



# HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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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](mailto:hrd-nhrc@nic.in)

Dear Sir,

**Sub: HRD Alert - India - Urgent Appeal for Action- Uttarakhand: Unconstitutional and illegal order of the Uttarakhand Police on denial of passport to any citizen posting 'anti-national' comments on social media.**

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 order of Director General of Police Uttarakhand, who has said that the Uttarakhand Police will check the social media accounts of passport applicants and if the applicant is found posting any "anti-national" post by the local police, their verification for passport or arms license won't be cleared and thus passport denied.

**Source of Information:**

Media Reports

**Date and Time of Incident:**

February 02, 2021

**Details of the incident:**

On February 02, 2021, at the State Police Officers' Conference at the police headquarters, Dehradun, Mr. Ashok Kumar, Director General of Police, Uttarakhand, announced that the Uttarakhand Police have decided to check the social media accounts of passport applicants and if the applicant is found posting any "anti-national" post, his verification or arms license will not be cleared. The state police will keep an eye on such people and mention it by verifying their documents for passport and arms

license. This action would make it nearly impossible for such people to obtain an arms license or passport. Department officials said this move has been taken after the alleged 'surge' in such posts and social media accounts. However, lawyers and activists have panned this move severely. Mr. Kartikeya Gupta, senior lawyer at Uttarakhand High Court, said, *"It is a complete violation of an individual's freedom expression and freedom of speech. Police has no right to decide whether any post on social media is anti-national or not; it is the job of the courts."*

HRDA believes that this order is completely arbitrary, illegal, and a serious violation of the personal liberty guaranteed by the Indian Constitution. It's main purpose is to gag democratic dissent against the government by dangling fear of non-issuance of passports. This will lead to arbitrary and high-handed decisions by the police about who is an anti-national and who is not.

This is a clear attack on freedom of expression on the pretext of social media posts. Firstly, this decision has been taken under political pressure to suppress voices critical of the state actions and its policies. Secondly, nowhere has the term 'anti national' been defined in the law. It is the job of the court to decide what is anti-national or not, and not within the purview of the local police.

The Indian Constitution gives its citizens the right to freedom of speech and expression. It's a breach of Article 19 (1) (a) of the Indian Constitution which guarantees to all its citizens the right to freedom of speech and expression. The Supreme Court in *Shreya Singhal v. State* (2015) had observed that there are three concepts which are fundamental in understanding the reach of this most basic of human rights which are discussion, advocacy and incitement. Mere discussion or even advocacy of a particular cause howsoever unpopular is at the heart of Article 19(1)(a). It is only when such discussion or advocacy reaches the level of incitement that Article 19(2) kicks in.

Article 19 of the Universal Declaration of Human Rights (UDHR) also proclaims the right to freedom of expression, which includes freedom "to seek, receive and impart information and idea through any medium regardless of frontiers". Article 19 of the International Covenant on Civil and Political Rights (ICCPR) sets forth the right to freedom of opinion, expression and information.

Furthermore, Article 21 of the Constitution as explained in *Maneka Gandhi's* case the right to travel abroad is encompassed in the right. Every Indian citizen has a fundamental right to travel outside India and it cannot be taken away on basis of social media posts.

**Appeal:**

Would like to express our grave concern about this arbitrary, illegal order which violates constitutionally guaranteed freedom of expression. The Hon'ble Commission should urgently direct the Chief Secretary of Uttarakhand to withdraw the unconstitutional executive orders which violate the fundamental rights of citizens.

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.

**Henri Tiphagne**  
National Working Secretary