



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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August 11, 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 – West Bengal: Assault, illegal detention of Mr. Abhraneel Mondal, Mr. Sabiruddin Bhuiya and other student HRDs under fabricated charges by West Bengal Police

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 over the assault, detention and arrest of Mr. Abhraneel Mondal, Mr. Sabiruddin Bhuiya and nine other student HRDs under fabricated charges by West Bengal Police.

About the Human Rights Defenders:

Mr. Abhraneel Mondal and Mr. Sabiruddin Bhuiya are Bankura district unit Secretary and President, respectively, of the All-India Democratic Students Organisation (AIDSO). Other students activists with AIDSO include Ms. Mohana Kundu of Christian College; Ms. Moumita Kundu, Mr. Srikanta Mandal, Mr. Sadhan Kumar Rajak and Mr. Joyjit Pramanik of Sammilani College; Bankura University student Mr. Rajendra Mandal, PhD scholar Mr. Swagata Mandal and recent college graduate Mr. Jit Chattoraj.

Source of Information:

- Communication with the HRDA East Regional Consultant
- Communication with the HRDs
- Communication with other HRDs in the region
- Media Reports

The Perpetrators:

- Mr Biswajit Naskar, Deputy Superintendent of Police, Bankura
- Mr. Debashish Panda, Inspector in Charge, Bankura Police Station
- Mr. Ramnarayan Pal, Officer in Charge, Bankura Police Station

- Mr. Gopinath Gorai, Sub Inspector and Mr. Mahadeb Gorai, Assistant Sub Inspector, Bankura Police Station
- Mr. Jagannath Gorai, Constable and other personnel of Bankura Police Station

Date of Incident:

July 26, 2021

Place of Incident:

Bankura district, West Bengal

Background of the incident:

The All-India Democratic Students Organisation (AIDSO) was one of several groups in West Bengal demanding reopening of schools since the first wave of the pandemic, when the state government closed all private and government schools. It issued a call for state-wide protests in the form of road blockades from 11 AM to 12 noon on July 26, 2021, to press with its demands, and all district units of the organisation publicised the call in their areas through announcements, pamphlets and wall writing.

On July 25, 2021, a day ahead of the protest, AIDSO activists in different parts of West Bengal received calls from the local police station, with policemen inquiring about the venue and the number of activists expected to attend the protests. All queries were duly addressed by AIDSO activists.

Details of the Incident:

On July 25, 2021, between 7-9 PM, AIDSO Bankura district unit President Mr. Sabiruddin Bhuiya and Secretary Mr. Abhradeep Mandal received 7-10 calls each from the Bankura Police Station, including from Inspector in Charge Mr. Debashish Panda. They were asked repeatedly about the venue, the number of participants, and if the number would exceed 50 or 100. Mr. Bhuiya and Mr. Mandal told policemen that the protest would be held at Keranibandh More in Bankura town, and not more than 20 activists were expected to participate in it.

On July 26, 2021, 12 AIDSO activists including Mr. Mandal and Mr. Bhuiya and four women activists reached Keniabandh More shortly before 11 AM, and saw around 30 police personnel including lady constables waiting in the area. Another 10-15 personnel joined subsequently. The Police were in uniform, and carried batons, firearms and tear gas. Officials present at the spot included Deputy Superintendent of Police Mr Biswajit Naskar, Bankura Police Station Inspector in Charge Mr. Debashish Panda, Sub Inspector Mr. Gopinath Gorai and Assistant Sub Inspector Mr. Mahadeb Gorai.

Mr. Mandal and 11 other HRDs began the road blockade at Keniabandh More on National Highway 60 at 11 AM. In the first half hour, police did not intervene or talk to AIDSO activists. But between 11.30-11.45 AM, policemen asked them to lift the blockade several times, saying they were causing a traffic jam on the highway. Mr. Mandal and others asserted their democratic right to continue with the protest, saying since the venue and timing had been publicised widely more than a week ahead of the protest, and police had been informed well in advance, police should have made arrangements to divert traffic. They blocked all traffic movement during these 45

minutes barring one ambulance, one police vehicle and four patients travelling in private cars, whereas several locals gathered around them to express support for reopening schools.

Shortly after 11.45 AM, when Mr. Bhuiya was giving a speech saying they'd withdraw the blockade in a few minutes, over 20 police men and women suddenly charged at the protestors. They assaulted them with fists, kicks and batons, and pushed and dragged them, whereas Constable Mr. Jagannath Gorai, who was in civil dress, was especially abusive and rained fierce baton blows on them. Eleven AIDSO members, and a local shopkeeper whom police mistook for an AIDSO activist, sustained bruises and minor injuries from the assault, while the clothes of several activists including a woman were torn and one of them was in severe pain in his back, arms and legs.

At around 11.50 AM on July 26, 2021, 11 AIDSO activists including seven men and four women were forced into a police vehicle meant to seat eight persons, accompanied by four policemen. They were taken to the Bankura Sadar Police Station and detained in separate lock-ups for men and women for over 22 hours without access to lawyers.

At 3.45 PM on July 26, 2021, Officer in Charge of Bankura Police Station Mr. Ramnarayan Pal registered an FIR against the 11 HRDs and unnamed others on the basis of a written complaint by Assistant Sub Inspector Mr. Mahadeb Gorai under Sections 147, 149, 341, 553, 188 and 506(iii) of the Indian Penal Code, Section 51 of the Disaster Management Act, Section 9 of the Maintenance of Public Order Act and Section 8B of the National Highway Act.

The HRDs were not informed about their arrest, or shown any arrest warrant or arrest memo; neither were they given a chance to inform their family members or lawyers in violation of DK Basu guidelines.

The HRDs were also ill-treated in custody. Since one of the HRDs Mr. Joyjit Paramanik was in severe pain from the assault, Mr. Mandal and others asked the police to send him for treatment 1 PM onwards, but their requests were repeatedly turned down till 7 PM, when Mr. Paramanik was taken to a doctor and provided with a pain killer. Police also did not provide fresh clothes to women HRDs whose clothes were torn during the assault for several hours, whereas a male police officer checked the clothes including undergarments brought by their friends, violating the HRDs' right to privacy.

DK Basu guidelines requiring medical examination of arrestees by a qualified doctor were also flagrantly violated. The HRDs were taken for medical examination to the Bankura Medical College and Hospital first at 8.30 PM on July 26, and then at 10 AM on July 27. But instead of a doctor examining them for marks of assault or injury inside the hospital premises, the HRDs remained seated in the police vehicle, while a police official merely asked if any of them were feeling ill.

The 11 HRDs were produced in the Chief Judicial Magistrate's Court in Bankura at 2 PM on July 27, more than 26 hours after they were illegally detained from the protest spot. They were sent to judicial remand in the Bankura district jail for 14 days, and released on bail subsequently.

We believe that Mr. Mandal and other HRDs were assaulted by the police while they were exercising their Constitutional right to peaceful protest.

The police not only assaulted them without provocation, they also violated the Honorable Supreme Court's DK Basu guidelines pertaining to arrest procedures, medical examination of arrestees, and compulsory uniform and name tags for every personnel involved in arrest. In addition, police made false charges with Assistant Sub Inspector Mr. Gorai claiming in the written complaint that the HRDs were armed, they forcibly detained a police vehicle, and threatened police personnel. Mr. Gorai's complaint falsely claimed that the HRDs were duly informed and explained about their arrest, and a medical examination conducted on them immediately after arrest.

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.

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 Code of Conduct for Police In India under Sec 4 says, 'In securing the observance of law or in maintaining order, the police should as far as practicable, use the methods of persuasion, advice and warning. When the application of force becomes inevitable, only the irreducible minimum of force required in the circumstances should be used.' The provisions should also be ensured in conformity with Articles 4 and 5 of the UN Basic Principles on the use of force and firearms.

If HRDs like Mr. Mandal and others are brutally assaulted and arrested under fabricated charges while participating in peaceful protests for matters of urgent public interest, it results in a severe clampdown on the democratic right to free speech, expression and assembly.

Appeal:

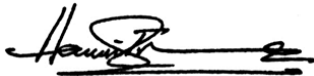
HRDA urges the Hon'ble Commission to:

- Initiate an immediate, independent, thorough, transparent, effective and impartial investigation through its investigative wing into the assault and arrest of student HRDs by the West Bengal Police.

- Depending on the result of the inquiry, direct the Director General of Police of West Bengal to take stern action against those guilty of assaulting, threatening and arresting the HRDs under fabricated charges.
- Direct the police to take steps to quash false charges against all the student HRDs and give to the commission in writing that they will not be harassed with fabricated charges again.

Looking forward to your immediate action in this regard.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a horizontal line underneath it.

Henri Tiphagne

National Working Secretary