

Communal violence case: Tripura CM instructs DGP to review UAPA cases against journalists, lawyers

<https://english.lokmat.com/national/communal-violence-case-tripura-cm-instructs-dgp-to-review-uapa-cases-against-journalists-lawyers/>

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The CMO, in its release, said that there was a nefarious attempt in the past to disturb the law and order of the state by posting fake photos and videos of mosque burning in Tripura on social media. "In an attempt to rein in it and maintain communal harmony in the state, Tripura Police had registered a case against 102 people in UAPA. Including some journalists and lawyers. After the directions of the Chief Minister to review the cases, the Tripura Police is now engaged in the review," it further read.

The National Human Rights Commission (NHRC) has asked Tripura Chief Secretary, DGP Tripura police and secretary of Tripura state human rights commission for their submission on a complaint filed by Trinamool Congress national spokesperson Saket Gokhale. The complaint stated, "It is further alleged that on the date so mentioned, the Vishwa Hindu Parishad (VHP) carried out a rally in an area under North Tripura during which one of the religious places of worship belonging to the minority community was vandalized and two shops were burnt down by the mob who carried out the rally."

"Reports of violence against persons from religious minority communities were also reported but ironically the state machinery acted like a bystander by siding with rioting mobs. It is also stated that post such incidents, there is an atmosphere of immense fear amongst the members of that community in the area with regard to their life and safety. The complainant is seeking the intervention of the Commission in the matter", it further stated. It is alleged that workers of the ruling party of the state had attacked leaders of the All India Trinamool Congress while they were campaigning in the state.

It is also alleged that during such incidents of political violence, one of the sitting Members of Parliament and other workers of AITC sustained injuries, their vehicles were vandalized and belongings were stolen", the complaint stated.

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<https://www.aninews.in/news/national/general-news/communal-violence-case-tripura-cm-instructs-dgp-to-review-uapa-cases-against-journalists-lawyers20211128000755/>

Agartala (Tripura) [India], November 28 (ANI): Tripura Chief Minister Biplav Kumar Deb on Saturday instructed Director General of Police (DGP) VS Yadav to review the cases under the Unlawful Activities (Prevention) Act registered against journalists and lawyers during the communal violence in the recent past.

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Open Letter to the Hon'ble Prime Minister Shri Narendra Modi

<https://countercurrents.org/2021/11/open-letter-to-the-honble-prime-minister-shri-narendra-modi/>

“Selective” advocacy of Rights violations?” “When daily incidents of hate crimes, lynchings, caste atrocities and state violations become common place, Every egregious violation deserves our attention”

Dear Sir,

You had in your speech on the 28th NHRC foundation programme on 12th October, 2021 made four assertions on human rights to which the PUCL, as one of the oldest civil liberties groups in the country, feels that a response is warranted. You had referred to:

- (i) the so called ‘selective’ interpretation of human rights;
- (ii) the fact that rights are a product of the independence struggle;
- (iii) that duties are as important as rights; and
- (iv) that raising human rights issues can ‘tarnish’ the country’s reputation.

We would like to remind the Prime Minister that the PUCL was born in the crucible of the Emergency and was a staunch critic of the human rights violations – preventive detentions, torture, disappearances – carried out by the Indira Gandhi regime. In fact the founder of the PUCL, Jayaprakash Narayan was himself imprisoned by the then Congress regime. The PUCL fought hard against the authoritarian regime of the then Congress government led by Indira Gandhi. Many stalwarts of the freedom struggle and leaders from across India, played a key role opposing the Emergency and to restore democracy.

Since that time, the PUCL has been relentless in exposing the rights violations committed by the party in power, which as you know was in that period, mainly the Congress party. In the aftermath of the assassination of Indira Gandhi in 1984 and the brutal pogrom against the Sikh community, PUCL and PUDR jointly conducted a fact finding exercise and their joint report titled, “Who are the guilty?” came to the finding that the pogrom was not a spontaneous expression of “madness” and of popular, spontaneous “grief and anger” at Indira Gandhi’s assassination as was made out by the authorities. The Report conclusively pointed out that the massacre of the Sikhs was the result of conscious mobilisation and acts of both deliberate commission and omission by important politicians of the Congress (I) at the top and by authorities in the administration.

Today the Congress is no longer in power and it is your party which has been in power for over seven years. The spate of lynchings, mob attacks on inter-caste and inter-religious marriages, the passing of legislation which violates the freedom to marry (so called anti-love jihad laws) by BJP ruled states, the languishing of thousands of innocents under the UAPA, the jailing of journalists, everyday attacks on religious minorities, the dilution of both environmental safeguards and labour rights – all of these pose serious threat to democracy, rule of law and fundamental rights and merit strong action.

What concerns and troubles us a lot, as indeed many other citizens, is that there is nothing but stony silence from your end towards reports of these violations, occurring repeatedly from across India. In fact many ministers of your party seem to justify such brazen violations; most distressing is to see a number of Ministers of your party publicly giving a call to violence. What are we, as citizens, to make of your strategic silence in the face of continuing human rights violations occurring all across the country? Especially, when democratic voices seeking accountability and transparency are silenced using the law as a weapon. Your Government should not be complaining of 'selectivity', but rather as a constitutional authority, redress the serious violations of the constitutional rights of the people of India.

You made the important point that the rights we enjoy are a product of the independence struggle. The PUCL is convinced that without struggle there are no rights and all rights under the Constitution can be traced back to a concrete struggle. For example, the right under Article 15(2) of the Constitution, that all citizens should enjoy non-discriminatory access to public facilities like shops, wells, tanks etc is a product of the Mahad Satyagraha which Babasaheb Ambedkar led on 20th March, 1927 for Dalits to access the Chawdar tank in Mahad in Raigad district of Maharashtra. In fact 20th March is celebrated as Social Empowerment Day in India to commemorate the Mahad struggle!

Similarly Art. 19(1)(a) – the freedom of speech and expression, owes something to Mahatma Gandhi's willingness to face imprisonment for sedition for fearlessly criticizing the British Government. To honour the meaning of the freedom struggle is to follow Gandhiji's lead; this means that in independent India, any leader of the government, unlike the colonial government, should respect 'criticism' as the heart of democracy, as you are mandated to do, under the Constitution.

But what is the reality in India in the last seven years?

The critics of your government should not be in jail. That would be the best way of honouring the freedom struggle and the legacy of Bapu whose name you invoked in the course of your speech. Bapu's statement in court when he was being tried for sedition

by the colonial government, which reinforces the value of dissent, should be remembered each time your government wants to invoke sedition or the UAPA against its critics.

As Bapu said:

“Section 124-A under which I am happily charged is perhaps the prince among the political sections of the Indian Penal Code designed to suppress the liberty of the citizen. Affection cannot be manufactured or regulated by law. If one has no affection for a person or system, one should be free to give the fullest expression to his disaffection, so long as he does not contemplate, promote or incite violence... I have no personal ill will against any single administrator; much less can I have any disaffection towards the King's person. But I hold it to be a virtue to be disaffected towards a Government which in its totality had done more harm to India than any previous system.”[1]

We fervently hope that Gandhiji's immortal words that 'affection cannot be manufactured by law' and that if some people don't have 'affection' for the government, they should be allowed to express their 'disaffection' in a non-violent manner touches a chord with you and dissent is given its democratic due.

We would also like to put forward our understanding of the relationship of rights and duties, in response to your assertion that one can't think of rights without thinking of duties and that duties have a significant place in Indian culture and tradition. The abstract language of rights is made concrete through the fundamental rights chapter of the Constitution and the abstract language of duties is also given constitutional sanction through the prohibitions of Article 15(2) and Article 17 as well as Part IV-A of the Constitution which is the Fundamental Duties Chapter.

When it comes to Article 15(2) clearly every citizen has the duty not to discriminate against her fellow citizens on grounds of religion, caste, sex, place of birth and race in ensuring access to public facilities like shops, restaurants, wells, bathing ghats etc.

Article 17 by prohibiting the practice of untouchability places on all citizens the duty not to practice untouchability.

The Fundamental Duties under Article 51-A enjoin citizens, among others,

to 'value and preserve the rich heritage of our composite culture';

to 'promote harmony and the spirit of common brotherhood amongst

all the people of India';

to 'renounce practices derogatory to the dignity of women';

to 'develop the scientific temper, humanism and the spirit of inquiry and reform';

to 'protect and improve the environment'; and

'cherish the values of the freedom struggle.'

Though the Fundamental Duties were introduced by the Indira Gandhi regime, these duties are mirrored in the Preamble, Directive Principles of State Policy and part of the fundamental rights chapter. They echoed in the chambers of the Constituent Assembly during the debates over the framing of the Constitution.

Unfortunately, those exemplary citizens who choose to follow these fundamental duties have had to do so at their peril under your administration. Govind Pansare, MM Kalburgi and Narendra Dabholkar were assassinated for their life's work of fostering a 'scientific temper'. Gauri Lankesh was killed for her work in trying to preserve 'our composite culture'.

When it comes to protecting the environment, environmental activists are routinely attacked and falsely prosecuted; 4 environmental activists were killed in 2020 alone. Plight of other rights activists in India is also painful. The NCPRI has compiled a list showing over 40 RTI activists have been killed and several hundreds attacked in the last 7 years. The roll call of those who were harassed, intimidated, ostracised, humiliated, arrested and killed for being citizens for whom fundamental duties mattered is unfortunately very long and a government which speaks of fundamental duties must first commit to protecting those of our exemplary citizens who put their lives at risk by performing their fundamental duties.

For the PUCL, constitutional rights and constitutional duties have a complementary role. Adherence to the constitutional duty of 'promoting the spirit of brotherhood' is premised on the fact that we recognize the constitutional right of all persons under Article 25 to 'practice, profess and propagate the religion of their choice'. Similarly to 'renounce practices derogatory to women' would mean the recognition of the right of women to autonomy and dignity under Article 21. To 'develop a scientific temper', would be the basis on which various cultural practices which are harmful to human dignity and autonomy would have to be forsaken.

We hope that your understanding of duties is also bound by the Constitutional recognition of Preambular values of liberty, equality, fraternity and dignity. A notion of duty which is anchored not in the Constitution but timeless Indian tradition will impinge on the rights of Dalits, as well as women. The struggle against Sati, the struggle for widow remarriage, the fight for women to enter religious spaces and the battle of Dalits

for access to public spaces and the fight of LGBTI persons for dignity and personhood are all struggles made more difficult by the sanctification of prejudice and animus using the language of culture, tradition and duty. By itself, such a notion of duty has no place in any constitutional imagination of India. But alas, anyone daring to challenge any of these unconstitutional practices risks the danger of being persecuted and prosecuted, with the active connivance of the state agencies. This is the stark reality in India.

Towards the end of your speech, you had warned against a 'selective' interpretation of human rights with 'some people' seeing a human rights violation in a particular incident and ignoring violation of such rights in other, similar cases.

We presume that you are referring to the way your government has been accused of human rights violations 'selectively'.

It is very instructive to refer to some of the issue which you presumably are referring to as "selective". One such issue is the farmer's agitation on the outskirts of Delhi. For close to a year many lakhs of farmers waged a non-violent struggle seeking withdrawal of the 3 Farm Laws passed by your government in 2020. Neither you, nor any of your cabinet Ministers bothered to reach out and dialogue with the farmers. The farmers sat through intense cold of 2020, the harsh sun of 2021 summer and rains. Over 600 farmers are said to have died. Some celebrities who tweeted in favour of the farmers agitation were badly trolled. Others were arrested. State violence was used to crush the agitation. More recently, some farmers were mowed down by a SUV driven by the son of a cabinet minister of your government. Naturally, the media and UN agencies took note of the mass human rights tragedy taking place right under the nose of your government. Can this be termed 'selective'?

There have been a number of issues in which the way your government handled the issue came in for national and international attention and condemnation. To name just a few:

- v The way a young 23 year old environmental activist, Disha Ravi, was arrested from Bengaluru by the Delhi police without following legal procedures on the allegation that she conspired with others to create a "toolkit" to use against the government; the sheer brazenness of the police was shocking.

- v Journalists and media houses writing critically about the way COVID pandemic have been targetted;

- v in July 2021, the offices of one of the most popular Hindi dailies, Dainik Bhaskar, which had been systematically reporting on the way the Covid pandemic was being handled were raided in over 5 cities in MP, Delhi, Rajasthan, Gujarat and Maharashtra.

v In September, 2021 massive and well publicised IT raids were conducted on Newslaundry and Newslick which have been very critical of your government. The selective targeting of journalists and media houses has been pointed out by the Editors Guild and Press Club of India.

More recently there were 4 Delhi based lawyers who went on a Fact Finding exercise to Tripura to study and report on incidents of attacks on Muslim houses, businesses and places of worship across several districts in October, 2021. For this, they have been booked under the dreaded UAPA. Two young women journalists were arrested by the Gomati District police of Tripura state for reporting on the incidents of communally targetted violence. These incidents are egregious and brazen violations of law by police forces in states ruled by your party. Isn't it natural, and in fact correct too, that these incidents were roundly condemned inside India and outside too?

Perhaps the issue which has bothered your government most is the national and global outrage against the targeting of the Bhima Koregaon – 16 (BK-16) accused, who comprise lawyers, Dalit rights activists, Adivasi Rights Activists, civil libertarians and academics. Most of them have been in jail for over three years without trial. The BK 16 case is held as a black mark against the human rights record of your government, deserving of the strongest criticism from the point of view of the right to fair trial and the right to be free of arbitrary detention.

But is the criticism of your government unreasonable or unfair? The fact remains that 83 year old Fr. Stan Swamy died in judicial custody. Isn't this an unconscionable failure of your government which appeared to be vengeful against Fr Stan, who was seriously afflicted with Parkinson's disease and needed help to even drink water? The prosecution – NIA, which comes under the Home ministry – objected and delayed Fr. Stan's request, made through court, to be supplied with something as simple as a sipper. This heartless and inhumane act elicited criticism from many quarters, including the UN Special Rapporteur on Human Rights Defenders, Mary Lawlor.

Permit us to point out that the treatment of the more globally known BK-16 only symbolizes and is actually symptomatic of the plight of thousands more who are imprisoned for many years under the UAPA for nothing other than the exercise of their constitutionally guaranteed freedom of speech, expression and association. This cannot be to the credit of a democratic government, can it?

By raising these issues of grave and critical concern are human rights groups being 'selective'? With respect, we disagree. We are only playing the role which human rights defenders are expected to play: to protect the rights and liberties of citizens.

Finally we must address your concern about the 'image of the country' being 'tarnished' by those who raise human rights concerns. We presume that you are concerned about

the international reputation of India. When the issue of human rights is raised internationally it is done through established United Nations mechanisms such as the UN Human Rights Council, the Office of the UN High Commissioner of Human Rights, monitoring under treaty bodies and the Universal Periodic Review under the aegis of the UN Human Rights Council. All of these are institutional mechanisms which have been established through treaties which India has voluntarily entered into. Those who lodge complaints through these mechanisms are using the remedies provided by international law.

We therefore find it difficult to agree to the charge that these criticisms are any result of a conspiracy by those who wish India ill. Rather, criticisms of your government's conduct by the PUCL and many other such groups is a result of our grassroots level work in India which has convinced us about the widespread prevalence of serious human rights violations oftentimes perpetrated and perpetuated by state institutions including both the police and the administration. What you seem to characterize as a mala fide criticism is nothing more than a call to the government to respect the Constitution it has sworn to uphold. We wish your government instead of questioning the bonafides of those who criticize your government, seriously addresses lynchings, arbitrary arrests, discrimination on grounds of religion and caste and other human rights concerns in a spirit of constitutional respect and common concern.

In replying to your speech we have got an opportunity to clarify some of the common misconceptions regarding human rights work. The work human rights organisations such as PUCL do is under the Constitution and aims to achieve Constitutional goals. As such the human rights community functions as the moral conscience of the state and society and is a vital part of the Indian democratic experiment. Our criticism should be seen nothing other than a goad to the government to not forget its duty to 'bear true faith and allegiance to the Constitution of India.'

Yours faithfully

Ravikiran Jain National President

Dr. V. Suresh, General Secretary, PUCL

23 सालमें 49 केस, ज्यादातरमेंबरी:फर्जीकेसमेंपुलिसकेफंसानेवालेरवैयेसेहाईकोर्टनाराज; डीजीपीऔरमुजफ्फरनगरएसएसपीतलब

<https://www.bhaskar.com/local/uttar-pradesh/news/high-court-annoyed-by-the-implicating-attitude-of-the-police-in-fake-cases-49-cases-in-23-years-acquitted-in-most-of-the-cases-129159024.html>

इलाहाबाद हाईकोर्ट ने प्रदेश पुलिस महानिदेशक और मुजफ्फरनगर के वरिष्ठ पुलिस अधीक्षक को तलब किया है। कोर्ट की नाराजगी मुजफ्फरनगर के थाना कटौली पुलिस की कार्यप्रणाली से है। थाने की पुलिस ने 23 साल में एक व्यक्ति पर 49

आपराधिक केस दर्ज किए। कोर्ट में सुनवाई के बाद अधिकांश में वह बरी होगया। कुछ में पुलिस ने केस वापस ले लिया।

इस मामले में कोर्ट ने कहा कि यह केवल एक जमानत काम सलान ही है, बल्कि अनुशासित पुलिस की कार्यप्रणाली को लेकर उठे सवालों पर जवाब का है। न्यायमूर्ति विवेक कुमार सिंह ने गौरव उर्फ गौरा परनार कोटिक्स ड्रग्स एक्ट के तहत दर्ज मामले में दाखिल जमानत अर्जी पर 13 दिसंबर को डीजीपी और एसएसपी मुजफ्फरनगर को हाजिर होने के लिए कहा है।

मानवाधिकार आयोग भी पुलिस पर जमानत लगा चुका

कोर्ट ने कहा कि हर आदमी के जीवन की कीमत समान है। बीता दिन लौट कर वापस नहीं आता। जीवन पर लगे दाग मुआवजे से धुल नहीं सकते। न्यायालय ने कहा कि पिछले 23 वर्षों में पुलिस ने याची पर 49 आपराधिक केस दर्ज किए। अधिकांश में वह बरी होगया। कुछ में पुलिस ने केस वापस ले लिया।

याची व उसकी पत्नी ने राष्ट्रीय मानवाधिकार आयोग को उस फर्जी केस में फंसाने की शिकायत की। इसकी जांच के बाद मानवाधिकार आयोग ने भी पुलिस पर याची के पक्ष में 10 हजार रुपए का हर्जाना लगाया। कोर्ट ने कहा कि केस में फंसाने का पुलिस का सिलसिला थमने का नाम नहीं ले रहा है, इसलिए दोनों शीर्ष अधिकारी अदालत में हाजिर हो।

कोर्ट ने कहा कि पुलिस कारवैया समझ से परे है

कोर्ट के आदेश पर याची का आपराधिक केस चार्ट पेश किया गया। इसमें एक ही थाने कटौली में 49 केस दर्ज होने का खुलासा हुआ है। याची 45 मामलों में से 11 में बरी हो चुका है। 9 केस पुलिस ने वापस ले लिए। 2 केसों में गलती से शामिल करना मान लिया है। 1 केस में एनएसए लगाया है, जोर दहो चुका है। 21 केस में वह जमानत पर हैं। एक में अग्रिम जमानत मिली है।

कोर्ट ने कहा कि पुलिस कारवैया समझ से परे है। नाराज पुलिस सुधरने के बजाय और परेशान करने पर आमादा है। बार-बार केस दर्ज कर रही है। अनुशासित पुलिस बल से ऐसी उम्मीद नहीं की जा सकती। अगली सुनवाई 13 दिसंबर को होगी।

राष्ट्रीयमानवाधिकारआयोगनेडीएमकोभेजासम्मन

<https://www.amarujala.com/uttar-pradesh/chandauli/national-human-rights-commission-sent-summons-to-dm-chandauli-news-vns624785027>

पीडीडीयूनगर।राष्ट्रीयमानवअधिकारआयोगनेचंदौलीजिलाधिकारीकोसम्मनभेजाहै।जिलाधिकारीको 27
दिसंबरकोदिनमें 11

बजेव्यक्तिगतरूपसेआयोगकेसमक्षउपस्थितहोनेकाआदेशदियाहै।यहआदेशजिलेकेबरहनीविकासखंडकेए
कगांवमेंफसलबर्बादहोनेपरकिसानकीमौतकेमामलेमेंजवाबनदेनेपरदियाहै।

पिछलेवर्षफसलबर्बादहोनेपरबरहनीविकासखंडकेबरहनीगांवनिवासीकिसानविनोदसिंहसदमेमेंआगएऔरद
मतोड़दिया।प्रकरणसंज्ञानमेंआनेपरहयूमनराइटसीडब्लूएकेचेयरमैनयोगेन्द्रकुमारसिंह (योगी)
नेकिसानपरिवारकोउचितमुआवजादेनेकीमांगकरतेहुएमानवाधिकारआयोगसेशिकायतकी।आयोगनेमाम
लेपरगंभीरतासेलेतेहुएजिलाधिकारीसेरिपोर्टतलबकीलेकिनरिपोर्टनहींदीगई।नौनवंबर 2021
कोआयोगनेमामलेपरविचारकियाऔररिपोर्टनमिलनेकोगंभीरतासेलेतेहुए 27 दिसंबरकोदिनमें 11
बजेजिलाधिकारीकोव्यक्तिगतरूपसेहाजिरहोनेकानिर्देशदिया।

जयभीम : पुलिसहिरासतमेंकितनीमौतेंऔरइनमौतोंपरक्याकहताहैक़ानून?

<https://www.bbc.com/hindi/india-59394689>

गहनेचोरीकरनेकेएकमामलेकेअभियुक्तकीपुलिसहिरासतमेंपिटाईहोनेसेमौतहोजातीहै.इसकेबादपुलिसइसमौतकोछिपानेकीकोशिशकरतीहैऔरफिरन्यायहासिलकरनेकीएकलंबीलड़ाईशुरूहोतीहै.

कुछदिनपहलेओटीटीप्लेटफॉर्मपररिलीज़हुईफिल्मइसीकहानीपरआधारितहै.औररिलीज़केबादसेयेफिल्महरजगहधूममचा रहीहै.

फ़िल्मएकसच्चीघटनापरआधारितहै.बीतेसालअमेरिकामेंजॉर्जफ्लॉयडकीमौतकेबादआमलोगभी"पुलिसबर्बरता"केबारेमेंजाननेसमझनेलगेहैं.

पुलिसकेअत्यधिकबलप्रयोगसेकालेशर्ब्सजार्जफ्लॉयडकीमौतहोगईथी.पुलिसहिरासतकेदौरानउत्पीड़नकेतमाममामलेसामनेआतेरहेहैं.

लेकिनजिसतरहइसफिल्ममेंपुलिसहिरासतकेदौरानअभियुक्तकीमौतकोदर्शायागयाहै,क्याइसीअंदाज़मेंपुलिसहिरासतमेंअभियुक्तकीमौतहोसकतीहै?

अगरऐसाहैतोपिछलेकुछसालोंऐसीकितनीमौतेंहुईहैं?हिरासतमेंमौतहोनेकामतलबक्याहैऔरऐसेमामलोंमेंक़ानूनक्याकहताहै,ऐसीमौतोंपरपुलिसप्रशासनकारवैयाक्याहोताहै?

इन्हींसवालोंकीपड़तालकरतीहैयेरिपोर्ट.

हिरासतमेंमौतहोनेकामतलबक्याहै?

सरलशब्दोंमेंकहेंतोपुलिसहिरासतमेंकिसीअभियुक्तकीमौतको
कामामलामानाजाताहै.चाहेवहअभियुक्तरिमांडपरहोयानहींहो,
उसेहिरासतमेंलियागयाहोयाकेवलपूछताछकेलिएबुलायागयाहो.

'हिरासतमेंमौत'

उसपरकोईमामलाअदालतमेंलंबितहोयावहसुनवाईकीप्रतीक्षाकर रहाहो,
पुलिसकीहिरासतकेदौरानअभियुक्तकीमौतहोतोउसे'हिरासतमेंमौत'मानाजाताहै.

इसमेंपुलिसहिरासतकेदौरानआत्महत्या,
हिरासतमेंलिएजानेकेदौरानघायलहोनेएवंइलाजकेदौरानमौतयाअपराधकबूलकरवानेकेलिएपूछताछकेदौरान
पिट्टाईसेहुईमौतशामिलहै.

बीमारीकेकारणहुईमौत,

पुलिसहिरासतमेंउत्पीड़नऔरमौतकेमामलोंकाज़िक्रभारतकेमुख्यन्यायाधीशएन.वीरमन्नानेभीकियाहै.

अगस्त, 2021 में उन्होंने एक संबोधन में कहा, "संवैधानिक रक्षा कवच के बावजूद अभी भी पुलिस हिरासत में शोषण, उत्पीड़न और मौत होती है। इसके चलते पुलिस स्टेशनों में हीमानवाधिकार उल्लंघन की आशंका बढ़ जाती है।"

उन्होंने यह भी कहा,

"पुलिस जब किसी को हिरासत में लेती है तो उस व्यक्ति को तत्काल कानूनी मदद नहीं मिलती है। गिरफ्तारी के बाद पहले घंटे में ही अभियुक्त को लगने लगता है कि आगे क्या होगा?"

सुप्रीम कोर्ट ने

1996

में डीके बसु बनाम बंगाल और अशोक जौहरी बनाम उत्तर प्रदेश मामले में फैसला सुनाते हुए कहा था कि हिरासत में मौत या पुलिस की बर्बरता "कानून शासित सरकारों में सबसे खराब अपराध" हैं।

सुप्रीम कोर्ट के फैसले के बाद हिरासत में हुई मौतों का विवरण दर्ज करने के साथ-साथ संबंधित लोगों को इसकी जानकारी देना अनिवार्य कर दिया गया।

शीर्ष अदालत ने मौत के इन मामलों में नियमों का पालन करने का निर्देश दिया।

पुलिस की बर्बरता को लेकर एक गैर सरकारी संगठन ने सुप्रीम कोर्ट के मुख्य न्यायाधीश को पत्र भी लिखा था। और पुलिस की बर्बरता और पुलिस हिरासत में हुई मौतों की गंभीरता को देखते हुए शीर्ष अदालत ने भी स्वतः संज्ञान लिया था।

तब सर्वोच्च अदालत ने राज्यों को नोटिस भेजकर पूछा था कि इस मामले में राज्य सरकारें क्या कर रही हैं?

इस फैसले में,

सुप्रीम कोर्ट ने किसी भी व्यक्ति की गिरफ्तारी के दौरान पुलिस के व्यवहार को लेकर नियम निर्धारित किए थे।

ये नियम सिर्फ पुलिस पर ही नहीं बल्कि रेलवे,

सीआरपीएफ,

राजस्व विभाग सहित उन सभी सुरक्षा एजेंसियों पर लागू होते हैं जो अभियुक्तों को पूछताछ के लिए गिरफ्तार कर सकती हैं।

क्या क्या नियम हैं?

सुप्रीम कोर्ट ने कहा है कि

'बिना वारंट के किसी व्यक्ति को गिरफ्तार करने और चोरी के मामलों में पूछताछ के दौरान उत्पीड़न के कई मामले देखने को मिले हैं। अक्सर इसी पिटाई से अभियुक्त की मौत हो जाती है। यदि किसी व्यक्ति की पुलिस हिरासत में मृत्यु हो जाती है, तो ऐसी मौतों को छिपाया जाता है या पुलिस हिरासत से रिहा होने के बाद व्यक्ति की मृत्यु को दिखाया जाता है।'

'यदि पीड़ित परिवार शिकायत दर्ज कराने की कोशिश करता है तो पुलिस शिकायत दर्ज नहीं करती क्योंकि पुलिस एक - दूसरे का समर्थन करती हैं। एफ़ आई आर तक दर्ज नहीं होती है।'

'अगर मामला अदालत में पहुंच भी जाता है,

तो भी पुलिस के खिलाफ कोई सबूत नहीं होता क्योंकि अपराध पुलिस हिरासत में हुआ है. ऐसे में गवाह या तो पुलिस कर्म हैं या फिर लॉक अप में बंद अन्य अभियुक्त.'

'पुलिस एक-

दूसरे के खिलाफ गवाही नहीं देती और अभियुक्त डर के मारे मुंह नहीं खोलते. इसलिए अक्सर इस अपराध को करने वाली पुलिस बरी हो जाती है.'

और इसलिए हम (सुप्रीम कोर्ट) ऐसी घटनाओं को रोकने के लिए निम्नलिखित निर्देश दे रहे हैं -

1. अभियुक्त को गिरफ्तार करने गए पुलिस कर्मों की वर्दी पर अपना बैज, नाम का टैग और पहचान ठीक से लगाकर जाएं ताकि यह स्पष्ट रूप से नज़र आए.
एकरजिस्टर में स्पष्ट रूप से उल्लेख होना चाहिए कि कौन अधिकारी या पुलिस कर्म अभियुक्त से पूछताछ करेंगे.
2. अभियुक्त की गिरफ्तारी के बाद, एक मेमो तैयार होना चाहिए. यह अभियुक्त के साथ-साथ अभियुक्त के परिवार के किसी सदस्य या किसी प्रतिष्ठित व्यक्ति द्वारा हस्ताक्षरित होना चाहिए.
मेमो में गिरफ्तारी की तारीख और समय का स्पष्ट उल्लेख होना चाहिए.
3. अभियुक्त की हिरासत में गिरफ्तारी के बाद अभियुक्त को अपने परिवार के सदस्य, मित्र या किसी अन्य शुभचिंतक को जल्द से जल्द अपने बारे में जानकारी देने का अधिकार है.
4. यदि अभियुक्त को किसी दूसरे शहर में गिरफ्तार किया गया है, तो आठ से दस घंटे के भीतर परिवार को गिरफ्तारी की सूचना देना अनिवार्य है.
5. गिरफ्तारी के समय अभियुक्त को उसके अधिकारों की जानकारी दी जानी चाहिए.
6. गिरफ्तार अभियुक्त के जिन रिश्तेदारों या दोस्तों को गिरफ्तारी की जानकारी दी गई है और जिस अधिकारी की हिरासत में अभियुक्त है, दोनों के नाम थाने की डायरी में दर्ज होने चाहिए.
7. अभियुक्त के अनुरोध पर गिरफ्तारी के समय उसके शरीर पर सभी चोटों की जांच की जानी चाहिए और उन्हें दर्ज किया जाना चाहिए.
इस तरह के निरीक्षण के रिकॉर्ड पर अभियुक्त और गिरफ्तार करने वाले अधिकारी दोनों के हस्ताक्षर होने चाहिए और एक प्रति अभियुक्त को मिलनी चाहिए.
8. हिरासत के बाद प्रत्येक 48 घंटे पर अभियुक्त की मेडिकल जांच होनी चाहिए. इस जांच की रिपोर्ट के साथ-साथ अन्य सभी ज्ञापनों को मजिस्ट्रेट के रिकॉर्ड के लिए भेजा जाना चाहिए.
9. पूछताछ के दौरान समय-समय पर अभियुक्त को अपने वकील से मिलने देना चाहिए.

इन नियमों का पालन नहीं करने वाले पुलिस अधिकारियों एवं पुलिस कर्मियों को विभाग के भीतर ही दंडित करने का प्रावधान है, साथ ही न्यायालय की अवमानना के लिए भी दंडित किया जा सकता है.

शीर्ष अदालत ने यह भी कहा कि अगर किसी व्यक्ति की पुलिस हिरासत में मौत हो जाती है तो ऐसे व्यक्ति के परिवार को मुआवजा दिया जा सकता है.

अपराध संहिता अपराधिक मामलों पर मुकदमा चलाने के बारे में नियम और निर्देश प्रदान करती है. इसमें 2005 में संशोधन किया गया है और नए नियम जोड़े गए हैं.

पुलिस हिरासत में किसी की मौत हो जाए तो तत्काल प्राथमिकी दर्ज की जाए. साथ ही, सीआरपीसी की धारा 176 के तहत, मजिस्ट्रेट को हिरासत में हुई मौत पर पुलिस जांच से अलग एक स्वतंत्र जांच अनिवार्य तौर पर करानी है.

मृत्यु के 24 घंटे के अंदर 'जांच मजिस्ट्रेट' को पोस्टमार्टम के लिए शव को जिला सर्जन के पास भेजना चाहिए.

राष्ट्रीय मानवाधिकार आयोग के मुताबिक मृतक के पोस्टमार्टम का वीडियो भी बनाया जाना चाहिए.

मानवाधिकार आयोग ने डीएम को भेजा सम्मन

पीडीडीयू नगर। राष्ट्रीय मानव अधिकार आयोग ने चंदौली जिलाधिकारी को सम्मन भेजा है। जिलाधिकारी को 27 दिसंबर को दिन में 11 बजे व्यक्तिगत रूप से आयोग के समक्ष उपस्थित होने का आदेश दिया है।

27 दिसंबर को व्यक्तिगत रूप से उपस्थित होने का दिया आदेश

यह आदेश जिले के बरहनी विकास खंड के एक गांव में फसल बर्बाद होने पर किसान की मौत के मामले में जवाब न देने पर दिया है। पिछले वर्ष फसल बर्बाद होने पर बरहनी विकास खंड के बरहनी गांव निवासी किसान विनोद सिंह सदमे में आ गए और दम तोड़ दिया। प्रकरण संज्ञान में आने पर ह्यूमन राइट सीडब्लूए के चेयरमैन योगेन्द्र कुमार सिंह (योगी) ने किसान परिवार को उचित मुआवजा देने की मांग करते हुए मानवाधिकार आयोग से शिकायत की। आयोग ने मामले पर गंभीरता से लेते हुए जिलाधिकारी से रिपोर्ट तलब की लेकिन रिपोर्ट नहीं दी गई। नौ नवंबर 2021 को आयोग ने मामले पर विचार किया और रिपोर्ट न मिलने को गंभीरता से लेते हुए 27 दिसंबर को दिन में 11 बजे जिलाधिकारी को व्यक्तिगत रूप से हाजिर होने का निर्देश दिया। संवाद