

Fact Finding Report

Crackdown on Protestors and HRDs Opposing JSW Plant in Dinkia, Odisha

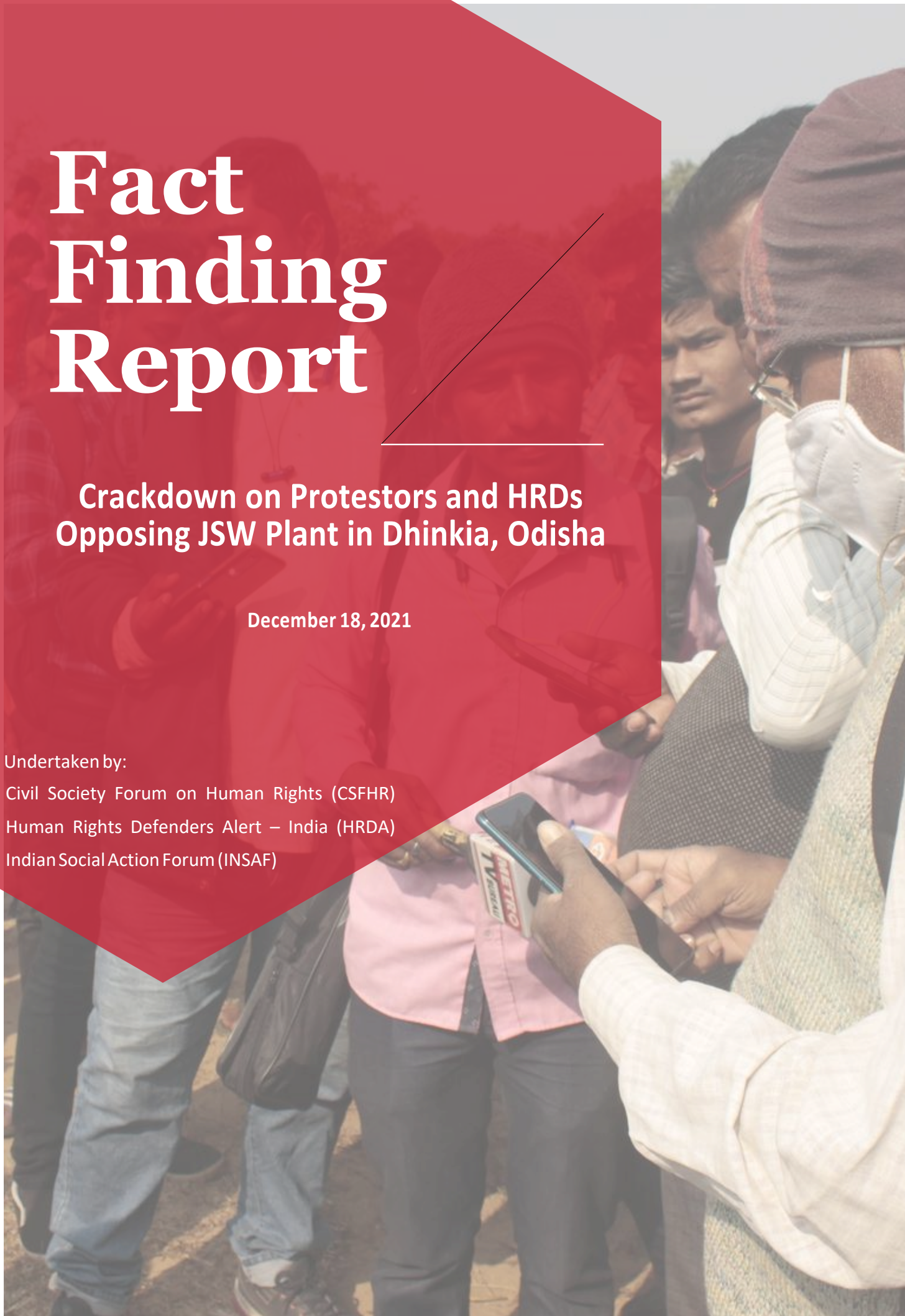
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Undertaken by:

Civil Society Forum on Human Rights (CSFHR)

Human Rights Defenders Alert – India (HRDA)

Indian Social Action Forum (INSAF)



Background

POSCO-India Private Limited pulled out of Jagatsinghpur – a coastal district in Odisha located close to coal and iron-ore deposits – in March 2017, following a 12-year-long resistance from the local villagers. This project involved an investment estimated to be Rs. 50,000 crores. Though this project had got forest clearance in May 2011 for diversion of 1,253.225 hectares of forest land for the establishment of an integrated steel plant, it had faced resistance on the issue of settlement of forest rights under the Forest Rights Act 2006.

Following POSCO's exit, in June 2017, the High-Level Clearance Authority (HLCA) chaired by the Odisha Chief Minister Mr. Naveen Patnaik, transferred the land to the JSW Utkal Steel Limited (JUSL). JUSL, a wholly owned subsidiary of Jindal Steel Works (JSW), plans to build a 13.2 million tonnes per annum (MTPA) integrated steel plant that will also comprise a captive power plant of 900-megawatt capacity, and a cement grinding and mixing unit of 10 MTPA.

According to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (LARR) of 2013, the 2,700 acres of land, forcibly acquired for the POSCO project by the Industrial Infrastructure Development Corporation (IDCO), must be handed over to the local people. LARR mandates that land acquired but not utilised within five years of possession should be returned to the people. However, the Odisha government through a policy revision in 2015, contrary to the LARR, decided that such land can be kept in a 'Land Bank' by the state government. Other state governments have also adopted a similar stance.

After almost two years, in August 2019, the Forest Advisory Committee of the Ministry of Environment, Forest and Climate Change, granted forest clearance, after the required forest area was reduced to 1,083.691 hectares, against the earlier approved 1,253.225 hectares.

JUSL claims that a public hearing for its proposed project was completed by the Odisha State Pollution Control Board (OSPCB) on December 20, 2019, at Gadakujanga village. However, media reports suggest that the police force, deployed in large numbers, surrounded the area and restricted local people from participating. Only one local villager was allowed to speak. The villagers also claim that the EIA report was not translated in Odia nor made available on time. The affected villagers had also petitioned the OSPCB on the irregularities of the public hearing.

A perusal of the minutes of the Expert Appraisal Committee (EAC) for the projects related to infrastructure development (which includes ports), of the Union Ministry of Environment, Forests and Climate Change (MoEF&CC), dated March 3-4, 2021, June 23-24, 2021, and September 16-17, 2021, reveal that the proposal for the project has been deferred for the want of several information.

Notable Developments

According to the residents of Dhinkia that the fact-finding team interacted with, the total population of Dhinkia panchayat is about 5000 people, approximately 3500 people reside in Dhinkia, 1500 in Mahala and 500 in Patana. While the villagers claimed the total forest area to be approximately 1140 acres, they were shocked to learn from block authorities that the total area on record was 748 acres.

Mahala and Patana hamlets (now declared revenue villages) are situated on either side of Dhinkia. They were accorded the status of revenue villages in April and August 2021, respectively. In July 2021, Chief Minister Mr. Patnaik, approved a proposal to carve out over 4,000 revenue villages in Odisha out of existing hamlets.

The government claimed new revenue villages would ensure extension of government schemes and benefits to a vast number of people residing in hamlets across the state. However, the villagers in Dhinkia panchayat fear that this declaration of revenue villages was designed to facilitate land grab for the JUSL project and fracture the movement. They expressed concern on the division of land in the latest notification creating new revenue villages. Dhinkia, with the majority of the population, was restricted to only 48 acres of land, both Mahala and Patana situated on either side of Dhinkia, were allotted 350 acres each of land. The villagers expressed fear of the state-corporate nexus to unleash its power in Mahala and Patana which now have larger land holdings and lesser population. According to the villagers, majority of both Mahala and Patana have been vehemently opposing the JUSL along with Dhinkia residents.



The villages also highlighted the lack of any consultation with the Dhinkia Palli Sabha (fourth tier of Panchayati Raj in Odisha below the gram sabha and comprising all registered voters in a hamlet(s) of a 'grama') regarding creation of new revenue villages in the area under its jurisdiction. According to them, they were surprised to see a notice pasted at the panchayat office on September 16, 2021, calling for objections to this move by September 18, 2021. They clarified that the said notice was dated August 16, 2021. However, it was never shared publicly until two days before the set deadline. In addition to the said notice, the Tehsildar of Erasama also issued notices (PR No 810) to all panchayats in the project area on August 18, 2021, saying

land already acquired for the POSCO project and kept in the land bank, would be acquired. Villagers were asked to raise objections, if any, within two days or August 20, 2021.

This development can be said to be the beginning of the recent resistance to JUSL in Dhinkia. Villagers in Dhinkia panchayat area opposed efforts to carry out demarcation work for new revenue villages by holding peaceful demonstrations and rallies on multiple occasions over the past 6 months. Mr. Debendra Swain, who lives in Dhinkia village and was part of the anti-Posco movement, leads the Jindal Pratirodh Sangram Samiti, which is spearheading the peaceful resistance. Events narrated in this report clearly indicate corporate-State's attempts to target Mr. Swain and suppress the movement against JUSL.

Recent Protests

The first protest, or the initial protest, happened in Mahala village in July 2021. A notification was issued on June 28, 2021, stating demarcation work would be carried out in Mahala on July 5, 2021. On the appointed day, hundreds of residents of Dhinkia held a peaceful demonstration before revenue department officials demanding a halt to the activity, and work was indefinitely postponed.

No efforts were taken by the administration to conduct demarcation work in Patana and Mahala in the next four months, barring the controversial official notification which is mentioned in the above section.

On November 29, 2021, a notice was pasted in Patana stating demarcation work would be conducted there on November 30, 2021, said villagers. Similarly, on November 30, 2021, a



notice was pasted in Mahala stating demarcation work would be conducted there on December 1, 2021. As opposed to 7 days' notice during the July demarcation, villagers were given only a day's notice this time.

Despite the short notice, when revenue department officials accompanied by 14 platoons of police personnel, reached Patana for demarcation work on November 30, 2021, villagers held a peaceful demonstration beside the local temple. They alleged armed policemen were deployed during the activity to intimidate them.

Thereafter, on December 1, 2021, when revenue officials led by Erasama Tehsildar Mr. C Pranjyananda Das reached Mahala for demarcation work along with a large contingent of police, locals blocked their entry into the village by forming a human chain. Protestors numbering around 300, including a majority of them being women and a sizeable number of children, demanded that the police force be withdrawn. This was turned down by Mr. Das and other officials leading to a logjam for over five hours. Eventually, the demarcation work was called off and revenue officials and police left the area.

Apart from these protests at the site of demarcation work, several demonstrations were also held in an open ground near the sea, on the outskirts of Dinkia village, which were attended by thousands of men, women and children. Rallies were also taken out along main roads in villages in the area, with participants shouting slogans decrying government high-handedness and vouching not to part with their land.

State Crackdown on Protests

A series of actions were initiated by police and administrative officials against villagers opposed to the JUSL project in the aftermath of botched attempts at demarcation work in the hamlets of Patana and Mahala. On most occasions, officials have resorted to registering FIRs against protestors and HRDs, prima facie all of them fabricated. During several interactions, the fact-finding found that the police officials have even mentioned those individuals in the FIRs who for employment or for some reasons were not in Dinkia on the day of the alleged incident. People above the age of 70 and those who need help for daily chores have also been mentioned in the FIRs. Village leaders suggest police are using the voting list to indiscriminately build numbers and names and to target those closely associated with the protest leader – Mr. Debendra Swain. All his relatives – including immediate family members – have been targeted by the police. False and fabricated FIRs continue to remain tools to oppress people's resistance in Dinkia. Of the close to 400 FIRs registered since the protests against POSCO, not a single conviction have occurred, speaking volumes of the conduct of police in Abhayachandpur police station.

Among ten FIRs registered against Dinkia panchayat residents opposing the JUSL project in the past one year, six were registered immediately after the botched demarcation activity on December 1, 2021. There were also FIRs filed after local villagers opposed presence of JSW officials in a public hearing for a power plant in the area that was part of the planned steel complex.

FIR no 123/ 2021

On December 1, 2021, at 8 PM, an FIR (123/ 2021) was registered at the Abhayachandpur Police Station against 34 HRDs including Mr. Muralidhar Sahoo and Mr. Bibekananda Swain

and 300 other unnamed villagers. The complainant in the case was Erasama Tehsildar Mr. Choudhury Pranjyananda Das, who alleged that around 200 women and 100 men led by Mr. Muralidhar Sahoo, Mr. Bibekananda Swain and others obstructed revenue officials from carrying out their work in Mahala on November 30, 2021.

The accused were charged under Sections 143 (unlawful assembly), 341 (wrongful restraint), 294 (obscene acts and songs), 506 (criminal intimidation), 353 (assault or use of criminal force on a public servant), 186 (voluntarily obstructing any public servant in the discharge of his public functions), and 149 (common intent) of the Indian Penal Code. Sub Inspector Mr. K. Ch. Nayak was designated as the Investigating Officer in the case.



Image Credit: Scroll.in

HRDs accused in the case said the charges were fabricated and registered by police in reprisal for their participation in a peaceful protest a day earlier. “That day, we were holding a sit-in demonstration in a clearing adjacent to the site where revenue officials were conducting demarcation work, and many policemen surrounded us. There was no altercation or confrontation with any officials whatsoever. But the police named some of us who were distributing water and biscuits among protestors in the FIR, and pressed serious charges against all of us,” said Mr. Muralidhar Sahoo.

FIR no 124/ 2021

On December 2, 2021, at around 9 PM, an FIR (124/ 2021) was registered at the Abhayachandpur Police Station against Mr. Raju Katikia and ‘5-7 unnamed others’. The complainant Mr. Surendra Jena claimed that when he and other residents of Mahala accompanied administrative officials during demarcation work in their village on December 1, 2021, Mr. Raju Katikia and others warned them not to cooperate with the administration and threatened to damage Mr. Jena’s betel vines. On the morning of December 2, Mr. Jena discovered his betel farm was damaged and machineries and accessories were stolen, he stated.

The accused were charged under 294 (obscene acts and songs), 506 (criminal intimidation), 427 (mischief causing damage up to Rs 50 or upwards), 379 (theft), and 34 (common intent) of the Indian Penal Code. Mr. Ashutosh Hota, Sub Inspector, Abhyachandpur police station was designated as the Investigating Officer in the case.

Mr. Raju Katikia and other villagers said the charges were fabricated. “It is true that we participated in protests against demarcation work in Mahala and Patana. But we neither warned anyone, nor threatened to destroy Mr. Surendra Jena’s betel farm. Whereas Mr. Jena is known to be pro-administration and pro-police, and we suspect authorities colluded with him to implicate us in a false case,” said Mr. Katikia.

FIR nos 125-127/ 2021

Three FIRs were registered against Mr. Debendra Swain, Mr. Basanta Gochayat, Mr. Chuguna Jena and others between 3 AM and 7 AM on December 4, 2021.

The first FIR (125/ 2021) named Mr. Swain, Mr. Gochayat, Mr. Jena and three others, who were charged under Sections 294 (obscene acts and songs), 506 (criminal intimidation), 307, 34 of the Indian Penal Code and Sections 3 and 4 of the Explosive Substances Act.

The complainant in the case was Gobindpur resident Mr. Prabhat Kumar Rout. In a written complaint submitted at the Abhayachandpur Police Station at 3 AM, he claimed that at around an hour earlier, Mr. Basanta Gochayat, Mr. Chuguna Jena and others hurled bombs towards his house and fled on motorcycles towards Dhinkia, where they entered Mr. Debendra Swain’s house. He also claimed Mr. Swain had threatened to kill him in the past, including during demarcation work in Mahala village on December 1, 2021.

The second FIR (126/ 2021) named 15 persons including Mr. Swain, Mr. Gochayat and Mr. Jena, apart from ‘15-20 unnamed others’. The accused were charged under Section 395 (dacoity) of the Indian Penal Code. Sub Inspector Mr. C R Pany was directed to investigate the case.

The complainant in the case was Sub Inspector Mr. Ashutosh Hota. In a written complaint submitted at the Abhayachandpur Police Station at 4.05 AM, he claimed that while he and other policemen were on their way to Gobindpur village to investigate FIR no 125/ 2021, Mr. Swain and 20-25 anti-socials obstructed their way, abused them in filthy language, assaulted them and forcibly snatched Mr. Hota’s service revolver (butt no JS-37), forcing them to retreat.

The third FIR (127/ 2021) was registered against 60 named accused including Mr. Swain, Mr. Gochayat, Mr. Jena and 100 unnamed others. They were charged under Sections 147, 148, 341, 333, 353, 307, 427, 294, 379, 186, 149, 332, 506 of the Indian Penal Code, Sections 3 and 4 of Prevention of Damage to Public Property Act and Section 7 of the Criminal Law Amendment Act.

The complainant in the case was Inspector Mr. Pradyumna Behera. In a written complaint submitted at the Abhayachandpur police station at 7 AM, Mr. Behera claimed that when he and other police personnel reached Mr. Swain’s residence at 4.30 AM to recover Mr. Hota’s service revolver, around 100 villagers who were waiting in ambush attacked them. They pelted

stones, abused and assaulted policemen including with batons and other deadly weapons and damaged two police buses, forcing the police to retreat.

The fact-finding team held detailed discussions on these FIRs with all concerned and prima facie find them to be absolutely fabricated. It is to be noted that Cyclone Jawad made landfall in the vicinity a few hours preceding the purported incidents, and it was raining heavily across the district till the next afternoon. The government had also issued several alerts before the cyclone and evacuated most people living in low-lying areas in Dhinkia and neighbouring villages.

With the heavy rains and winds because of the onset of cyclone, all the events put together between 2–4:30 AM – Mr. Gochayat, Jena and others hurling bombs in Gobindpur village, Mr. Rout complaining at the police station, Mr. Swain and others obstructing the policemen and stealing the service revolver and the police arriving in Dhinkia to be attacked by villagers – are even beyond the work of fiction. All these FIRs seem to have been registered to cover up the illegal raid and destruction to property the local police were engaged in the early hours of December 4, 2021, in the garb of the extreme weather conditions with Cyclone Jawad to make landfall in a few hours.

Moreover, the distance between Abhaychandpur police station and Gobindpur village, where the bombs were allegedly dropped, was close to 10 km, whereas the distance from the police station to Dhinkia was around 5 km. Police personnel from Paradip police station were also present. In normal circumstances, it takes between 1.5 to 2 hours to travel to and fro between the police station and these villages, and it is highly unlikely that the police covered this distance three times within three hours on a rainy, windy night.

The events on December 4, 2021, were truly unsettling and the local police seem to have made all attempts to target Mr. Debendra Swain. According to Mr. Swain and other villagers, including victims of police atrocities on that day, at about 3 AM, a police contingent under the leadership of Assistant Superintendent of Police of Paradeep Mr. Nimaichran Sethi and including Sub Inspectors Mr. Ashutosh Hota and Mr. Chinmaya Pany and 4 platoons of armed police reached Mr. Swain's house in 10 police vehicles and tried to arrest him forcibly.

When the HRD's mother answered the door and objected to police entering their house, Mr. Ashutosh Hota scolded her in filthy language, and tried to break into Mr. Swain's house. Videos of the police raid captured by villagers showed policemen trying to break open Mr. Swain's door with rifle butts and lathis even as it rained heavily. Videos also showed the police chasing and lathi-charging villagers who tried to restrain them.

“When we heard the commotion at Debendra's house, we rushed to the spot and raised a hue and cry as we felt police was trying to arrest him by taking advantage of the calamitous weather. Police initially baton-charged us trying to chase us away, which left many of us

injured. I was hurt on my right forearm as my bangles broke and their pieces pierced the skin – one of the pieces is still lodged here”, said Ms. Shanti Das, an elderly WHRD, pointing at a lump on her right arm.

Ms. Das and other witnesses said that after large numbers of villagers reached the spot despite the rain and protested the heavy-handed police action, police personnel left the spot in their official vehicles. Several villagers, witness to the police onslaught, also testified about the physical injuries they suffered.

After the botched attempt to arrest Mr. Swain from his residence in the wee hours of December 4, 2021, police pickets were set up on all three roads entering Dinkia village to regulate the movement of locals. *“Around 10-15 armed policemen stand guard at each picket round the clock. They ask us to show our Aadhaar cards whenever we pass by, and do not let us through if we do not have the same. Often, even when we have Aadhaar cards, they do not let us go on some pretext or the other. We are unable to move around freely in our own village or travel outside for work purposes due to this, and it is affecting our livelihood”,* said Ajay Kumar Das, a resident of Dinkia. This was corroborated by several other villagers in the area.

On December 20, 2021, as a fresh round of the demarcation exercise was being carried out in Mahala, villagers shouted slogans opposing the activity. The police arrived in seven jeeps from the other side and launched a brutal crackdown on peacefully protesting people. They again attempted to arrest Mr. Debendra Swain but failed, however, arrested Mr. Ajodhya Swain and Ms. Mili Swain, his paternal uncle and elder daughter respectively. Villagers said police had actually arrived at Mr. Debendra Swain’s house to arrest him, but when they could not find him, they nabbed his uncle and sister from the spot, but did not say where they were taking them and why. Mr. Ayodhya Swain aged 71, is a paralysis patient and Ms. Mili Swain is 22 years old. The police slapped false charge against them under Indian Penal Code Sections: 147 (rioting), 149 (unlawful assembly), 294 (use of obscene language), 427 (mischief causing damage), 506 (criminal intimidation).

Targeting of Mr. Debendra Swain

In addition to the recent FIRs against Mr. Debendra Swain, being the leader of the movement, he has been subjected to several reprisals. He was elected to the Dinkia panchayat samiti in 2017. Mr Swain objected to the creation of new revenue villages in the panchayat area and participated in peaceful protests against demarcation work in Patana and Mahala on multiple occasions since July 2021. Among other things, he raised objections regarding the lack of adequate notice for demarcation activities.

In reprisal for his efforts to uphold due procedure, on September 30, 2021, the Panchayati Raj department of the Odisha government issued a show cause notice (No. PR-PADM-ESTT-0025-2021) to Mr. Swain. The notice stated that “it appears from the report of the Collector,

Jagatsinghpur” that Mr. Swain “has wilfully abused powers vested on him as PS member, for which charges have been framed against him as annexed.”

The annexure delineated the charges against Mr. Swain as follows:

1. That he despite being a panchayat samiti member, obstructed the official vehicles and abused officials present for conduction of a meeting in filthy languages.
2. That he also threatened the officials to murder them through bomb blast. It is understood that his misconduct and others was well-conspired.
3. That the officials have filed FIR in this regard. Also, various other cases are sub-judice against him along with three cases recently charge-sheeted against him.
4. That he is a habitual obstructor in every developmental works executed through PRIs. He is opposing various beneficiary-oriented government schemes violating rights of common masses.



The show cause notice asked Mr. Swain to explain within 30 days “why action as deemed proper shall not be taken against him in accordance with law.” He was allowed to explain the same in person if he so desired. Mr. Swain said that following this show cause notice, he was expelled from the panchayat samiti in October 2021. The disciplinary action on part of government authorities was highly unusual, more so because the term of the panchayat samiti was going to expire in a little over 2-3 months, and panchayat elections in Odisha are scheduled in early 2022. The expulsion of an elected representative on the recommendation of the local administration also raises serious concerns regarding the possibility of further reprisals.

Recommendations

- Gramsabha must be allowed to deliberate, discuss, and decide – with adequate notice – about any project, including creating of new revenue villages and demarcating territories for the same. The rights of gramsabha should not be taken away from the people through any means whatsoever by the administration.
- All cases against all HRDs and protestors for opposing JUSL must be withdrawn immediately by the Government of Odisha and peaceful assembly and expression must be upheld under any circumstances.
- Deployment of massive security forces must be withdrawn immediately and reign of terror by the administration and police should be completely stopped. The

administration should engage in communication with the Dhinkia village leadership to ensure peace and normalcy.

- The national and state human rights commissions must record and inquire all instances of violence by the police in Dhinkia and recommend medical treatment and compensation to all victims, and disciplinary and legal actions against police and administrative officials.
- The National Human Rights Commission should engage its core groups on 'Business, Environment and Human Rights' and 'NGOs and Human Rights Defenders' to jointly inquire the allegations against the government in handing over the project to JUSL, compliance to all legal processes for JUSL to operate and crackdown on peaceful dissent in Dhinkia, Jagatsinghpur district of Odisha.
- An independent team comprising of experts from the fields of business and human rights, human rights, law, forest rights, agriculture, corporate affairs, etc. must be formed to examine the actions of the administration and police in Dhinkia, Jagatsinghpur district of Odisha and also determine if the processes mandated in the law were followed in the case of permitting JUSL to establish its project.

