



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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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 – Odisha: Threat, intimidation, assault and fabricated charges against HRDs Mr. Debendra Swain, Mr. Basanta Gochayat, Mr. Chuguna Jena and other HRDs for peaceful protests against Jindal Steel Plant.

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 in to express our concern over threat, intimidation, assault and fabricated charges against Mr. Debendra Swain, Mr. Basanta Gochayat, Mr. Chuguna Jena and other HRDs for peaceful protests against Jindal Steel Plant.

About the Human Rights Defenders:

Mr. Debendra Swain, Mr. Basanta Gochayat, Mr. Chuguna Jena are environmental activists residing in the Dhinkia panchayat area under Erasama block in Odisha's Jagatsinghpur district. They were earlier part of a movement opposing the establishment of a steel plant and port by the South Korean steel giant POSCO in the coastal district, which was scrapped in 2017.

Mr. Swain and others have also been opposing efforts by Jindal Steel Works (JSW) to set up a mega project at the same site. They have conducted numerous public meetings, rallies and demonstrations to press on their demands and opposed the project in public hearings conducted by the administration.

Source of Information:

- Communication with the HRDs
- Communication with other HRDs in the region
- Police records
- Media reports

The Perpetrators:

- Mr. Nimaichran Sethi, Assistant Superintendent of Police, Paradeep
- Mr. Pradyumna Behera, Inspector In Charge, Abhyachandpur police station
- Mr. Ashutosh Hota, Sub Inspector, Abhyachandpur police station
- Mr. Chinmaya Pany, Sub Inspector, Abhyachandpur police station
- Other personnel attached to Abhyachandpur police station

Date of Incident:

December 4, 2021

Place of Incident:

Dhinkia panchayat, Jagatsinghpur district, Odisha

Background of the Incident:

Mahala and Patana under Dhinkia panchayat in Erasama block of Jagatsinghpur district were accorded the status of revenue villages by the Odisha government in April 2020 and August 2020 respectively. The villagers feared the decision was taken to facilitate the JSW project and fracture the movement.

On November 30 and December 1, 2021, when revenue officials visited the two villages to undertake demarcation work, Mr. Swain, Mr. Gochayat, Mr. Jena and others were part of a peaceful protest against the heavy deployment of police during the activity, and formed a human chain.

Details of the Incident:

On December 4, 2021, at about 3 AM, a police contingent under the leadership of Assistant Superintendent of Police of Paradeep Mr. Nimaichran Sethi, including Sub Inspectors Mr. Ashutosh Hota and Mr. Chinmaya Pany and 4 platoons of armed police, reached Mr. Swain's house in 10 police vehicles. When HRD's mother went to open the door, Mr. Hota shouted at her in filthy language. When she and other family members objected to police entering their house, the police broke open the door. But as many villagers rushed to the spot after hearing the commotion, police beat a hasty retreat.

Coinciding with the police raid on Mr. Swain's house, Gobindpur resident Mr. Prabhat Kumar Rout submitted a written complaint at the Abhayachandpur Police Station. He alleged that at around 2 AM on December 4, 2021, Mr. Basanta Gochayat, Mr. Chuguna Jena and others hurled bombs towards his house and fled on motorcycles towards Dhinkia, and that he saw the miscreants entering Mr. Swain's house when he followed them. He also claimed Mr. Swain had threatened to kill him in the past, including during demarcation work in Mahala village on December 1, 2021.

Abhayachandpur Police Station Inspector In Charge Mr. Pradyumna Behera registered an FIR (125/ 2021) against Mr. Swain, Mr. Gochayat, Mr. Jena and three others on the basis of Mr. Rout's complaint and directed Sub Inspector Mr. Hota to investigate the case. The accused were charged under Sections 294 (absence of complainant), 506 (criminal intimidation), 307, 34 of the Indian Penal Code and Sections 3 and 4 of the Explosive Substances Act.

Around an hour later, at 4.05 AM on December 4, 2021, Sub Inspector Mr. Hota submitted a written complaint at Abhayachandpur police station. He alleged that while was on his way to Gobindpur village with two other policemen to investigate FIR no 125/ 2021, at 3.20 AM Mr. Swain and 20-25 anti-socials obstructed their way, abused them in filthy language, assaulted them and forcibly snatched Mr. Hota's service revolver forcing them to retreat.

Based on Mr. Hota's complaint, Mr. Behera registered a second FIR (126/ 2021) against Mr. Swain, Mr. Gochayat, Mr. Jena and others. In all, the FIR named 15 persons as accused apart from 15-20 unnamed others and they were charged under Section 395 (dacoity) of the Indian Penal Code. Sub Inspector Mr. C R Pany was directed to investigate the case.

Around three hours later, at 7 AM on December 4, 2021, a third FIR (127/ 2021) was registered against Mr. Swain, Mr. Gochayat, Mr. Jena and others. Mr. Behera, the complainant in the case, claimed that when he along with Sub Inspectors Mr. Swetapadma Dash, Mr. Hota and Mr. Pany and other police personnel reached Mr. Swain's residence at 4.30 AM to recover Mr. Hota's service revolver, around 100 villagers who were waiting in ambush attacked them. They pelted stones, abused and assaulted policemen and damaged two police buses, forcing the police to retreat.

In all, the third FIR named 60 persons as accused apart from 100 unnamed others, charged under Sections 147, 148, 341, 333, 353, 307, 427, 294, 379, 186, 149, 332, 506 of the Indian Penal Code, Sections 3 and 4 of Prevention of Damage to Public Property Act and Section 7 of the Criminal Law Amendment Act.

Mr. Swain, Mr. Gochayat, Mr. Jena and many other HRDs named in the FIRs fear they will be arrested in violation of due procedure and subjected to custodial torture.

We firmly believe that Mr. Swain, Mr. Gochayat, Mr. Jena and other HRDs are being implicated in obviously false cases in reprisal for their participation in the movement opposing the JSW project. Prima facie it appears that the police misused the powers and raided the house of Mr. Swain, at 3 am in the night. But when they failed to arrest the HRD due to the presence and opposition of other villagers, they registered three fabricated cases against Mr. Swain and other HRDs within a span of next four hours.

These arbitrary actions on the part of police officials amount to a gross abuse of the HRDs' fundamental right to life and personal liberty granted by Article 21 of the Indian Constitution as well as a complete violation of their human rights as guaranteed by national and international laws.

The right to exercise freedom of speech and expression is enshrined under Article 19(a) and the right to assemble peacefully under Article 19(b) of the Indian Constitution. 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.

Further, the Declaration on human rights defenders adopted in 1998 by the UN general Assembly was Clauses 2 and 3 of Article 12 of the declaration state: *"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. 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.”

When HRDs like Mr. Swain, Mr. Gochayat, Mr. Jena and others are targeted and implicated in false cases for opposing big industries like the JSW, fearing they will cause massive environmental destruction, these rights are grossly violated.

Appeal:

We thus request the Hon'ble Commission to urgently:

- Direct its investigation wing to initiate an independent inquiry into the intimidation and fabricated cases against the HRDs and submit a report in two weeks.
- Direct the Director General of Police, Odisha, to take measures that the HRDs are not subjected to arrest and any form of harassment and torture by the police and administration.
- Depending on the result of the inquiry, take stern action against errant police officials guilty of framing the HRDs in fabricated cases and take steps to quash the charges against them.

Looking forward to your immediate action in this regard.

Yours sincerely,



Henri Tiphagne
National Working Secretary