



# HUMAN RIGHTS DEFENDERS' ALERT - INDIA

## NATIONAL SECRETARIAT

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**Ref No: HRDA/North/DEL/02/06/2020**

June 19, 2020

To,

Mr. Debindra Kundra,  
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](mailto:hrd-nhrc@nic.in)

**Dear Sir,**

**Sub: HRD Alert - India - Urgent Appeal for Action – Delhi: Misuse of law and non-compliance with mandatory procedures to falsely implicate and harass President of Alumni Association of Jamia Millia Islamia, currently lodged in Tihar Jail**

### **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 grave concern regarding the arrest of the President of Alumni Association of Jamia Millia Islamia (AAJMI) and Member of Jamia Coordination Committee (JCC), Mr. Shifa-ur-Rehman for his alleged involvement in riots in North-East Delhi from February 23 to 25, 2020. All mandatory procedures of arrest as set out in the Criminal Procedure Code (Cr.P.C), National Human Rights Commission's (NHRC) arrest guidelines and relevant judgements of the Supreme Court were violated by the Delhi Police in the case.

### **Source of Information:**

- Media Reports
- Communications with the HRDs in Delhi

**Date of Incident:**

April 26, 2020 onwards

**Place of Incident:**

Mawana, Meerut, Uttar Pradesh

**The Perpetrators:**

Police Personnel of Delhi Police, Special Cell Lodhi Colony Police Station (PS) Officers of Tihar Jail, Delhi

**About the Human Rights Defender:**

Mr. Shifa-ur-Rehman is a social worker who, along with being the President of AAJMI, was also a member of JCC. Mr. Rehman had been participating in the protests against CAA-NRC at Jamia Millia Islamia.

**Details of the Incident:**

As per media reports and other sources, on April 26, 2020, Mr. Rehman was called from his native village near Meerut through a mobile call to Mawana PS, Uttar Pradesh by members of the Special Cell of Delhi Police under the pretext of questioning regarding FIR No. 59/2020, without any prior notice or information. He was then informed at the PS that he would be taken to Delhi for further enquiries and dropped back by night on the same day. Although he was accompanied by a relative to the Mawana PS, he was taken to Delhi alone. He was not permitted access to lawyer at any given point. This is a violation of the right to adequate legal representation implicit in **Article 21** of the Constitution of India. After being questioned the entire day at Mawana PS and then at Special Cell, Lodhi Colony PS, he was arrested and taken into police custody. At this time too his lawyer was not allowed to meet him.

**Details for FIR No. 59/2020:**

The said FIR was registered on March 06, 2020, on the complaint by Sub-Inspector Arvind Kumar, N Cell, Crime Branch, New Delhi. The FIR originally made out charges under Section 147, 148, 149 read with 120B of the Indian Penal Code (IPC). The complaint sets out that SI Arvind Kumar has been informed through secret sources that the riot situation in Delhi that prevailed from February 23 to 25, 2020, was a well-thought conspiracy. Mr. Rehman was neither named in the FIR nor any details of his involvement were mentioned. Later on, in this FIR, he was charged with offences under Section 120B

read with Sections 124A, 302, 307, 353, 186, 212, 395, 427, 435, 436, 452, 454, 109, 114, 147, 148, 149, 153A, 34 of IPC, along with Sections 3 & 4 of the Prevention of Damage to Public Property Act (PDPP) and 25 & 27 Arms Act, as well as Sections 13, 16, 17 and 18 of Unlawful Activities Prevention Act (UAPA).

**Detention and Arrest under FIR No. 59/2020 on April 26, 2020:**

On April 26, 2020, Mr. Rehman was called by the Delhi Police Special Cell, from his village near Mawana, Meerut, UP on the pretext that it was only for the purpose of questioning and will be dropped back to his village by night on the same day. No memorandum of arrest was signed for this, a blatant violation of **Section 41B** of CrPC. He was not permitted to meet his lawyer during interrogation, thus violating **Section 41D** of CrPC and the **D.K. Basu Guidelines [1997 1 SCC (416)]**. Furthermore, he was made to sign blank pages, the contents of which were not disclosed to him. We suspect that these papers, which he was made to sign under pressure, will be later used as evidence for his incrimination. Mr. Rehman's mobile phone was seized by the police in Merut and laptop, as well as bank documents and other documents were also seized by the police from AAJMI's office without preparing any seizure memo as mandated by law and are still in the custody of the investigating agency. Additionally, literature, anti-CAA posters, membership fee receipts and scholarship programme receipts were seized from AAJMI's office, for which seizure memos were prepared but were not provided to Mr. Rehman as per the law.

On April 27, 2020, Mr. Rehman was produced before the Additional Sessions Judge, Patiala House Court. At this time his lawyer was present. The proceedings were attended by the Investigating Officer and the Additional Commissioner of Police and they asked for a 12-day remand of Mr. Rehman in police custody. In the grounds for remand, they did not furnish any evidence of Mr. Rehman's involvement in the riots. The only specific allegations against him were that that he received funds from other alumni members based in the Middle East and was involved in the conspiracy to procure funds for the Delhi riots. The police claimed that there was 'huge' technical and electronic data that they needed to confront Mr. Rehman with, yet they failed to provide any evidence that would incriminate him. Mr. Rehman's lawyer argued that he had not been present at the place of the riots and had already joined the investigation, hence no custodial interrogation was required. However, the judge ordered 10 days of police custody, till May 06, 2020.

On May 06, 2020, the police custody was extended till May 16, 2020. While in police custody, Mr. Rehman was repeatedly subjected to physical assault in form of slaps to his head and face as well as verbal abuse by the police officials.

On May 16, 2020, Mr. Rehman was remanded to judicial custody and the next hearing was scheduled for June 14, 2020. He has been allowed to communicate with his family or his lawyer while in judicial custody only through phone. Visitation has not been granted by the authorities citing the COVID-19 pandemic.

### **Appeal:**

HRDA believes that Mr. Shifa-ur-Rehman is an activist and a human rights defender and this is a completely fabricated case by the Delhi Police to target him and his organisations, JCC and AAJMI, for actively opposing the CAA. As stated in this petition, all mandatory provisions of law and procedures regarding arrests as laid out by the Cr.P.C, NHRC and the Supreme Court have been grossly violated at each stage.

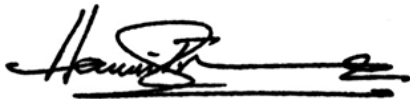
We appeal to the NHRC to treat this as a case of reprisal against a human rights defender for exercising his fundamental rights guaranteed under Article 19 of the Indian Constitution. Thereby, we urge the NHRC to urgently:

- Issue notice to the Commissioner of Police of Delhi to produce **within 48 hours** all relevant documents pertaining to the arrest of Mr. Shifa-ur Rehman for an independent examination by the NHRC.
  - Arrest memo as required under Section 41B of the Cr.P.C, including name and designation of the police officer who prepared the arrest memo.
  - Medico-legal certificate prepared under Section 53 of the Cr.P.C, as well as report of the medical examination conducted under Section 54 of Cr.P.C.
  - Inspection Memo prepared at the time of arrest as required under the guidelines laid down by the Supreme Court in DK Basu vs State of West Bengal [1997 (1) SCC 416], as well as the name and designation of police officer who prepared the said Inspection Memo.
  - Names, duty records and registers of all arresting/detaining officers and Station In-Charge on duty in the Special Cell PS and Mawana PS on April 26, 2020.
  - General Diaries, FIR and arrest registers of Special Cell PS.

- CCTV footages from the Special Cell PS and Mawana PS for April 26, 2020.
- Call Data Records of all officials who had travelled to Mawana PS to detain and arrest Mr. Rehman.
- Examine if all the mandatory procedures on arrest and detention laid down in Sections 41 of the Cr.P.C, particularly with Sections 41B and 41D, and Sections 50,50A, 51, 54, 56, 57, and 60A of the Code were followed by the police.
- Examine whether the District Legal Services Authority was informed by the Special Cell PS of the arrest.
- Examine the orders given by the Judicial Magistrates pertaining to remand.
- Examine the carrying out of custodial torture on Mr. Rehman during the police custody.
- Issue notice to the Director General of Prisons of Delhi to explain the reasons for not allowing visitations and the measures put in place to allow safe visitations and communications in the Tihar Jail.
- Direct the Prison Monitor, who may along with a Member of the NHRC, can visit the Tihar Jail, as provided for in Section 12 (c) of the Protection of Human Rights Act, and assess the living conditions and compliance with rules and procedures in the jail and also record Mr. Shifa-ur-Rehman's statement on torture in police custody and other matters concerning human rights violations.

Looking forward to your immediate action in this regard,

Yours sincerely,



(Henri Tiphagne)

National Working Secretary