



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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HRDA/UA/North/DL/01/02/2024

February 3, 2024

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 - India - Urgent Appeal for Action – Delhi: Misuse of law and forcible detention to stop peaceful protests by Delhi police officials.

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 the forcible detention on multiple peaceful and unarmed protests undertaken by a Dalit WHRD Professor Ritu Singh and other HRDs, by the Delhi police officials.

Source of Information:

Communication with the HRDA North Regional Coordinator

Communication with other local HRDs

Media Reports

Date of Incident:

- January 09, 2024
- January 19, 2024

Place of Incident:

Delhi

The Perpetrators:

- Police personnel of Delhi police, Delhi.
- Mr. Bijender Singh, Inspector Delhi Police

About the Human Rights Defender:

Dr. Ritu Singh is an Dalit assistant professor at Delhi University's Daulat Ram College, and has been active in issues of social importance in the DU. She was arbitrarily terminated from her position in 2020 and was on a peaceful strike for over 135 days.

Background of the Incident:

Dr. Ritu Singh is a Dalit assistant professor of Delhi University. After teaching as an assistant professor for about a year, she was removed. She alleged that she was terminated from the college due to caste discrimination.

In 2020, she staged a protest the dismissal of the principal. She had also staged a protest in September last year. As per reports, a charge sheet was filed against the principal under the SC/ST Act but no action has been taken so far.

Details of the incident:

On January 09, 2024 Dr. Ritu Singh and her associates were forcefully detained using heavy police force and taken to the police station Burari Police Station, Delhi. The protest site was filled with water so that people could not sit on the protest again. Fellow protestors and student activists also alleged that the security personnel tore copies of the Indian Constitution and a picture of Dr BR Ambedkar present at the protest site.

According to Dr. Singh the Delhi Police misbehaved with the protesters and forcefully loaded them in a vehicle and took them to the police station. Where they were detained for several hours. They were not allowed to talk to the media, their tent and all their belongings were forcibly taken away by the police from the protest site. In a viral video, it is clearly visible how the policemen are forcefully picking up the protesters and taking them away in the vehicle. Ms. Ritu Singh said that the police did not give any kind of notice and the police said that they have imposed section 144 of CrPC. There was a lot of argument between Ms. Ritu Singh and Mr. Bijender Singh, Station House Officer, Burari Police Station, Delhi. <https://x.com/IYC/status/1744936041025511460?s=20>

On January 19, 2024, many people peacefully gathered with Ms. Ritu Singh at the Art Faculty, Delhi University to commemorate the death anniversary of Mr. Rohit Vemula, a Dalit student. Mr. Chandrashekhar (A Dalit social and political leader) and Adv. Mahmood Pracha also took part in the march. The police gave no notice or warning to the peaceful protest but hundreds of policemen forcibly put the protestors in the vehicles and detained them. The protestors were let go in the evening.

We believe that the detention and arrest by the Delhi police on peacefully protesters is an arbitrary, illegal, and serious violation of constitutionally guaranteed right peaceful assembly and in violation of the DK Basu guidelines of detention and arrest as ordered by the Honorable Supreme Court.

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. 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.

The Honourable Supreme court in Mazdoor Kisan Shakthi Sangathan v. UOI 2018 17 SCC 32 held that: -

“54. The right to protest is thus recognised as a fundamental right under the Constitution. This right is crucial in a democracy which rests on the participation of an informed citizenry in governance. This Right is also crucial since its strengths representative democracy by enabling direct participation in public affairs where individuals and groups are able to express dissent and grievances, expose the flaws in governance and demand accountability from the state authorities as well as powerful entities. This right is crucial in a vibrant democracy like India but more so in the Indian Context to aid in the assertion of the rights of the marginalised and poorly represented minorities.

59. A particular fundamental right cannot exist in isolation in a watertight compartment. One fundamental right of a person may have to coexist in harmony with the exercise of another fundamental right by others and also with reasonable and valid exercise of power by the state in the light of the directive principles of social welfare as a whole.”

In Anita Thakur v. State of J&K, (2016) 15 SCC 525 it was observed the Supreme court that:-

“12...holding peaceful demonstration in order to air their grievances and to see that their voice is heard in the relevant quarters is the right of the people. Such a right can be traced to the fundamental freedom that is guaranteed under Articles 19(1)(a), 19(1)(b) and 19(1)(c) of the Constitution. Article 19(1)(a) confers freedom of speech to the citizens of this country and, thus, this provision ensures that the petitioners could raise slogan, albeit in a peaceful and orderly manner, without using offensive language. Article 19(1)(b) confers the right to assemble and, thus, guarantees that all citizens have the right to assemble peacefully and without arms. Right to move freely given under Article 19(1)(d), again, ensures that the petitioners could take out peaceful march. The “right to assemble” is beautifully captured in an eloquent statement that “an unarmed, peaceful protest procession in the land of “salt satyagraha”, fast-unto-death and “do or die” is no jural anathema”. It hardly needs elaboration that a distinguishing feature of any democracy is the space offered for legitimate dissent. One cherished and valuable aspect of political life in India is a tradition to express grievances through direct action or peaceful protest. Organised, non-violent protest marches were a key weapon in the struggle for Independence, and the right to peaceful protest is now recognised as a fundamental right in the Constitution.”

The Supreme Court in Mazdoor Kisan Shakti Sangathan v. Union of India, (2018) 17 SCC 324 : 2018 SCC Online SC 724 at page 366 held that:-

“54. The right to protest is, thus, recognised as a fundamental right under the Constitution. This right is crucial in a democracy which rests on participation of an informed citizenry in governance. This right is also crucial since it strengthens representative democracy by enabling direct participation in public affairs where individuals and groups are able to express dissent and grievances, expose the flaws in governance and demand accountability from the State authorities as well as powerful entities. This right is crucial in a vibrant democracy like India but more so in the Indian context to aid in the assertion of the rights of the marginalised and poorly represented minorities.”

Furthermore 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.

NHRC guidelines on “arrests” 22nd November 1999

- *The power to arrest without a warrant should be exercised only after a reasonable satisfaction is reached, after some investigation, as to the genuineness and bonafide of the complaint and a reasonable belief as to both the person’s complicity as well as the need to effect arrest. [Joginder Kumar’s case – 1994 4 SCC 260]*
- *As a rule, use of force should be avoided while effecting arrest. However, in case of forcible resistance to arrest, minimum force to overcome such resistance may be used. However, care must be taken to ensure that injuries to the person being arrested, visible or otherwise, is avoided.*
- *The dignity of the person being arrested should be protected.*
- *Where the arrest is without a warrant, the person arrested has to be immediately informed of the grounds of arrest in a language with he or she understands.*

Appeal:

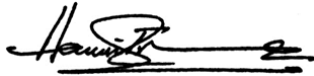
We therefore request the honorable Commission to take urgent action and:

- Direct the Director General of Police of Delhi to Investigation of the NHRC to initiate a transparent, independent inquiry into the illegal detention of the HRDs and submit the report to the NHRC within two weeks.
- Direct the Director General of the Police of Delhi to ensure the safety of WHRD Ms. Ritu Singh to protect them from further harassment by the police.
- 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.

- Take steps to conform to the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, which recognizes the legitimacy of the activities of human rights defenders, to carry out their activities without fear of reprisals.
- Put an end to all acts of harassment and intimidation against all human rights defenders in general in Delhi to ensure that in all circumstances they carry out their activities as defenders of human rights without any hindrances.

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