



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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To,
Mr. C S 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

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action - Rajasthan: Lathi-charge, religious hate speech, illegal arrest, custodial torture, fake charges, by Rajasthan police, against HRDs holding a marathon.

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 shock regarding the ill treatment, abusive behaviour, racial and religious hate speech, lathi-charge, illegal arrest and worst of all custodial torture, against HRDs of Popular Front of India (PFI), who were holding a peaceful marathon to raise health awareness in India.

Source of Information:

- Information gathered from media
- Communication with the HRDs in the region

Date of Incident:

November 28, 2021

Place of Incident:

Bhilwara, Rajasthan

The Perpetrators:

- Mr. Kanhaiya Lal, Inspector in charge, Bhimganj police station
- Mr. DP Dadhich, In-charge, Kotwali police station
- Mr. Sunil Mittho Lal, *Jagid*, Pratapnagar
- Mr. Hari Shankar, Circle Officer (City), Bhilwara
- Ms. Chanchal Mishra, Additional SP, Bhilwara
- Mr. Rajendra Singh, Inspector in Charge, Pratapnagar police station

- Other police officials at Bhimganj police station

About the Human Rights Defenders:

Popular Front of India is a social organisation that has undertaken several awareness drives for education and health. They have also set up medical camps and blood donation drives and have raised issues that affect the poor in the country.

Background of the Incident:

In November 2021, PFI had organised a marathon to raise health awareness. The marathon was to be held on November 28, 2021. PFI had written to the additional district magistrate on November 25 to inform about their marathon. They did not hear from the ADM's office or any official from the district administration or the local police regarding the marathon until November 27, 2021, when the district secretary of PFI Parvez Sheikh was served a notice at 8 p.m. by Bhimganj police station.

Details of the Incident:

On November 28, 2021, at 8 a.m. Mr. Parvez Sheikh, Mr. Rizwan and Mr. Imran Rangrez, all members of PFI, visited Bhimganj police station. Present at the police station were Mr. Kanhaiya Lal, Inspector in charge, Bhimganj police station, DP Dadhich, Kotwal, Mr. Sunil Mittho Lal, *Jagid*, Pratapnagar, Mr. Harishankar, Chief Officer (City), Bhilwara and other police official and officials from the district administration were present.

Mr. Lal and Mr. Dadhich began verbally abusing the three HRDs publicly and when the HRDs protested such treatment and stated that they will be complaining about the behaviour of the two officials to higher ups, the HRDs were assaulted by the two policemen.

After some time, Ms. Chanchal Mishra, additional SP, arrived at the police station. When the HRDs told her about this incident, Mr. Dadhich pulled Mr. Rizwan's beard in front of her. He also forcibly took Mr. Sheikh's cap, crumpled it and threw it. All the while hurling communally laced abuses against the two. Ms. Mishra did not respond or react to this or stop it. Mr. Dadhich also threatened to charge them with crimes which will keep them in prison for so long that they will forget the faces of their family members.

At the site of the marathon, a small group had assembled to take part in it. There were no banners, no sound or speakers and those assembled were peacefully waiting for the program to start. Around 9 a.m. Mr. Lal and Mr. Dadhich arrived on the scene. Here again they started hurling abuses on the crowd and ordered a lathi charge to disperse the crowd. 14 people were arrested under section 151 (Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse) and 108 (abetment) of the Indian Penal Code.

In all 17 people were charged under the sections: Mr. Sheikh, Mr. Rizwan, Mr. Imran, Mr. Abdul Salaam, Mr. Saddam Hussain, Mr. Ahmedakha, Mr. Azad Javed, Mr. Salim Ansari, Mr. Irfan Rangrez, Mr. Babu Mohammad, Mr. Abid Hussain, Mr. Shorb Cheepa, Mr. Mohammad Shahrukh, Mr. Saddiq, Mr. Iqbal, Mr. Naushad Sorgar and Mr. Ahmad Ranja.

In addition to the lathi charge at the site of the protest, some of the protestors were also physically assaulted in the police jeep. Police officials from the special branch, Mr. Durgaprasad and Mr. Arvind.

Those arrested from the site were taken to Kotwali police station and there were roughed up by constables Mr. Bhupesh, Mr. Sajay and Mr. Bhati. Mr. Bhupesh pulled Mr. Abdul Salim's beard and hurled communal slurs and abuses against him and others in the group.

The group were then taken to Bhimganj police station. Here all of them were tortured one by one. Two police officials stood on their feet and two police officials held their hands. They were each struck 6 - 10 blows on their legs using a *patta*. The police officials were not wearing name tags and hence could not be identified. This happened in the office of the Inspector in Charge of Bhimganj, Mr. Kanhaiya Lal. It happened in the presence of ASP Ms. Chanchal Mishra, Mr. Rajendra Singh, Mr. DP Dadhich, Mr. Hari Prasad. The police officials removed their name tags on the instruction of Mr. Dadhich.

The group was not provided any water or food from the time of their detention, around 9 am, till 10 pm. They were only given something to eat after the intervention of their lawyer.

The actions of the Bhilwara amounts to custodial torture. Torture of any kind and under any circumstances is illegal. The DK Basu guidelines clearly state that the detainee has the right not to be ill-treated or tortured during arrest or in custody. The torture is also in violation of the International Covenant on Civil and Political Rights (ICCPR) ratified by India in 1979. Article 7 of the ICCPR explicitly states: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The Supreme Court in one of the recent orders (Paramvir Singh Saini v. Baljit Singh & Ors., SLP (Criminal) No. 3543 of 2020) has held that in case a victim faced human rights violations during an interrogation by any of the agencies like Police, CBI, NIA, ED etc., has a right to obtain the CCTV footage. Further every interrogation room should have CCTVs installed. Thus, it is essential that CCTV footage of the interrogation of the HRD is given to the Hon'ble Commission at the soonest.

The torture of individuals makes the Bhilwara police officials liable for criminal prosecution under Sections 350 (criminal force) and 351 (assault). However, no action has been taken against them.

The police also have also flouted arrest procedures laid under the DK Base guidelines such as providing an arrest memo and intimation to family members.

The lathi charge on the group was completely unwarranted and is in direct violation of Article 19 which guarantees to all citizens rights *'to assemble peaceably and without arms'*. Furthermore, the FIR against the 17 HRDs under section 151 is false as it presumes the assembly was unlawful.

Section 141 of the IPC lays down the conditions under which the assembly could be deemed unlawful. It states that an assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is:

1. To overawe by criminal force, or show of criminal force, 1[the Central or any State Government or Parliament or the Legislature of any State], or any public servant in the exercise of the lawful power of such public servant; or
2. To resist the execution of any law, or of any legal process; or
3. To commit any mischief or criminal trespass, or other offence; or
4. By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right.
5. By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

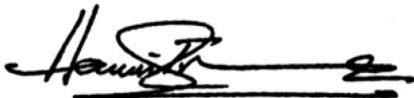
The gathering on November 28, 2021, was a marathon. It was not a political event and did not fit any of the above-mentioned criteria to justify the actions of the Bhilwara police.

Appeal:

The crackdown on a peaceful social awareness program and custodial torture amounts to a gross abuse of powers by the police officials in Bhilwara. We request the Hon’ble Commission to urgently:

- Conduct an independent inquiry through its investigation wing into the crackdown and custodial torture of the HRDs.
- Direct the DGP of Rajasthan to suspend all police officials until the investigation is complete.
- Direct the DGP of Rajasthan to furnish to the commission the CCTV footage of the time of the detention and torture of the HRD.
- Direct the Government of Rajasthan to provide compensation for the physical harassment of all the HRDs.

Yours sincerely,



Henri Tiphagne
National Working Secretary