



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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May 06, 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

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action – Madhya Pradesh- Right to Information (RTI) activist and human rights defender Mr.Pawan Malviya falsely incriminated for using Right to Information Act (RTI) to expose irregularities in government work - Regarding

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 killing of an RTI activist and HRD Mr.PawanMalviya in the Betul district for using RTI to expose irregularities in government work in Madhya Pradesh.

Source of Information:

- Regional Coordinator of HRDA for Central India
- Communication with the HRDs in the region
- Media Reports

Date of Incident:

April 7, 2020

Place of Incident:

Betul District, Madhya Pradesh

The Perpetrators:

Police of Betul district, Madhya Pradesh

About the Human Rights Defender

Mr. Pawan Malviya, aged 50 years, is a RTI activist, and has been questioning the public authorities to defend the human rights of people. In the past, he filed a RTI application pertaining to the discrepancies which happened in the organisation of Saarni Mela in the district. In the name of providing electricity to the shop owners, money was illegally extracted from them by the public officials and contractors.

Details of the incident

Mr Pawan Malviya was falsely incriminated on the pretext of ‘spreading fake news based on the rumours during lockdown as per the directions of the apex court’. As per the FIR registered at the Ganj Police Station, Mr. Malviya has been booked under Section 188 (Disobedience to order duly promulgated by public servant), 353(Assault or criminal force to deter public servant from discharge of his duty), 465(Punishment for forgery) of the Indian Penal Code, 1860, Section 52(Punishment for false claim) of Disaster Management Act, 2005. It was alleged that Mr. Malviya violated the above provisions by spreading fake news regarding distribution of food grains by the public authorities. It was alleged that Mr. Malviya, spread the address and contact details of a Member of Parliament, Mr Durga Das and District Magistrate, Mr Rakesh Singh to people due to which 10-15 reached their houses every day to collect food grains. We would like to bring this to your notice Mr Malviya has not been provided with the copy of FIR till date, which is a serious violation of the arrest guidelines as mentioned in the case of *DK Basu v. State of West Bengal*.

However, we would like to highlight that the information pertaining to food grains by the government was published in the national newspapers (attached as Annexure I). The Prime Minister, Mr. Narendra Modi announced the names of those districts where the needy will be provided food grains by the government. The act of Mr. Malviya to send across contact details and address of the authorities concerned does not amount to spreading of fake news. Instead, Mr. Malviya being a public-spirited person was only trying to enhance the accessibility of the relief kits, by making people aware about the initiative taken by the government to protect the interests of the weaker sector during the lockdown, due to the spread of pandemic COVID-19.

In the past, Mr. Malviya has been involved in exposing the officials and contractors involved in illegally extracting money by way of RTIs. On February 25, 2020 he wrote a letter to the General Manager, MP Madhya Kshetra Vidupt Vitran company Pvt Ltd, he was called to the office and over there and a false

case for deterring public servant from discharging his duty under Section 353 of IPC was filed against him. At this instance also, he was not provided with the copy of FIR. This shows that public authorities have maliciously tried to obstruct and silence the voice of Mr. Malviya in the past also for his activism. The instant case is filed against him with a motive to stop him from questioning the authorities and working towards implementation of government schemes. The only intention behind giving the address of the concerned authorities was to assist the government in helping the poor in the times of distress.

Since the RTI Act has been enacted in the year 2005, various cases of assaults and killings of RTI activists have been reported. The activists have been instrumental in exposing corruption and bringing transparency in the governance system. The only way to curb the menace is well established mechanism consisting of defined procedures and quick action by the police officials on complaints of RTI users.

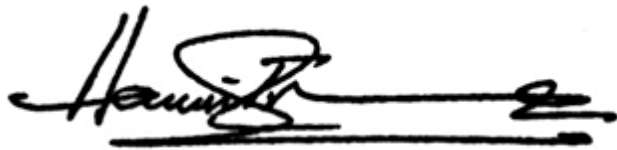
Appeal:

We therefore urge you to immediately take necessary steps to:

- Order an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned incident of the false incrimination of RTI activist and HRD Mr. Pawan Malviya;
- An action taken report in the false implication of Mr. Pawan Malviya may be called from the Superintendent of Police and District Magistrate, explaining the basis of the offences alleged.
- Kindly direct the police personnel to provide a copy of the FIR registered against Mr Malviya;
- Ensure that all the false charges filed against Mr Malviya are dropped;
- Put an end to all acts of harassment and attacks against all RTI activists and human rights defenders in the State of Madhya Pradesh to ensure that in all circumstances they carry out their activities as defenders of human rights without any hindrances;
- Conform in any circumstances with the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, especially its Article 1 and 12.2;
- More generally, ensures in all circumstances the respect for human rights and fundamental freedoms in accordance with the Universal Declaration of Human Rights and with international human rights instruments ratified by India is strictly adhered to in the state of Madhya Pradesh.

Looking forward to your immediate action in this regard,

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a long horizontal flourish extending to the right. The signature is underlined with a double horizontal line.

(Henri Tiphagne)

National Working Secretary