



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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August 28, 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

Dear Sir,

Sub: HRD Alert – Urgent Appeal for Action – Gujarat: Misuse of law by Gujarat Police to harass HRD Mr. Kaleem Siddiqui in Ahmedabad for participating in peaceful citizen movements.

Greetings from Human Rights Defenders Alert!

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 ongoing harassment of Mr. Kaleem Siddiqui by the Gujarat police against. The Gujarat Police has served him a show-cause notice asking him to provide an explanation as to why the police department should not extern him for two years from Ahmedabad and the neighbouring districts of Gandhinagar, Mehsana and Kheda. Mr. Siddiqui is a Human Rights Defender and a journalist and was served this notice on July 13, 2020. HRDA believes this is a malafide show-cause notice by the Gujarat Police to target him for actively taking part in various peaceful citizenship movements.

Source of Information:

- Information from HRDA West Regional Consultant
- Communication with the HRD
- Media reports

Date of Incident:

July 13, 2020

Place of Incident:

Ahmedabad, Gujarat

Perpetrators:

- Mr. M A Patel, Assistant Commissioner of Police (A division), Ahmedabad
- Police Personnel of Ahmedabad Police

About the Human Rights Defender:

Mr. Kaleem Siddiqui is a social worker and a journalist since last eight years, working in Ahmedabad. He writes for prominent news outlets such as the *Down To Earth* magazine and *Jan Chowk*. He has also been a very active part of the anti-liquor movement in Gujarat.

Background of the incident:

Mr. Kaleem Siddiqui is a resident of Ahmedabad and was one of the organisers of the two-month-long peaceful anti-CAA citizen protests in Rakhial, Ahmedabad. The peaceful protest which started on January 14, 2020, in support of the protest at Shaheen Bagh, was called off on March 14, 2020 due to the Covid-19 pandemic. It is to be noted that the protests were completely peaceful and non-violent.

Details of the Incident:

On July 17, 2020, the office of Mr. M A Patel, Assistant Commissioner of Police (A division), Ahmedabad Police, sent a show-cause notice to Mr. Kaleem Siddiqui asking him to provide an explanation as to why the police department should not extern him for two years from Ahmedabad and the neighbouring districts of Gandhinagar, Mehsana and Kheda. This the first instance that a notice of this nature has been issued to the HRD. The notice mentioned 10 anonymous complaints against the HRD as well as two previous FIRs filed against him in 2018 and 2019 respectively. The 10 anonymous complaints made against Mr. Siddiqui alleged that the HRD is in possession of dangerous weapons and is involved in anti-social activities. However, the alleged complaints have no specific details or dates and have not been lodged in any police station. They are only verbal in nature.

The first FIR against Mr. Siddiqui (CR No. 1-141 of 2018) was filed by a man named Naushad at the Ramol police station under sections 143, 144, 148, 427 and 294 (b) of the Indian Penal Code, which pertain to unlawful assembly, rioting, armed with a deadly weapon, causing loss and damage etc. Mr. Siddiqui was acquitted in this case by the Additional Chief Metropolitan Magistrate, Ahmedabad in the order dated 24 January, 2020. Neither the complainant nor the state government appealed the decision in the sessions court in the last six months and it has hence attained finality.

The second FIR - CR No. 1-83 of 2019 - was registered by the Ahmedabad police in the background of the anti-CAA protests, at the Rakhial police station under section 143 and 188 of the Indian Penal Code, which pertain to unlawful assembly and disobeying an order by a public servant. The second FIR alleged that the HRD was part of unlawful assembly as he was participating in the anti-CAA protests organised at Rakhial. According to the HRD, the protest was held at a private property in Ajit Mill Compound and not in public premises.

On July 30, 2020, Mr. Siddiqui appeared before the police, and provided a written explanation to the show cause notice, in which the HRD has unequivocally denied all the charges. He submitted that allegations against him are yet to be proved by the prosecution and as such a FIR cannot be used as a valid reason to issue such a notice.

We believe that the charges against Mr. Siddiqui and the show cause notice are because of his work as a social activist and HRD. Article 19 (1)(b) of the Indian Constitution guarantees to all citizens of India rights *to assemble peaceably and without arms*. This right includes the rights to hold meetings and to take out processions by Mr. Kaleem Siddiqui and his associates. The Human Rights Council resolution 15/21 adopted in October 2010 also reaffirms that everyone has the right to freedom of peaceful assembly and of association free of restrictions that is subject only to the limitations permitted by international human rights law.

Moreover, the show-cause notice has been sent under section 59 of the Gujarat Police Act, 1951. However, the HRD's actions does not meet the requirements laid down under sections 55, 56 and 57 of the Gujarat Police Act, 1951 that empower the police to extern a person from a district or a specified area. (Section 55 deals with the removal of gang or body of members from an area if they are causing or suspected to cause danger. Section 56 deals states that the police may extern a person if there are

“reasonable” grounds to believe that the person may cause harm to other people or their property. Section 57 allows the police to initiate such proceeding against persons with a past conviction.). Thus the notice is completely against the law and a case of misusing legal provisions to harass and intimidate the HRD.

Mr. Siddiqui has no prior convictions and the police is yet to provide any reasonable grounds to believe that the HRD may engage in violent and unlawful activities or abet such activities.

Appeal

HRDA believes that Mr Kaleem Siddiqui is a human rights defender and this is a malafide show-cause notice by the Gujarat Police to target him for actively taking part in various peaceful citizenship movements. We believe that the current show-cause tantamount to police harassment against an HRD who has routinely raised and written about issues critical of the administration as well as being active in organising and participating in protests, a fundamental right enshrined in Article 19 of our Constitution.

We thus request the National Human Rights Commission to urgently:

- Given that such actions are taken by a senior official of the Gujarat Police, direct NHRC's investigation team to hold an immediate, independent, thorough, transparent, effective and impartial investigation into the above-mentioned incident of intimidation and harassment of HRD Mr. Kaleem Siddiqui.
- Depending on the outcome of the inquiry, Assistant Commissioner of Police (A division), Ahmedabad, should be directed to immediately revoke the show cause notice of externment against Mr. Siddiqui and apologise to the HRD for the psychological suffering he has had to undergo because of this harassment.
- Put an end to all acts of harassment and intimidation against all human rights defenders in general in Gujarat to ensure that in all circumstances they carry out their activities as defenders of human rights without any hindrances.

Looking forward to your immediate action in this regard,

Yours Sincerely,



(Henri Tiphagne)

National Working Secretary