



HRDA/NHRC-SM/South/TN/15/01/2024

January 25, 2024

To
Justice (retd.) Mr. AK Mishra
Chairperson,
National Human Rights Commission,
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA,
New Delhi –110 023
Email: chairnhrc@nic.in

Respected Justice Mishra,

Subject: Requesting to initiate suo moto proceedings in registration of FIR based on fabricated charges on protestors who were protesting against the gas leak from Coromandel International Limited on January 3, 2024.

We are writing to you to bring to your kind attention that on December 26, 2023, an ammonia gas leak occurred from the pipeline of the seabed connecting to the factory carrying chemicals for manufacturing fertiliser in the fishing hamlets of Chennai Ennore.

In the early hours of December 27, people who woke up to the stench of strong chemicals fled their homes and walked several kilometres to escape the fumes. Around 50 people were hospitalised after the gas leak, while hundreds of residents sought medical attention in the camps that were set up in the neighbouring areas. People gathered in front of the southern and northern gates of the facility and staged a protest demanding the government shut CIL permanently.

On January 3, 2024 police registered a FIR against Rajendran, Riyazudeen, Murali, Makesh, Venkatesh, Parthasarathy, John Kannan, Ganeshan, Sambandham, Kumaravel, Mathi, Babu, Santhosh, Gnanaprakasham, Madhan, Ravi Laippan, Ramesh Sudhakar and 18 others protestors under section 294(B) (singing, reciting, or uttering any obscene song, ballad, or words, in or near any public place), 353 (assault

or criminal force to deter public servant from discharge of his duty), and 506(2) (criminal intimidation) of the Indian Penal Code.

The incident has been reported widely in the media and a link is shared here for your reference - [Ennore gas leak: Protesting residents allege police lodged FIR to target them \(thenewsminute.com\)](https://www.thenewsminute.com/article/ennore-gas-leak-protesting-residents-allege-police-lodged-fir-to-target-them-108408)

The Right to protest is recognized under several international instruments, including:

- I. The International Covenant on Economic, Social and Cultural Rights (Article 8),
- II. Article 5 (a) of the Declaration on Human Rights Defenders 1998 states that “For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, to meet or assemble peacefully”.

The Right to protest is an essential element of the right to participate in any democratic dispensation, and restrictions imposed on this right must be closely scrutinized with respect to their necessity and reasonableness (A/61/312, para. 56)

Human rights defenders play a pivotal role in ensuring that protest and criticism are expressed in a peaceful and constructive manner. States should legitimize and empower human rights defenders in this role and encourage defenders to take full ownership of this role (A/62/225, para. 102).

The right to exercise freedom of speech and expression is enshrined under Article 19 (a) of the Indian Constitution. The right to freedom of opinion and expression encompasses three different aspects:

- I. The right to hold opinions without interference;
- II. The right to access to information, and
- III. The right to impart information and ideas of all kinds.

Supreme court in Mazdoor Kisan Shakthi Sangathan v. UOI 2018 17 SCC 32 held that: -

“54. The right to protest is thus recognised as a fundamental right under the Constitution. This right is crucial in a democracy which rests on the participation of an informed citizenry in governance. This Right is also crucial since its

strengths representative democracy by enabling direct participation in public affairs where individuals and groups are able to express dissent and grievances, expose the flaws in governance and demand accountability from the state authorities as well as powerful entities. This right is crucial in a vibrant democracy like India but more so in the Indian Context to aid in the assertion of the rights of the marginalised and poorly represented minorities.

59.A particular fundamental right cannot exist in isolation in a watertight compartment. One fundamental right of a person may have to coexist in harmony with the exercise of another fundamental right by others and also with reasonable and valid exercise of power by the state in the light of the directive principles of social welfare as a whole.”

In Anita Thakur v. State of J&K, (2016) 15 SCC 525 it was observed the Supreme court that:-

“12...holding peaceful demonstration in order to air their grievances and to see that their voice is heard in the relevant quarters is the right of the people. Such a right can be traced to the fundamental freedom that is guaranteed under Articles 19(1)(a), 19(1)(b) and 19(1)(c) of the Constitution. Article 19(1)(a) confers freedom of speech to the citizens of this country and, thus, this provision ensures that the petitioners could raise slogan, albeit in a peaceful and orderly manner, without using offensive language. Article 19(1)(b) confers the right to assemble and, thus, guarantees that all citizens have the right to assemble peacefully and without arms. Right to move freely given under Article 19(1)(d), again, ensures that the petitioners could take out peaceful march. The “right to assemble” is beautifully captured in an eloquent statement that “an unarmed, peaceful protest procession in the land of “salt satyagraha”, fast-unto-death and “do or die” is no jural anathema”. It hardly needs elaboration that a distinguishing feature of any democracy is the space offered for legitimate dissent. One cherished and valuable aspect of political life in India is a tradition to express grievances through direct action or peaceful protest. Organised, non-violent protest marches were a key weapon in the struggle for Independence, and the right to peaceful protest is now recognised as a fundamental right in the Constitution.”

The Supreme Court in *Mazdoor Kisan Shakti Sangathan v. Union of India*, (2018) 17 SCC 324 : 2018 SCC OnLine SC 724 at page 366 held that:-

“54. The right to protest is, thus, recognised as a fundamental right under the Constitution. This right is crucial in a democracy which rests on participation of an informed citizenry in governance. This right is also crucial since it strengthens representative democracy by enabling direct participation in public affairs where individuals and groups are able to express dissent and grievances, expose the flaws in governance and demand accountability from the State authorities as well as powerful entities. This right is crucial in a vibrant democracy like India but more so in the Indian context to aid in the assertion of the rights of the marginalised and poorly represented minorities.”

We believe that targeting the protestors who were protesting for their right to live and livelihood as a fisherman by registration of FIR based on fabricated charges is a act of reprisal against their activism.

We urgently appeal to you to exercise Section 12 (a) of the Protection of Human Rights (Amendment) Act, 2019, and take *suo moto* cognizance of this incident and initiate an independent inquiry through NHRC's investigation wing.

We hope and expect that the NHRC will intervene in this case impartially and in a time bound manner.

Yours Sincerely,



(Henri Tiphagne)

National Working Secretary