



# HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

No. 555, West Cross 4th Street, K.K.Nagar, Madurai - 625 020, Tamil Nadu, India.

Mobile: 99943-68540

E.mail: [hrda.india@gmail.com](mailto:hrda.india@gmail.com) Web: [www.hrdaindia.org](http://www.hrdaindia.org)

**Ref No: HRDA/East/BH/06/07/2020**

July 20, 2020

To,  
Mr. Debindra Kundra,  
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](mailto:hrd-nhrc@nic.in)

Dear Sir,

**Sub: HRD Alert - India - Urgent Appeal for Action – Bihar: Judicial harassment and caste-based atrocity on Dalit HRD Mr. Raju Baitha on directions of East Champaran's Superintendent of Police**

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 grave concern regarding the police intimidation, multiple fabricated cases and arrest of Mr. Raju Baitha. Mr. Baitha is a Dalit HRD and anti-corruption RTI activist. He is the district coordinator of the National Campaign for Dalit Human Rights (NCDHR), which works for across India for the protection and promotion of human rights of Dalits.

**Source of Information:**

- Information from HRDA regional coordinator
- Communication with the HRDs in the region
- Communication with HRD's lawyer
- Media reports

**Date of Incident:**

May 26, 2020

**Place of Incident:**

East Champaran, Bihar

**The Perpetrators:**

Police personnel of Motihari in East Champaran, Bihar

**About the Human Rights Defender:**

Mr. Raju Baitha is a Dalit HRD residing in Motihari, East Champaran district of Bihar. He has been active in defending the human rights of Dalits in Bihar for long and is the district coordinator of the NCDHR, a national organisation to protect and promote the human rights of Dalits.

**Details of the Incident:**

Mr. Baitha, in one of his Facebook posts on May 20, 2020, questioned East Champaran's Superintendent of Police (SP), Mr. Naveen Chandra Jha, about caste determining the punishment for policemen for similar charges against them. His Facebook post said, *"just see the mockery of justice. Two cops from the higher caste were only sent to the police lines while another cop from the Dalit community was placed under suspension for the same charge."* Mr Baitha asked the SP for an answer and said that his action was biased and flouted the Constitutional norms.

According to the sources, the SP called Mr. Baitha multiple times on WhatsApp and threatened him regarding his Facebook post. The SP also asked whether Mr. Baitha was the DGP to question the charges and that *"he will put him in jail within 4 days"*. Mr. Baitha recorded the WhatsApp conversation and it was picked up by the local media.

On May 26, 2020, at about 6.00 am, the Station House Officer (SHO) of Chhitouni police station Mr. Mukesh Chand Kumar went to Mr. Baitha's residence with four constables and arrested him without any arrest warrant. He was taken to the Chhitouni police station and his two mobile phones and Rs 25000 were seized by the police without a seizure memo. An FIR (No. 49/2020) was registered against him by the Motihari police dated January 29, 2020, under IPC sections 143/ 188/ 353/ 149/ 342/ 506/ 427/ 341 and Prevention of Damage to Public Property Act, for alleged damage to public property and blocking public roads. The said protest was held on January 29, 2020, under the banner of Bahujan Kranti Morcha against the Citizenship Amendment Act (CAA).

After his arrest on May 26, Mr. Baitha was not taken to a police station, but driven around in a police car, till the police got an official warrant signed by the magistrate. He was then taken into judicial custody.

On May 28, 2020, Mr. Baitha was granted bail in Case No. 49/2020. However, before he could be released, he was re-arrested in two more FIRs Case no. 50/2020 of Chhitouni police station dated January 29, 2020, by a shopkeeper who alleged damage to his shop during the protest on January 29. Another FIR was registered at Mufassil police station's Case no. 153/2020 dated April 5, 2020, filed by a person from the SC community. Mr. Baitha was released on bail only on June 15, 2020.

It is obvious that Mr. Baitha has been victimised and harassed by the police, and subjected to harassment which included restrictions on his movement and liberty, for questioning certain actions of the SP through his Facebook post. HRDA believes the police on the directions of the East Champaran SP has misused provisions of law to target a Dalit HRD. This is not only a clear violation of his rights as a citizen of Indian under Article 19(A) but also an act of atrocity under the SC/ST Prevention of Atrocities Act (PoAA).

India is a democracy and our Constitution guarantees citizens the right to exercise freedom of speech or question decisions taken by officials. These police actions against Dalit HRD Mr. Baitha, originate from caste based discrimination against him for his questioning, and are proof of a police vendetta against the Dalit HRD. Such acts by the police on direction of the SP violates Mr. Baitha's right to equality guaranteed by Article 14 and his right to freedom of speech and expression under Article 19(a) of the Indian Constitution.

Freedom to expression is crucial to the work of HRDs. The right to freedom of opinion and expression encompasses three different aspects: 1) the right to hold opinions without interference; 2) the right of access to information; and 3) the right to impart information and ideas of all kind. On the aforesaid it is stated that Declaration on Human Rights Defenders seeks to protect the monitoring and advocacy functions of defenders by recognizing their right to obtain and disseminate information relevant to the enjoyment of human rights.

### **Appeal:**

The threatening calls made by the East Champaran SP to Mr. Baitha, which are recorded, are clear proofs of the intimidation and judicial harassment of the Dalit HRD, a clear criminal offence and an act of atrocity under the PoAA. The fact Mr. Baitha was

re-arrested in subsequent cases after being granted bail in the first case, also reveal the malafide intention of the police. We request the NHRC to urgently –

- Initiate an independent inquiry through its own investigation division to inquire into the alleged judicial harassment of Dalit HRD Mr. Raju Baitha on the directions of the East Champaran SP Mr. Naveen Chandra Jha, following the verbal threats issued through a call by the SP.
- Direct the Director General of Police of Bihar to produce urgently all relevant documents pertaining to the arrest of Dalit HRD Mr. Raju Baitha for an independent examination by the NHRC.
  - arrest memo as required under Section 41B of the CrPC, including name and designation of the police officer who prepared the arrest memo and the time of arrest
  - medico-legal certificate prepared under Section 53 of the CrPC, as well as report of the medical examination conducted under Section 54 of CrPC
  - Inspection Memo prepared at the time of arrest as required under the guidelines laid down by the Supreme Court in DK Basu vs State of West Bengal [1997 (1) SCC 416], as well as the name and designation of police officer who prepared the said Inspection Memo
  - Names, ranks and designations of every police personnel to be identified and put on record
  - Duty records and registers of all arresting/detaining officers and Station In-Charge on duty on the relevant dates
  - General Diaries, FIR and arrest registers of the concerned police station
  - CCTV footage from the concerned police station/s and other public locations confirming Mr. Raju Baitha's whereabouts between abduction from his home and production in court
- Examine compliance with all the mandatory procedures on arrest and detention laid down in Sections 41 of the CrPC, particularly with Sections 41A, 41B and 41D, and Sections 50, 50A, 51, 54, 55A, 56, 57, and 60A of the Code were followed by the police.
- Examine compliance with the NHRC Guidelines on Arrest.

- Examine whether the District Legal Services Authority was informed by the police station of the arrest and detention.
- As this is prima-facie a case of caste based atrocity against the Dalit HRD, recommend FIR against the East Champaran SP Mr. Naveen Chandra Jha and other police personnel of the Motihari police under section 3(1)(p) of the SC/ST Prevention of Atrocities Act for implicating Dalit HRD Mr. Raju Baitha in a false case and misusing provisions of law to curtail his right liberty and free movement.

Looking forward to your immediate action in this regard,

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a horizontal line underneath.

**Henri Tiphagne**

National Working Secretary