



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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HRDA/UA/West/MH/07/11/2023

November 28, 2023

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 – Urgent Appeal for Action – Maharashtra –Fabricated charges, lathi-charge, illegal detention and arrest of peaceful anti mining tribal protestors by the Maharashtra police.

Greetings from Human Rights Defenders Alert!

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 deep concern harassment, fabricated charges, illegal detention and arrest and alleged torture of 21 peaceful anti mining tribal protestors by the Maharashtra police as well as assault and brutal lathi charge on peaceful protestors from 7 villagers which resulted in grave injuries.

Source of Information:

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

Date of Incident:

November 20, 2023

Place of Incident:

Todgatta, Surajgarh Area, Gadchiroli, Maharashtra

Perpetrators:

- Mr. Neelotpal, Superintendent of Police, Gadchiroli
- Mr. Sanjay Meena, District Collector, Gadchiroli
- Other police and CRPF officials in Gadchiroli

About the Human Rights Defenders:

Adivasi/tribal protestors who are members of the Damkondawadi Bachao Sangharsh Samiti, - a people's campaign against iron mining in Damkondwahi and Surjagadh-- were assaulted, and illegally arrested. Their names are as follows:

- Mr. Laxman Jetti (34)
- Mr. Sallu Dorpeti (27)
- Mr. Nikesh Naroti (23)
- Mr. Mahadu Kawdo (30)
- Mr. Pradeep Hedo (40)
- Mr. Sai Kawdo (22)
- Mr. Mangesh Narote (42)
- Mr. Pallu Peka Pottami (34)
- Mr. Lalsai Mattami (38)
- Mr. Sallu Hedo (40)
- Mr. Naresh Modyami (21)
- Mr. Ramesh Kawdo (27)
- Mr. Ramesh Maha (40)
- Mr. Gillu Kawdo (29)
- Mr. Srinivas Mattami (33)
- Mr. Sundarsai Kispota (44)

- Mr. Shankar Kulyeti (30)
- Ms. Bodka Naroti (43)
- Ms. Seema Korsa (19)
- Ms. Sunita Dolu Kawdo (27)
- Ms. Sunita Mahadu Kawdo (30)

Background of the Incident:

A peaceful protest has been going on in Surajgarh area of Gadchiroli district of Maharashtra for the last 250 days wherein tribals from more than 70 tribal villages have been protesting against six iron-ore mines proposed and auctioned in the Surajgarh hills of the Gadchiroli district. The protest is being organised under the banner of Damkondawadi Bachao Sangharsh Samiti. A large majority of the protesting Adivasis belong to the Madia-Gond community, one of the three Particularly Vulnerable Tribal Groups (PVTG) in the region.¹

From time to time, the police have been interrogating the people involved in this movement and trying to stop this protest.

In May 2023, five companies- Omsairam Steels and Alloys Private Limited, JSW Steels Limited, Sunflag Iron and Steel Company Limited, Universal Industrial Equipment and Technical Services Private Limited and Natural Resources Energy Private Limited- were given leases for 6 new mines to be operated in the Surajgarh hills.

Adivasi villagers have long opposed mining operations in the hills, saying that these lands are sacred to them and that the mines will destroy the ecosystem and their agricultural livelihoods. Media reports ² say the mining has already led to environmental damage in the region.

Details of the Incident:

On the morning of November 20, 2023, around 1,000 police and security personnel reached Todgatta, the protest area in Surajgarh, Gadchiroli district, where protesters

¹ <https://maktoobmedia.com/india/branding-adviasis-as-maoists-police-violently-clear-out-protest-against-mining-in-gadchiroli/>

² <https://scroll.in/article/1056602/the-cost-of-protesting-against-mining-in-gadchiroli>

from more than 70 tribal villages were peacefully agitating against the six iron-ore mines proposed and auctioned in the Surajgarh area of the Gadchiroli district for the last eight months.

Firstly, the police separated all the main leaders of the protest from the protest, forcibly searched their belongings, and turned over their bags.

After this, Mr. Laxman Jetti, Mr. Mahadu Kawdo, Mr. Nikesh Naroti, Mr. Mangesh Naroti, Mr. Pradeep Heddo, Mr. Sai Kawdo, Mr. Gillu Kawdo, and Mr. Ganesh Korea the eight leaders of the movement were forcibly taken by the helicopter to Gadchiroli, and their mobiles were confiscated.

After that the police demolished and burnt some huts in the village and confiscated the belongings of some protesters. A brutal lathi charge was also done by the police in which many tribal protestors suffered severe injuries. Some people even became unconscious due to head injuries.

In a video from the protest site viral, the police officers are clearly seen using batons to intimidate people to keeping quiet and stopping them from shooting any video or photographs.

Apart from eight leaders, about 100 to 150 protesters were taken away in trucks. Reports say that the protestors taken in were also assaulted when they were being rounded up into trucks. 13 protesters were added to the list of the 8 mentioned above and were formally arrested.

The police did not inform their family members after their arrest. Neither did the police allow them to meet an advocate of their choice. The arrested protestors were only able to meet their advocate in court the following day.

Eight leaders who were picked up along with 21 other protestors were held at the Ettapalli police station, Ettapalli, Gadchiroli.

On November 21, 2023 at 12:03 am A FIR (0074/2023) was registered against Mr. Laxman Jetti, Mr. Sallu Dorpeti, Mr. Nikesh Naroti, Mr. Mahadu Kawdo, Mr. Pradeep Heddo, Mr. Sai Kawdo, Mr. Mangesh Narote, Mr. Pallu Peka Pottami, Mr. Lalsai Mattami, Mr. Sallu Heddo, Mr. Naresh Modyami, Mr. Ramesh Kawdo, Mr. Ramesh Maha, Mr. Gillu Kawdo, Mr. Srinivas Mattami, Mr. Sundarsai Kispota, Mr. Shankar Kulyeti, Ms. Bodka Naroti, Ms. Seema Korsu, Ms. Sunita Dolu Kawdo and Ms. Sunita

Mahadu Kawdo by Mr. Chetan Kailashi a police officer at Etpalli police station at Etpalli police station, Etpalli, Gadchiroli. On the same day, they were sent to Chandarpur Jail, Chandarpur.

The FIR was registered under sections **353**- Assault or criminal force to deter public servant from discharge of his duty, **341**- Punishment for wrongful restraint, **143**- Punishment, **147**- Punishment for rioting, **148**- Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, **149**- Every member of unlawful assembly guilty of offence committed in prosecution of common object, **120B**- Whoever is a party to a criminal conspiracy to commit an offence punishable with death, **186**- Obstructing public servant in discharge of public functions, and **506**- Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both of Indian Penal Code.

On November 21, 2023, the SMH Shahid, Judicial Magistrate First Class, Aheri directed that the accused to remain in judicial custody until December 5th, 2023. The order also highlighted a series of lapses by the police.

Including that the police have not by which number the police have communicated the relatives of the accused. "It is pertinent to note that when I have made query with Investigating Officer Shri Kukde about mobile number of the relatives of the accused person. It is submitted that only two or three were communicated about the arrest of the accused person," the orders states.

It also states, "It is pertinent to note here the checklist submitted by the Investigating Officer shown that it is only a mere formality or for a formality a checklist is filled." Moreover the accused are arrested for the offence punishable under section 353, 341, 143, 147, 148, 149, 120-B, 186 and 506 of IPC and punishment is not more than seven years not justifying the arrest of the HRDs.

Police claim that the protesters had disrupted police movement to mark the inauguration of a new police station in Wangeturi, a village neighbouring Thodagatta. They denied that any lathi charge had taken place and said that the protesters themselves destroyed their huts.

Mr. Mangesh Narote, one of the leaders of the protest, said that in recent months, he had been targeted for harassment by police. In late February, Mr. Naroti received a

show cause notice under Section 110 of the Code of Criminal Procedure. The notice accused Mr. Naroti of being a Naxal supporter, of spreading propaganda against the Surajgarh mining project and inciting people to protest. Mr. Naroti had already been booked under section 353 in 2017 for protesting outside Gatta police station against the sexual assault of two tribal girls. Mr. Naroti was asked to present himself at the police outpost at Haidri police station, close to the Surajgarh mine, some 25 km from his native village. Once there, police interrogated him about Naxalites and the upcoming protests. They accused him of giving Naxals food and helping with their work. He denied this, but they wouldn't listen to him. They then asked him if he was opposed to mining. He told them, he is not a Naxal, but he opposes mines. If more mines open up, his community will be displaced. Then where are they to go and die? Mr. Naroti received notices from the police every week to report to Haidri police station. These visits continued for four months. They used to make him sit at the station for long hours. They would swear at him and tell him not to go to the protests. He used to return home at 8-9 pm. By June, Mr. Naroti could not take the stress anymore and decided to stop going. This is a form of mental harassment that has been ongoing for decades. This sort of harassment is happening throughout Gadchiroli, wherever Adivasis are living near valuable natural resources.

HRDA believes that the intimidation and harassment of peaceful protestors, fabricated cases on them, lathi charge and their illegal detention and arrest and alleged torture by the Maharashtra police is a grave misuse of state power and an act of reprisal against HRDs.

By illegally arresting the leaders of the anti-mining protest without any detention or arrest memo, without informing their relatives, the police have flouted multiple guidelines of the DK Basu guidelines of arrest and detention as ordered by the honorable Supreme Court as well as the Indian and international laws. The detention and arrest are in contravention to the UN declarations and amounts to a direct attack on the fundamental rights to freedom of speech and expression and to peacefully assemble guaranteed in Article 19 of the Constitution of India.

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).

The police also forcefully lathi charged a peaceful assembly in an arbitrary, illegal, and serious violation of constitutionally guaranteed right to life and peaceful assembly. 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. Forcefully disbursed of protestors is a violation of the Articles 19 and 21 of the Indian Constitution. We also believe that it is a violation of international human rights laws. 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." The principle of proportionality applies in use of force during peaceful assemblies. A brutal lathi-charge by the police unprovoked by any physical violence, is a violation of the principle of proportionality and non-adherence to standard operation protocols for management of assemblies.

We are seriously disturbed by the allegations of assault and torture of the tribal protestors.

The FIR is also being used to target local leaders who have been active in the protests against illegal mining and land acquisition. We believe that the local police and district administration will continue to use the FIR to harass and intimidate anti mining HRDs and fear for their safety.

Appeal:

We urge the Hon'ble Commission to take cognizance of the above case and urgently:

- Urgently invoke the Commission's powers under section 12 (b) to intervene in the lower courts to squash the false FIRs against the peacefully protesting farmers and in any intervention in the high court challenging the detention of the 21 HRDs.
- Direct the Director General of Police of Maharashtra to initiate an immediate, independent, thorough, transparent, effective, and impartial investigation into the above-mentioned incident of the illegal arrest, assault and torture of tribal protestors and submit a report to the NHRC within four weeks.
- Based on the inquiry, order the DGP of Maharashtra, to take immediate and strict action against all the policemen who were involved in violating the law and harassing and illegally arresting the protestors and submit a report to the NHRC within four weeks.
- Direct the Director General of Police Maharashtra to 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, their right to freedom of association and to carry out their activities without fear of reprisals.
- Direct the Director General of the Police of Maharashtra to ensure the complete physical and psychological safety of farmers and their families to protect them from further fabricated cases and harassment by the police.

We hope to hear from you soon,

Yours Sincerely,



(Henri Tiphagne)

National Working Secretary