



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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June 23, 2021

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 – Bihar: Fabricated charges against journalist Mr. Umesh Pandey by the Bihar Police as an act of political reprisal.

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 regarding the fabricated charges against Buxar based journalist Mr. Umesh Pandey for a series of reports exposing corruption in provision of ambulances in the district.

About the Human Rights Defenders:

Mr. Umesh Pandey (40) is a Buxar-based journalist with over 15 years' experience as a journalist. He currently works as a correspondent with the news portal ETV Bharat.

Source of Information:

- Communication with the HRD
- Communication with HRDs in the region
- Social media posts
- Media reports

The Perpetrators:

- Mr. Ranjit Pandey, Station House Officer, Buxar Sadar Police Station
- Mr. Kamal Nayan Pandey, Sub Inspector, Buxar Sadar Police Station
- Other personnel of Buxar Sadar Police Station
- Mr. Neeraj Kumar Singh, Superintendent of Police, Buxar

Date of Incident:

May 15 to 23, 2021

Place of Incident:

Buxar, Bihar

Background of the Incident:

In a series of news stories published on the *ETV Bharat* portal between April 29, 2021 and May 22, 2021, Mr. Umesh Pandey reported regarding the Buxar MP and Union Minister of State for Health and Family Welfare, Mr. Ashwini Choubey, being involved in 'inaugurating' the same ambulances multiple times at different locations.

These reports revolved around six ambulances which were given by SJVN Limited – a Central public sector enterprise – to the Buxar district health society in March 2019, just before the Lok Sabha elections, as part of its corporate social responsibility(CSR). The reports showed that although the ambulances were given to Buxar district, Mr. Choubey also inaugurated them in two neighbouring districts (Ramgarh and Kaimur) under the Buxar Lok Sabha constituency in the run-up to the 2019 elections. Whereas after the polls, Mr. Choubey directed authorities to redirect these ambulances to NGOs outside Bihar through SJVN Limited. This caused a lot of outrage and prevented the company from taking the ambulances out of Buxar for over a year, the reports said.

While the ambulances were parked idle for over a year inside the premises of the Sadar Hospital in Buxar, Mr. Pandey's reports alleged that five of these ambulances were re-launched by Mr. Choubey on May 15, 2021, with new posters.

These reports created a furore in political circles in Bihar. The state's leader of opposition Mr. Tejashwi Yadav tweeted a screenshot of Mr. Pandey's story, commenting in Hindi, *"This great man is Central minister Ashwini Choubey. He brings all the ambulances, paying one day's fare to just inaugurate them. After the inauguration, the owner drives back it. After one year again he brings them and inaugurates them."* Stories regarding the ambulances were also carried by other news outlets in subsequent days.

Details of the incident:

On May 15, 2021, during the inauguration of the ambulances, Mr. Parshuram Chaturvedi – a BJP leader who is known to be close to Mr. Choubey, and who contested and lost from the Buxar Vidhan Sabha seat in the 2020 Assembly elections – threatened Mr. Pandey on camera (video available). When the journalist asked him why the same set of ambulances with the same chassis numbers were being inaugurated by Mr. Choubey for the fourth time, Mr. Chaturvedi denied the claim, and issued a veiled threat to HRD, saying, *"You know all about how legal tangles work."*

On May 20, 2021, at around 3 PM, Mr. Chaturvedi visited Mr. Pandey's house, accompanied by an armed guard, a driver and two more aides. While Mr. Pandey was out on a reporting assignment, Mr. Chaturvedi spoke to his father and alleged that his son's reportage was politically motivated. He threatened the Mr. Pandey's father that if he did not stop reporting about the ambulances, things could 'get out of hand'. He also talked about taking legal action against Mr. Pandey.

On May 23, 2021, a day after ETV Bharat published another story by Mr. Pandey on the ambulances, Mr. Chaturvedi acted on this threat of legal action against the HRD. He submitted an eight-page complaint letter typed in Hindi to the Mr. Ranjit Pandey, Station House Officer (SHO), Buxar Sadar Police Station, detailing eight stories done by Mr. Pandey between April 29, 2021 and May 22, 2021.

“Umesh Pandey through news articles and personally is threatening and mentally harassing us. He is also breaking the social fabric and creating tension among people during the COVID-19 pandemic. He is blackmailing for money and ruining the image of the state government, central government and minister Ashwini Choubey”, Mr. Chaturvedi alleged in the complaint letter.

On May 23, 2021, Buxar police station registered an FIR (No. 244/21) against Mr. Pandey under Sections 500 (defamation), 506 (criminal intimidation), 290 (public nuisance), 420 (cheating) and 34 (criminal act in furtherance of common interest) of the Indian Penal Code. Sub Inspector Mr. Kamal Nayan Pandey was named as the Investigating Officer in the case.

Mr. Pandey learned of the FIR against him five days later on May 28, 2021, when a local shopkeeper intimated him about the same after he heard about the matter from his customers. Subsequently, the Buxar Press Club, Buxar Patrakar Sangh, National Journalist Association, Web Journalists Association of India, News Portal Association and other journalists' groups condemned the FIR against Mr. Pandey. They asked why the journalist was not served with a legal notice if his reports were false, and demanded a high-level, impartial probe into the matter.

On May 28, 2021 when Mr. Pandey's friends visited the Sadar Police Station to collect a copy of the FIR, SHO inquired as to why the journalist was so 'restless' and advised that he must lie low for some time. Mr. Pandey also tried calling the SP and DSP of Buxar several times after May 28, 2021, to seek their intervention in the matter, but his calls were not answered. Several police officials who were known to him told him that they were under immense pressure to act against him.

We strongly believe that the case against Mr. Pandey is fabricated, and an act of political reprisal for his reports showing a central minister involved in inaugurating the same ambulances multiple times in different locations. Mr. Pandey is an experienced and well-known journalist of 15 years, working for a national network and cannot be called a blackmailer for showing reports in public interest. The intimidation and harassment made to him and his family by the politician and his supporters depict a conspiracy to suppress his journalistic voice and to harass him into curtailing his reports.

These instances amount to a clear violation of the freedom of speech and expression and a bid to punish an honest and upright journalist into suppressing information of public interest he was giving to the public. The right to exercise freedom of speech and expression is enshrined under Article 19(a) of the Indian Constitution. A free media is an extremely important fourth pillar of the Indian democracy. Our Constitution gives every citizen including journalists the right to exercise freedom of speech. 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. It is stated that 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. Mr. Pandey was merely exercising his right to access information and to impart it to his audience.

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 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)

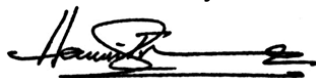
Appeal:

HRDA urges the Hon'ble Commission to:

- Direct the Director General of Police of Bihar to conduct a comprehensive and impartial investigation into acts of reprisal against Mr. Umesh Pandey, fabricated case registered against him and the involvement of senior politicians and their aides in the same.
- Depending on the results of the inquiry, initiate urgent and stern action against policemen guilty of harassment and misuse of law, take steps to close the FIR and direct registering an FIR against the politician and his aides for threatening Mr. Umesh Pandey and his family.
- Direct the Superintendent of Police of Buxar to provide security to Mr. Umesh Pandey as he has already been threatened for his work and ensure his safety and well-being and that of his family and give it in writing to the Hon'ble Commission.

Looking forward to your immediate action in this regard,

Yours sincerely,



Henri Tiphagne
National Working Secretary