

Justice (Retd.) H.L. Dattu, Chairperson
National Human Rights Commission, Manav Adhikar Bhawan,
Block-C, GPO Complex, INA,
New Delhi – 110 023

3rd January 2019

Subject: Urgent – HARASSMENT BY THE SENIOR OFFICIALS OF POLICE FOR EXERCISING CONSTITUTIONAL RIGHT ENSHRINED UNDER ARTICLE 19 (1) (b) “Right to assemble peacefully”

Respected Sir,

We, the undersigned practicing Advocates, write with grave concern of an egregious case of harassment to the protestor named Mohammed Abdul Mujeeb out of peaceful protests from the State of Telangana. We urge an immediate inquiry by the Commission. In view of the seriousness of the matter and the need for quick action, we strongly suggest that the NHRC immediately dispatches an investigating team to the site, accompanied by a Special Rapporteur of the Commission and an experienced civil society activist that the NHRC deems fit and proper from its NGO Core Group.

According to the news reported in the “The Hindu” newspaper dated 30.12.2019 there has been alleged harassment by the Senior Police official namely the ACP Shri P. ASHOK, and the Inspector Special Branch. The victim has stated that he has been intimidated over phone call by the Police Inspector for taking out the rally in protest against the ‘Citizenship Amendment Act’ on the 22.12.2019.

The victim has participated in a protest march at Rajiv Chowk, Tower Circle, Karimnagar, Telangana. Subsequently he received a call from 9440795104 wherein official identified himself as Inspector, Special Branch. Over the call victim has been threatened and intimidated for taking part in the protest. Pertinent to make mention that the rally was peaceful and completely in line with the spirit of Article 19 (1)(b) which stipulates that every citizen shall have the right:

“(b) to assemble peacefully and without arms.”

The next day i.e. on 23rd of December in the morning victim was summoned before Commissioner of Police Shri V.B. Kamalasan Reddy. Pertinent to make mention that victim requested the Commissioner to take action against the Inspector Special Branch for intimidating and hurling abuses over phone call. But nothing was done to address this grievance.

Later in the afternoon, victim was re-summoned to appear before the Inspector I TOWN Police Station, Karimnagar to discuss the apprehension of the victim regarding the 'Citizenship Amendment Act and National Register of Citizens'. Victim complied with the call and appeared at I Town Police Station, Karimnagar. After fifteen minutes of rough discourse by the Inspector G.VIJAYA KUMAR , ACP SHRI P. ASHOK joined his colleague Inspector and started closed door counselling of victim.

In this counselling sessions several questions were raised casting aspersions on the protests. It was reported to have said by the ACP, P. ASHOK that protestors should go to the 'neighbouring country'. Not only this ACP Shri.P.ASHOK stop at this he brought in discussion around Jinnah and sought to know whether Mr. Mujeeb agrees with him. Subsequently 'CAA' was explained to the victim and the Police officer allegedly said that Mr Mujeeb should agree with his understanding of the legislation if 'he is a true Indian.' Victim was shocked as to how can his status as an Indian is dependent on his abusing Jinnah. ACP did not stop with this he went on to saying with all the communal remarks. ACP further made a sheer derogatory remark that fanaticism and terrorism in the religion . i.e. Islam professed by the victim are more

We call on the NHRC to send one of its Special Rapporteurs along with its investigating team and an experienced civil society member of its NGO Core Group without any delay, to inquire into the allegations of closed door counselling by the Senior Police Officials at 1 Town Police Station Karimnagar. We urge that the NHRC team visits the victims' families to ensure they are not being subject to threats and intimidation by anyone. Without the immediate and effective intervention of an external authority such as the NHRC, we fear there will be a total cover-up and impunity.

It is pertinent to make mention that this situation is deeply worrisome. The Police Force is bound to protect the civilians rather than intimidate the state subjects.

The Code of Conduct for the Police in India, communicated by the Union of India to all the Chief secretaries of all States/Union Territories and Heads of C.P.Os. (1) Union Ministry of Home Affairs Letters No. VI-24021/97/84-GPA. I, dated 4.7.1985 and 10.7.1985 states as under:

- 1. The Police must bear faithful allegiance to the Constitution of India and respect and uphold the rights of the citizens as guaranteed by it.*

9. *The Police should always place duty before self, should remain calm in the face of danger, scorn or ridicule and should be ready to sacrifice their lives in protecting those of others.*

10. *The Police should always be courteous and well-mannered; they should be dependable and impartial; they should possess dignity and courage; and should cultivate character and the trust of the people.*

11. *Integrity of the highest order is the fundamental basis of the prestige of the Police. Recognizing this, the Police must keep their private lives scrupulously clean, develop self-restraint and be truthful and honest in thought and deed, in both personal and official life, so that the public may regard them as exemplary citizen.*

13. *As members of a secular, democratic state, the Police should strive continually to rise above personal prejudices and promote harmony and the spirit of common brotherhood amongst all the people in India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women and disadvantaged segments of the society.*

Further, In the **Anita Thakur v State of J & K (2016 15scc 525)**, the Hon'ble Supreme Court held:

Para 15: Thus, while on the one hand, citizens are guaranteed fundamental right of speech, right to assemble for the purpose of carrying peaceful protest processions and right of free movement, on the other hand, reasonable restrictions on such right can be put by law. Provisions of IPC and CrPC, discussed above, are in the form of statutory provisions giving powers to the State to ensure that such public assemblies, protests, dharnas or marches are peaceful and they do not become "unlawful". *At the same time, while exercising such powers, the authorities are supposed to act within the limits of law and cannot indulge into excesses. How legal powers should be used to disperse an unruly crowd has been succinctly put by the Punjab and Haryana High Court in Karam Singh v. Hardayal Singh [Karam Singh v. Hardayal Singh, 1979 Cri LJ 1211 : 1979 SCC OnLine P&H 180] wherein the High Court held that*

three prerequisites must be satisfied before a Magistrate can order use of force to disperse a crowd:

“Para 4 *Firstly, there should be an unlawful assembly with the object of committing violence or an assembly of five or more persons likely to cause a disturbance of the public peace. Secondly, such assembly is ordered to be dispersed and Thirdly, in spite of such orders to disperse, such assembly does not disperse.”*

The force used by the Police should be within the *‘reasonable and proportionate’* nature preceded by an objective precondition.

That the apparent media reports are out rightly an aberrations from every legal stipulation. Thus requires a detailed investigation into the matter forthwith.

It would be important to ensure the Telangana Police complies in full with the Constitutional stipulations under Part III i.e. Fundamental Rights along with NHRC’s guidelines on use of force, mandating the Police authorities to report the detention and arrest on the website, if any.

A thorough inquiry, and well publicised attention from the NHRC, has the potential to fix accountability and contribute to changing police practice. We, the undersigned, therefore urge this Hon’ble Commission to constitute and immediately dispatch a special inquiry team as recommended above, and call for the following:

1. NHRC may kindly initiate inquiry against the Officers involved in the incident for making communally coloured, threatening, discriminatory, prejudicial and derogatory remarks against the victim and direct DGP, Telangana to draw up disciplinary inquiry against erring officers in Karimnagar District, Telangana
2. NHRC may recommend to initiate criminal cases u/s 295A IPC read with S.504 IPC against erring officers.
3. Grant interim protection to the victim against any form of arbitrary, unlawful acts of the abovementioned officers.
4. NHRC may issue guidelines on the subject of the abuse of power by the Police Officials.
5. Forensic evidence and other evidence be seized from the police station;
6. Ensure that the names, duty records and registers relating to all police officials on duty in the police station while the victim was summoned to the 1 town Police Station;

7. Ensure that if there is any investigation likely to be made by the Telangana Police qua Karimnagar District shall be in strict adherence to the due process rather than any bias and prejudice approach by the Telangana State Police.
8. Ensure that the investigation into the F.I.R, if any, be conducted by police from outside the district, preferably by an SIT comprising of senior officers with impeccable integrity;
9. Ensure the strict compliance with guidelines related to arrest in the cases of arrest as laid down in the case of **DK Basu** Judgement of the Hon'ble Supreme Court.
10. NHRC awards an interim compensation in accordance with its powers under the PHRA 1993;
11. NHRC ensures victim-witness protection in accordance with its own mandate as well as the recent Supreme Court judgment in Mahender Chawla v. Union of India (W.P. CrI. 156/2016)
12. NHRC directs the State Legal Services Authority of Telangana to take necessary steps to direct the District Legal Services Authority of the concerned district to ensure that a senior lawyer competent in the practice of criminal law is appointed to assist the family of the victim. With a view to ensure that all steps are taken as per the provisions of the Constitution and Criminal Procedure Code and all necessary legal steps are adhered to at every stage for the successful investigation, successful prosecution assistance, victim and witness protection and with periodic reporting to the NHRC by the counsel so appointed for the NHRC to know the developments in this case;
13. NHRC to also direct the State of Telangana to ensure that the **Minimum Interrogation Standards** developed by the Advisory Council of Jurists of the Asia Pacific Forum of NHRIs are followed to guarantee the prevention of torture and cruel, inhuman and degrading treatment and punishment in the state;
14. NHRC uses this incident to reiterate to the Government of India that India immediately ratifies the UN Convention Against Torture (UNCAT) and the Optional Protocol to UNCAT.

We urge this is treated as urgently as is required. We stand ready to assist in any way necessary.

Complainant/Victim:

Muhammad Abdul Mujeeb

S/o Abdul Muqet Aged 37 years,
R/o. 4-5-126, Ahmed Pura, Karimnagar
Telangana PO:

Signed,
Mr. Bilal Anwar Khan, Advocate
Ms. Anshu Kapoor, Advocate

