



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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HRDA/East/OD/08/03/2022

March 31, 2022

To
Mr. Indrajeet Kumar,
National Focal Point - Human Rights Defenders & Deputy 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 – Odisha: Misuse of law, illegal detention and arrest of Mr. Deme Oram and other land and environment HRDs under fabricated charges.

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 the misuse of law, illegal detention and arrest of Mr. Deme Oram and other land and environment HRDs under fabricated charges by Odisha Police.

About the Human Rights Defenders:

Mr. Deme Oram, Mr. Samra Ekka, Mr. Mahadev Barla, Mr. Sukra Oram, Mr. Fagu Ekka, Mr. Budhua Lakra and others are members of the Anchalika Surakshya Committee, Bondamunda. They have been holding peaceful protests against the displacement of around 700 Adivasi families in and around Bondamunda in Sundargarh for the past several years. The HRDs have also been demanding implementation of recommendations by the National Commission for Scheduled Tribes (NCST) in 2018 and 2019. It recommended immediate rehabilitation and

resettlement of displaced people and a bar on further displacement and construction activities in the area.

Source of Information:

- Communication from the HRDA Eastern Regional Consultant
- Communication with other HRDs in the region
- Media reports

The Perpetrators:

- Mr. Bhagaban Pujari, Inspector and Officer in Charge, Bisra Police Station, Rourkela
- Mr. Nunaram Tudu, Sub Inspector, Bisra Police Station, Rourkela
- Other personnel attached to Bisra Police Station, Rourkela
- Mr. Tikeswar Kisan, Assistant Engineer, R&B Division, Rourkela (Complainant in FIR 37/2022)

Date of Incident:

March 16-28, 2022

Place of Incident:

Rourkela district, Odisha

Background of the Incident:

Around 4000 acres of land in and around Bondamunda in Sundargarh and Rourkela districts was acquired by the Rourkela Steel Plant in the years 1956-64. But the public sector steel manufacturer never took possession of the land and the Adivasi residents continued to farm their plots in the said land even after the acquisition.

In recent years, the South Eastern Railways has proposed to lay a second railway track alongside an existing line in this area. The expansion is planned to facilitate the movement of trains carrying coal from the Dhamra port in Odisha to a power plant being constructed by the Adani group in Godda in the neighbouring state of Jharkhand.

Led by well-known HRD Mr. Deme Oram, President of Anchalika Surakshya Committee, around 700 adivasi families who faced fresh displacement owing to the

railway line approached the National Commission for Scheduled Tribes in 2018. The Commission issued two sets of recommendations in 2018 and 2019 requiring:

- Immediate provision of 5 acres of unirrigated land and 2 acres of irrigated land to each displaced family in keeping with the Govt. of Odisha circular (No- AG-40/2005/49777/CSR &DM) dated 26.11.2008.
- No eviction of adivasi families settled on the acquired land until they were provided adequate resettlement and rehabilitation as required under law.
- Bar on any form of construction in the acquired land by the administration and railway department without the consent of the displaced adivasi families.
- Bar on deployment of police force unless deemed necessary.
- Candidates from displaced Adivasi families should be given priority for the appointment of junior positions in the railway department.

Media reports stated that while none of these recommendations were implemented, administration and railway officials tried to take possession of the land and begin construction work by force on multiple occasions. But these attempts were thwarted due to peaceful protests by local residents including Mr. Deme Oram, who broadcasted the protests live on Facebook.

Details of the Incident:

In March 2022, the Odisha government commenced work on the construction of a road overbridge at the Kukuda Gate Railway Crossing in Rourkela district without implementing any of the NCST recommendations. A sizable police force was deployed at the site to prevent locals from obstructing construction work

On March 16, 2022, Mr. Deme Oram and other members of the Anchalika Surakshya Committee began an indefinite, peaceful demonstration near Kukuda Gate protesting against the commencement of construction and demanding implementation of NCST recommendations. Protestors erected a makeshift tent beside the road, but they did not prevent workers from carrying on construction activities, or enter into any altercation with them.

On March 16, 2022, at 3.15 PM, an FIR (37/ 2022) was registered against Mr. Oram and 50 unnamed others at the Bisra Police Station under Section 143 (unlawful assembly), 341 (wrongful restraint), 186 (voluntarily obstructing public servant in the

discharge of public functions), 506 (criminal intimidation), 149 (unlawful assembly with common object) of the Indian Penal Code. The complainant Mr. Tikeswar Kisan, Assistant Engineer, R&B Division, Rourkela, alleged that Mr. Oram with 50 others forcefully stopped construction work at the site and threatened to set the machinery on fire if any further work was carried out. Sub Inspector Mr. Nunaram Tudu was deputed as Investigating Officer in the case.

Police detained several protestors from the site after the registration of the FIR, but they were released after being forced to sign personal bonds under Section 107 of the Code of Criminal Procedure, stating they would not participate any further in protests. Meanwhile, the peaceful sit-in demonstration continued regardless, and construction work proceeded at a slow pace.

On March 28, 2022, at around 11 AM, Mr. Oram and other protestors began a road blockade near the Kukuda Gate Railway Crossing as the roadside demonstration failed to elicit the intervention of higher authorities.

The same day, another FIR (44/2022) was registered at the Bisra Police Station against Mr. Deme Oram and others under Sections 147 (rioting), 148 (rioting with deadly weapon), 149 (unlawful assembly with common object), 353 (Assault or criminal force to deter public servant), 341 (wrongful restraint), 294 (Obscene acts and songs), 307 (attempt to murder) of the Indian Penal Code and Section 7 (Molesting a person to prejudice of employment or business) of Criminal Law Amendment Act, 1932.

On March 28, 2022, at around 2 PM, a large police force including women personnel forcefully detained around 200 protestors including Mr. Oram from the protest site and took them to a stadium in the Rourkela city. Police later released most detainees, but arrested 21 leaders of the movement without showing any arrest warrant or informing them regarding any charges.

The HRDs arrested included Mr. Deme Oram, Mr. Samra Ekka, Mr. Mahadev Barla, Mr. Sukra Oram, Mr. Fagu Ekka, Mr. Budhua Lakra, Mr. Bikram Oram, Mr. Joseph Oram, Sukru Ekka Laliketa (resident of Jhasia Toli), Mr. Gilani Barua, Mr. Bhutu Oram, Mr. Manoj Kumar, Mr. Mahadev Tanty, Mr. Deva Kerketta and seven others.

The arrested protestors were detained at the Bisra Police Station and later produced in court. They were granted 15 days judicial remand by the Magistrate. Other HRDs who are part of the protest fear being implicated in more fabricated cases and arrested in violation of due procedure.

We firmly believe that the arrest of HRDs was an abuse of power by the Odisha police to target those protesting against the commencement of construction work in violation of Odisha government orders and NCST recommendations.

These amount to an abuse of the HRDs' fundamental right to life and personal liberty, and freedom of peaceful assembly guaranteed by Articles 21 and 19 (b) respectively of the Indian Constitution, as well as multiple violations of the DK Basu guidelines of arrest as ordered by the Honourable Supreme Court of India.

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 the international human rights law.

A peaceful assembly is also 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, Mr. 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."*

Further, Article 12 of the UN Declaration on Human Rights Defenders adopted by consensus by the UN General Assembly in 1998 state: *"(2) 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. (3) In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms."*

The arrest of land and environment HRDs by the Odisha police, restricting them from exercising their fundamental rights, is an abuse and overreach of the law.

Appeal:

We thus request the Hon'ble Commission to urgently:

- Direct the Director General of Police, Odisha, to initiate an independent inquiry into the fabricated charges against HRDs and their illegal and arbitrary detention and arrest by the Odisha Police, and submit a report to the NHRC.
- Depending on the result of the inquiry, take stern action against errant police and government officials who misused provisions of law and framed the HRDs and illegally detained and arrested them.
- Ensure that land and environmental activists in the state of Odisha are allowed to assemble peacefully and carry out their genuine human rights work as per the fundamental rights enshrined in the Indian Constitution.

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