



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

No. 555, West Cross 4th Street, K.K.Nagar, Madurai - 625 020, Tamil Nadu, India.

Mobile: 99943-68540

E.mail: hrda.india@gmail.com Web: www.hrdaindia.org

February 17, 2021

To,

Mr CS Mawri,
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 – Bihar: State Government of Bihar clamping on the constitutionally guaranteed right to protest by denying citizen protestors government jobs, government loans etc if named in the charge sheet.

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 grave concern regarding directive issued by the Government of Bihar that places restriction on citizens, who are said to have participated in protests, from getting government jobs, loans, etc if named in the charge sheet. We believe this order is in complete violation of the Indian Constitution and violates the basic principle of law, which presumes innocence until proven guilty.

Source of Information:

Media reports

Date of Incident:

February 4, 2021

Details of the Incident:

On February 4, 2021, several prominent news agencies reported a new order from the Bihar Police which placed restrictions on people named in charge-sheets for protests, demonstrations, etc. The order issued on February 1, 2021, reportedly states that “such people should be ready to face grave consequences.”

REF 1: (<https://www.thequint.com/news/law/no-bihar-government-jobs-protests-passports-police-verification-unconstitutional>)

REF 2: (<https://timesofindia.indiatimes.com/videos/city/patna/no-govt-jobs-for-protesters-bihar-police-issues-directive/videoshow/80663290.cms>)

The order specifies nine services for which police verification is required: arms license, passport, character certificate, contractual jobs in government, work contracts in government departments, boards and commissions, licences for petrol pump and gas agency, government assistance or grant, bank loans, and any other purpose where such a verification is sought.

This order is in direct contravention of Article 19 (1)(b) of the Indian Constitution guarantees to all citizens of India rights to freedom of speech and to assemble peaceably and without arms. This right includes the rights to protest and to take out processions. Thus, taking part in peaceful protests and processions is the right of every citizen.

India has also ratified the International Covenant on Civil and Political Rights (ICCPR) and the above order is in direct contravention to several articles of the Covenant such as section Article 21 and 22, which mandate freedom of expression and association.

Being named in a charge sheet is not the same as being convicted. By placing restriction to access to jobs, loans, etc on the basis of a charge sheet is in complete violation of one's rights to protest and also violates the basic principle of law, which presumes innocence until proven guilty. Furthermore, Article 14 of the ICCPR states that everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

A cursory look at the National Crime Record's Bureau 2019 statistics highlights how rarely convictions occur in cases registered during protests. For example, the Prevention of Damage to Public Property Act, which is used rampantly against protestors, in 2019, 3,531 cases registered under the Act were charge sheeted, however only 316 were convicted. If one includes past cases, that were charge sheeted in 2019 then the tally increases to 4,851 but the convictions 2019 for such cases was 982, while 73 cases were discharged and 1,640 cases resulted in acquittals.

The rate of issuing charge sheets under this act is the highest among all offences against the state – 82.9%. The ratio of charge sheet to convictions is equally bad.

Appeal:

We urge the Hon'ble Commission to urgently direct the Chief Secretary of Bihar to withdraw this unconstitutional and illegal directive issued by the Government of Bihar which undermines the fundamental right of citizens.

Yours Sincerely,



Henri Tiphagne

National Working Secretary