



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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May 12, 2017

To,

Shri Srinivasa Kammath

National Focal Point - Human Rights Defenders & Deputy 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 – Maharashtra: Intimidation, threats, abuse, brutal assault, and booking of false and malicious case on Prof. Sunil Waghmare and denying his right to freedom of speech and expression by fringe/fundamentalist groups and the police – Regarding

Greetings from Human Rights Defenders Alert - India!

HRD Alert - India is a forum of Human Rights Defenders for Human Rights Defenders. It endeavors to initiate actions on behalf of Human Rights Defenders under threat or with security concerns.

We are writing to express our grave concern over the intimidated, threats, abuse, brutal assault, and booking of false and malicious case on Prof. Waghmare and denying his right to freedom of speech and expression by fringe/fundamentalist groups and the police.

Status of Human Rights Defender:

Prof Sunil Waghmare is working in KMC College since 2009. He is presently the Head of Department of Commerce as well as a Professor. He belongs to the 'Maang' (Scheduled Caste) community, he has described his experience of casteism in complaint letters previously lodged with the management. In a written statement to the

police on the incident, he has stated that the principal has often reminded him of 'being a beneficiary of reservations'.

In that letter, he has also stated that the principal was trying to remove Prof. Waghmare from the post of Vice-Principal, which he succeeded on March 10, 2014. He alleges that the principal has also made numerous attempts to have him removed from his current post as Head of Department, Commerce. That the principal had encouraged a female colleague to lodge a fake complaint against Prof. Waghmare, with the intention of using said complaint for his removal.

Prof. Waghmare has been served numerous show cause notices and memoranda over the past few years by the principal, and has faced continuous harassment perpetrated by the principal. The contents of this letter, thus, set the context in which the attack of March 17, 2017, has taken place.

Source of Information on the Incident:

- Fact finding report of a 5-member team
- Activists in the region
- Regional Coordinator of HRDA for South of India
- Media Reports

Date of incident:

Between March 15-17, 2017

Place of incident:

Khopoli (Raigad district, Maharashtra).

The Perpetrators:

- Prof Nagargoje, Principal of KMC college
- Mr. Surve, Vice-President of the Society,
- Mr Kishore Patil, President of the Management Committee and the Sanstha funding the college,
- Mr. Ramkrishna Tawde, a member of the Sanstha,
- Mr.Vijay Tendulkar, a member of the Sanstha,
- A few local journalists,
- Members of the non-teaching staff, including 2 women

- Members of Shiv Sena
- Members of MNS,
- Members of Maratha Seva Sangh,
- Members of Sambhaji Brigade
- Number of youths identifying themselves as 'Shiv Premis'
- SHO and Police personnel of Khopoli police station

Details of the Incident

According to sources, from the report of an eight-member fact finding team constituted by the Joint Action Committee for Social Justice, Mumbai which inquired into the assault on Prof. Sunil Waghmare, Head of Commerce Department of The Khopoli Municipal Council (KMC) College of Arts, Science & Commerce managed by the Khalapur Taluka Shikshan Prasarak Mandal (KTSPM) in Khopoli of district Raigad, Maharashtra).

It is learnt that the, team visited Khopoli on March 25, 2017, and met local activists, eyewitnesses, the complainant Prof. Nagargoje, the principal of KMC college, the Investigating Officer as well as the lawyer of Prof. Waghmare. Prof. Waghmare was also met and interviewed for his version of events on March 27, 2017.

A Whatsapp group in the name of - The KMC College Whatsapp Group had been created 4 years ago and had 34 members comprising professors and principal of the college with Prof Amol Nagargoje of the Chemistry department as the administrator. Members are known to share forwards and jokes, wishes, political messages, etc. from its members

On the night of March 15, 2017, forwards relating to Shivaji Jayanti were being shared, Prof. Waghmare forwarded a message that he had received on a different Whatsapp group, which he had seen from a friend's facebook page. *"Aamhi maantoy mhanun ... maanaycha tari kaay??? . . . Tumcha baap tari don vela janmala hota kaay?????"* (Just because we are believing... should we continue to believe? . . . Was your father born twice?????) The post refers to the various dates on which Shivaji's birthday is commemorated. This message was posted at 23:41 hours on March 15, 2017 and evoked no response at the time from the members.

At 11:30 AM on March 16, 2017, the Principal met Prof. Waghmare and asked him about the comment and asked him to apologize for the same. Prof Waghmare clarified

that it was posted only as a forward and that he meant no offense, and he would apologize if anyone was offended. Earlier on the same day, at 10.52 AM, Prof. Nagargoje posts a message to all 34 members stating that the message sent by Prof. Waghmare was not in line with the objectives of the group and that the group was meant only for official communication.

At 12.05 pm, one Prof. Gandal had posted saying "Nagargoje sir group delete kar" and at 2.29 PM, Nagargoje replies : "Dear all prof I am removing(sic) this group". After this, late afternoon, Prof. Waghmare opened the WhatsApp to check messages again, he found that all other members had been removed and only 3 members remained (the principal, Prof Nagargoje and Prof Waghmare). Thus the group was still alive and had not been deleted.

On March 17, 2017, Prof Waghmare on completing his supervision duties from 8 AM to 10.30 AM came in contact with Prof. Nagargoje and clarified that the post should not be made into a big issue, and that he had not intended to offend anyone. After this, he attended a meeting of the Employees Society at 11 AM for about 15-20 minutes. During the meeting, Prof. Waghmare received a phone call from Mr. Dattatray Masurkar, current member and former President of the KTSPM Sanstha (or Management Committee) asking "Did you post a wrong message about Shivaji Maharaj?". Prof Waghmare responded and kept the phone. After this conversation when the meeting ended, he went to the library.

By about noon, there was commotion in the college near principal's cabin and it is learnt that the principal had left the college and the non-teaching staff were angry, and were talking about closing down their work because they had heard that Shivaji Maharaj was insulted by Prof. Waghmare. At this time, Prof. Waghmare received a call asking him to come down to the management cabin, next to principal's office within the campus where Mr. Surve, Vice President of the Society, Mr Kishore Patil, President of the Management Committee or the Sanstha funding the college, Mr. Ramkrishna Tawde, a member of the Sanstha, Vijay Tendulkar, a member of the Sanstha, a few local journalists, members of the non-teaching staff, and a number of youths identifying themselves as 'Shiv Premis'

A crowd of about 20 persons were gathered in the room around 300 people gathered outside. Mr. Surve asked Prof. Waghmare, "What is this comment about? What have

you posted?" Prof. Waghmare starts offering an explanation but with the anger rising people were not listening to his defense.

Someone in the crowd asked Prof Waghmare, "How can you make a comment like this? We celebrate Shivaji Maharaj through so many jayanthis. How can you insult him?" Prof Waghmare tried to respond to them, when more young men come into the room and one of them slapped Prof. Waghmare and commotion broke out. Mr. Ramkrishna Tawde and others ordered Prof. Waghmare to get up from the chair and to sit on the floor. Prof. Waghmare sat on the floor with injuries on his back, left leg, both the ears, and an injury on his head. Losing consciousness from the beatings he finally fell flat.

Someone from the college called the police who arrived in a van and the half unconscious Prof. Waghmare was lifted off the floor by the police. Unable to walk, he fell down, and was picked up again by the police amidst loud chants of "Jai Shivaji, Jai Bhavani" by a crowd of hundreds of people. He was taken to Dr Ambedkar Government Hospital, Khopoli for his treatment and then to the police station, where again, a mob gathered.

According to local activists and local media reports, the police had received memoranda from Nagarsevaks of Shiv Sena and other political outfits, seeking a complaint against Prof Waghmare. The police then summoned Prof. Nagargoje, the admin of the Whatsapp group, to lodge an FIR. The FIR is filed under section 295 A – "Deliberate and malicious acts, intended to outrage religious feelings or any class by insulting its religion or religious beliefs."

Prof. Waghmare spent the night in the police lock up at Khopoli station. The next day in his bail hearing, it was argued by defense that 295 A was not tenable and was granted bail on the condition that his mobile phone has to be given to the police for inspection ('recovery').

It is further learnt that the police had received letters seeking action against Prof. Waghmare but when asked whether a case would be filed for against the people who beat up of Prof. Waghmare, they replied that he had given a statement in writing saying that he would not be filing any such complaint and because of such a written statement, they (police) would not accept any complaint from him even if he were to come at a later point attempting to lodge a complaint against his assailants.

Meanwhile, on March 17, 2017, in an emergency meeting of the Management Committee (Khalapur Taluka Shikshan Prasarak Mandal) held Prof. Waghmare was suspended mentioning the charges: a) misconduct, b) moral turpitude, c) Misuse of social media (WhatsApp)', along with a disciplinary enquiry, for a period of six months from March 17 to September 16, 2017.

Appeal:

We, therefore urge you to immediately take necessary steps and:

- Orders an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned incident of intimidation, abuse assault, booking of a case and a malicious case on Prof Waghmare ;
- Takes immediate legal action on the perpetrators in this case the members of Shiv Sena, MNS, Maratha Seva Sangh, Sambhaji Brigade as well as the SHO and Police personnel of Khopoli police station for the booking of the false and malicious case and denial of the right to express ones views freely and independently;
- To withdraw the FIR against Prof. Waghmare (under section 295A) which is malicious, has no basis and the case be quashed instead direct the police to register a case under the SC/ST (Prevention of Atrocities) Act on all concerned and the suspension of Prof Waghmare be revoked, so that he may resume teaching.
- Ensures provision of security, reparation, compensation, apology to Prof.Waghmare for the physical and psychological sufferings he underwent and provide a re-assurance of not engaging in such acts against HRDs;
- Urge that this complaint is not transferred to the State Human Rights Commission for disposal or routinely sent to the Commissioner of Police for investigation since this matter involves police officials too;
- Puts an end to all acts of harassment against all human rights defenders in general in Maharashtra to ensure that in all circumstances they carry out their activities without any hindrances;

- Conform 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:
 - Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels;
 - Article 12.2, which provides 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”;

Looking forward to your immediate action in this regard,

Yours sincerely,

(Henri Tiphagne)

National Working Secretary

Justice (Retd.) H L Dattu

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