spot inquiry should investigate to what extent the Standard Operating Procedures (SOP) were violated by the relevant government functionaries, in the Silger firing and the subsequent human rights violations that took place in order to fix the liability of those officials responsible for specific delinquent acts. This should also include both acts omission and commission.
- Direct the Director General of Police (DGP) and Chief Secretary (CS) of Chhattisgarh to take stern action against those policemen and officials guilty of harassment, intimidation, use of excessive force, and firing leading to death.
- Direct the Chief Secretary of Chhattisgarh to provide compensation to the families of Adivasi HRDs who were killed including compensation to those injured in the firing.
- Initiate a comprehensive, impartial investigation through its investigative wing into the establishment of security camps in Sukma and Bijapur districts in violation of PESA, Forest Rights Act and other laws applicable in Schedule Five areas and if prior permission was granted by the gram sabha.

Looking forward to your immediate action in this regard,

Yours sincerely,



Henri Tiphagne
National Working Secretary