

From  
Henri Tiphagne,  
Executive Director,  
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To  
The Assistant Registrar (Law),  
National Human Rights Commission,  
Faridkot House,  
Copernicus Marg,  
New Delhi 110001

Sir,

**NHRC Case No. 896/22/37/2010**

***Sub: Case of illegal arrest of 5 Dalit Human Rights Defenders by implicating them in a false case by the police of Veeravanallur police station – Our comments on the reports of the concerned authorities and the report of the investigating team of the Honourable NHRC – Submitted - Regarding***

Ref: Letter dated 9.2.2012 received from the Honourable NHRC

I wish to acknowledge your letter dated 9.2.2012 wherein you have informed me that with reference to my complaint to the Hon'ble Commission dated 17.8.2010, the Hon'ble Commission on 27.1.2012 passed a direction based on the detailed report of the investigation term of the NHRC.

**Part I of the response:**

We have been informed that the Hon'ble Commission had observed categorically that this was a case of human rights violation and therefore on 10.5.2011 had also issued a notice under Section 18(a) (i) of the PHRA 1993 to the Chief Secretary of the Government of Tamil Nadu as well as the Director General of Police, Tamil Nadu.

The letter further informed me that the DGP on 13.12.2010 had forwarded a detailed enquiry report by the Superintendent of Police, Tirunelveli. Your letter also contained a copy of the order of the Commission dated 5.10.2011. I wish to thank the Commission for having pursued my request of 24.1.2012 and finally ensuring that

- a. the gist of the report of the Honourable NHRC
- b. the Copy of the report of the DGP, Tamil Nadu dated 13.12.2010
- c. the report of the SP, Tirunelveli dated 19.12.2010
- d. the report of the DGP dated 19.8.2011

were made available to me by speed post on 27.1.2012. We are extremely thankful to Mr. A.K. Parashar, the Focal Point on HRDs of the NHRC who visited our office on 20<sup>th</sup> January, 2012 and due to whose intervention these documents were finally sent to us. So that they reached us.

We are extremely happy on the one hand reading the documents that we have received and disappointed on the other hand that such valuable documents, in particular the letter from the DGP, Tamil Nadu dated 19.8.2011 did not reach us on time before the 2<sup>nd</sup> charge sheet against the victims / HRDs had already been prepared and filed before the court.

In terms of the facts of the case, we acknowledge with gratitude the very detailed enquiry undertaken by the Honourable NHRC team and endorse the findings of the NHRC enquiry team conveyed to us on four different issues namely,

1. Is there any false implication in this case and whether guidelines of Supreme Court on arrest were observed?
2. Background of the NGO People's Watch, its activities and the legitimacy of conducting such a fact finding enquiry. If similar training programs have been held at other places in the state/district.
3. What was the backdrop of the fact finding enquiry and how it was included in their training program to verify torture of arrestee Suresh at Veeravanallur Police Station.
4. Whether the five trainees or convener of People's Watch had informed the concerned SP/DGP/SHO/Duty Officer of Veeravanallur Police Station about their training program and visit of Veeravanallur Police Station on 15.8.2010?

As well as the conclusions and recommendations made by the enquiry team. We value in particular the very detailed statements that were recorded by the NHRC enquiry team, as well as the documents that they have perused from the staff of Dalit Foundation and People's Watch. We, in particular, would like to also emphasize the fact that the report speaks about the concealment of evidence on the part of the investigating police officers, inclusion of false witnesses by the police and also the reference to the UN Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally recognised Human Rights and Fundamental Freedoms adopted by the UN General Assembly in the year 1998. In particular Article 6(a) of the said Declaration which reads "Every one has the right, individually and in association with others, to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative system.'

We only wish herein to correct the facts which we presume might have been a small oversight with reference to your letter dated 9.2.2012 wherein you have stated "these 5 trainees (three female and two male) were arrested in a false case and they had to remain in judicial custody for one day. . . . ." The fact actually is that the 5 accused were arrested on the night of 15<sup>th</sup> August, 2010. The three women were remanded to the Kokkirakulam women's prison in Tirunelveli while the two men were initially remanded to the Cheranmahadevi sub jail and later transferred to the Palayamkottai Central Prison. They were all granted bail on 19.8.2010 with strict sureties to be produced; the three women were taken out on bail on 24<sup>th</sup> August, 2010 while the two men were taken out on bail on 25<sup>th</sup> August, 2010. Thereafter, all the five of them – none of them being residents of Tirunelveli district and one of them in fact being an intern with People's Watch having completed her law in the New York School of law and having come forward as a US citizen with an overseas citizen of India visa to Madurai to understand the use of law and legal practice for the poor in this country by volunteering for one year with People's Watch. All the accused / HRDs continued to remain in Tirunelveli until 2<sup>nd</sup> September, 2010

when they used to sign in the morning and evening (twice a day) at the Veeravanallur police station. That condition was later modified to sign once daily until 8.9.2010.

Thus, they did not remain in judicial custody for one day on the contrary the women were in judicial custody for 9 days while the 2 men were there for 10 days. They signed the condition at the Veeravanallur police station twice daily for another 9 days and once daily for 5 days. Thus, totally they could not move outside Tirunelveli for 23 to 24 days with no communication whatsoever with their families, since two of the women trainees were also from the state of Karnataka.

We are specifically mentioning the days in judicial custody and the days that they were in Tirunelveli in view of the fact that the Honourable Commission is working out a compensation that has to be paid to these victims/HRDs.

We would like to categorically stand by all the findings of the investigation team of the Honourable NHRC and would not like as human rights defenders to add even a word more than what has been stated by the investigation team. We wish however to categorically deny the false allegations that the 5 HRDs impersonated, pretended, cheated and that they threatened that has been made out by the veeravanallur Police and now once again by the CBCID police in this case.

We are unfortunately unable to see from the records produced to us the exact date on which the findings of the NHRC enquiry team have been made available to the Honourable Commission, thus indication the possibility of a delay of a few months between the enquiry report being made available and the order of this Hon'ble Commission being passed.

**Part 2:**

While we greatly appreciate the NHRC investigation team, we humbly wish to point out that since no action was initiated by the Honourable Commission until 10<sup>th</sup> May, 2011, the undersigned being a Human Rights Defender himself and having been the organiser of the training program in which the five victims/HRDs were participants and the undersigned further being one of the Trustees of the Dalit Foundation which was sponsoring the training, had the

moral responsibility to speedily find remedies wherein the victims would concretely benefit. While the undersigned had complete trust that the NHRC will come out with the truth, the fact that there were no concrete orders from the Hon'ble Commission in the hands of the undersigned on the basis of the complaint preferred to the Hon'ble Commission, the undersigned, People's Watch as an organisation, Dalit Foundation as an organisation and the five victims were forced to knock at the doors of the Madurai Bench of the Madras High Court for urgent remedies. The following steps were therefore initiated in order of sequence before the Madurai Bench of the Madras High Court. Copies of the petition as well as the orders passed were also duly provided to the NHRC investigation team when they visited Tirunelveli.

The interventions before the Madurai Bench of the Madras High Court were as follows:

1. The undersigned who has been referred in the FIR in Crime No. 161/2010 of the Veeravanallur police station of Tirunelveli district as the one who ordered the said victims to go to the police station and who has further been referred in the remand report as an absconding accused was forced to move anticipatory bail in CrI.O.P. (MD) No. 9606 of 2010 and the Honourable High Court was pleased to pass an order on 24.8.2010 granting him anticipatory bail. (Copy of the anticipatory bail petition along with the copy of the order are filed as annexure 1 and 2).
2. CrI.O.P. 10130 of 2010 was filed by the 5 accused along with the undersigned to quash the FIR and M.P. No 1 of 2010 was filed in the CrI. O.P. to stay all further proceedings in Crime No. 161 of 2010 of the Veeravanallur police station and the Honourable High Court was pleased to pass an order on 2.9.2010 granting stay in respect of the filing a charge sheet. The main CrI.O.P. is still pending as on date. (Copy of the CrI.O.P. with the copy of the petition for stay and copy of the order are filed as annexure 3 to 5 along with this document).
3. In view of the fact that inspite of the stay granted by the Honourable High Court cited supra the police investigating the case had hastily filed

the charge sheet in total contempt of the order of the Honourable High Court in M.P.(M.D) No. 1 of 2010 in CrI.O.P. (MD) No. 10130 of 2010, the 5 victims were once again forced to file CrI.O.P. (MD) No. 11303 of 2010 to quash the charge sheet in CC No.191 of 2010 on the file of the Judicial Magistrate, Cheranmahadevi along with the said OP one Miscellaneous Petition in M.P. No. 1/2010 asking for stay and another petition in M.P. (MD) No. 2 of 2010 asking for dispensation with the personal appearance of the accused before the Court. The Court was pleased to pass an order on 5.10.2010 dispensing with the personal appearance of the accused. The main CrI.O.P. in 11303 of 2010 and stay petition are still pending as on date. (Copy of the CrI.O.P. copy of the Miscellaneous Petitions (2) and the copy of the order dated 5.10.2010 are filed as annexure 6 to 9.)

4. Since the charge sheet was about to be filed the undersigned who was initially expected to be included in the charge sheet filed W.P. No. 11348/2010 before the Madurai Bench of Madras High Court praying for transfer of the investigation in crime No.161/2010 from the Inspector of Police, Veeravanallur police station to that of the CBCID. However, one charge sheet was already filed. The first accused in the charge sheet independently filed W.P. (MD) 12006/2010 for CBCID enquiry and filed a Miscellaneous Petition in M.P. No.1/2010 for granting injunction. The Honourable High Court was pleased to pass a common order in both these Writ Petitions on 28.9.2010 ordering the DSP, CBCID, Tirunelveli to undertake further investigation in the matter and file the report before the Judicial Magistrate, Cheranmahadevi and closed the petition in M.P. No.1/2010 (Copy of the above mentioned Writ Petition, Miscellaneous Petition and the common order are enclosed as annexures 10 to 13).
5. While the Honourable High Court passed an order in M.P.(MD) 1 of 2010 in CrI.O.P. 10130 of 2010 granting stay in respect of filing of charge sheet in crime No. 161 of 2010 of Veeravanallur police station, the Inspector of Police after the order of stay of the Honourable High Court dated 2.9.2010 wherein the Public Prosecutor appeared

representing the State filed a charge sheet on 6.9.2010 before the Judicial Magistrate Court, Cheranmahadevi stating that the order of the stay granted by the Honourable High Court was received by the police only on 14.9.2010. What is important is that the occurrence took place on 15.8.2010 and less than 3 weeks even while the accused were signing their daily condition at the Veeravanallur police station, the charge sheet in the said case was hurriedly completed on 4.9.2010 and filed before the Court on 6.9.2010. It is pertinent to mention that from 30<sup>th</sup> of August, 2010 to the 3<sup>rd</sup> of September, 2010 two officers of the investigation wing of the Honourable NHRC were also present in Tirunelveli district visiting the police station, recording statements of police officers, meeting the SP and therefore it is with the full knowledge that the NHRC investigation was proceeding, that the Inspector of Police had completed the charge sheet on 4.9.2010. It is in this context that the victims had no other go than file the contempt petition which was numbered as C.P.(MD) No. 670/2010 praying to take action against the police who had disobeyed the order of the Honourable High Court. The said contempt petition is also still pending as on date. The copy of the said contempt petition is enclosed as annexure 14.

I respectfully wish to submit that all these interventions mentioned supra were filed in the Madurai Bench of the Madras High Court in the months of August and September, 2010. These interventions have to be appreciated by the Honourable Commission not as interventions disrespecting the jurisdiction of the National Human Rights Commission, but as urgent remedies to protect Human Rights Defenders in the context of the anxiety by the police to file the charge sheet against the accused within a short period of 3 weeks from the alleged date of occurrence. In spite of these urgent efforts, it is seen that the police had shown great speed and anxiety to even commit contempt of the order of the Honourable High Court and force us to even file a contempt petition. However, once the investigation was handed over to the CBCID, the undersigned and the victims were under the fond hope that justice would be done and we would also be engaged in the process of investigation by the CBCID.

**Part 3:**

After the common order of the Honourable High Court in W.P. No. 11348/2010 and W.P. No. 12006/2010 dated 28.9.2010 transferring the investigation of crime No. 161/2010 to the CBCID the parties to the case as well as both People's Watch and Dalit Foundation were anxiously awaiting summons from the CBCID to appear before the investigating CBCID police officers to put forth their versions and produce all their documents.

It is seen from the documents produced by the Hon'ble Commission to the undersigned that Mr. S. Baulraj, DSP of the organised crime Wing, CBCID Tirunelveli City has addressed a letter to the Honourable Commission on 3.5.2011 asking for a copy of the NHRC enquiry report to be furnished to him for the purpose of investigation.

We are unaware whether or not the Honourable Commission has furnished the copies of the report of its investigation wing to the CBCID police pursuant to the said request. We are equally unaware whether the said Mr. S. Balraj has further sent a reminder as the investigation officer investigating the case upon the Honourable High Court's order or chosen even to send summons to the Senior SP of the Honourable Commission to produce the said report. However, it is pertinent to point out that immediately after the said letter was addressed by Mr. S.Baulraj to the Honourable Commission, the investigation in the case was transferred from Mr. S. Baulraj to another one Mr. T.Karuppasamy, DSP who is supposed to have continued investigation and laid the charge sheet. We are unaware why the said Mr. T. Karuppasamy who undertook the investigation in this case from Mr. S. Baulraj had not once again approached the NHRC to have the report of the investigation carried on by the investigation wing of the NHRC. Throughout the period of investigation of the CBCID from the date of the order of the Honourable High Court from 28.9.2010 till 21.1.2012, neither the undersigned, nor the 5 accused HRDs in the charge sheet nor any of the officers of the People's Watch nor any of the officers of Dalit Foundation, all of whom are connected with the events that took place at Veeravanallur on 15.8.2010, were ever communicated or summoned during investigation carried on by Mr. S. Baulraj, DSP or Mr. T. Karuppasamy, DSP. This speaks sufficiently about the fact that the CBCID

who now claimed to have examined 37 witnesses as against 11 examined by the Inspector of Police, Veeravanallur police station have conveniently decided not to consider at all the efforts of the Human Rights Defenders whom this Honourable Commission has categorically held as early as on 26.5.2011 that the Honourable Commission may advise the Government of Tamilnadu for withdrawal of the case against 5 Human Rights Defenders since they were arrested in a false case and the Honourable Commission was pleased to further recommend initiation of departmental enquiry against "Woman S.I. Roasaline, Inspector of Police Murugesan and the DSP Mr. S. Ramu who were all held responsible for the arrest of 5 innocent trainees in false case vide FIR No. 161/2010". The order further reads "from the perusal of the enquiry conducted by the team of NHRC, it is clear that by the arrest of the 5 Human Rights Defenders the police have committed a grave violation of Human Rights on the victims. It is a fit case in which recommendations for payment of compensation to the victims should be considered." The Honourable Commission was therefore pleased to direct a notice under Section 18(a)(i) of the Protection of Human Rights Act to be issued to the Chief Secretary and the DGP of Tamil Nadu.

It is the strong hunch of the undersigned that upon receiving the order of the Honourable Commission dated 26.5.2011 (addressed to the Chief Secretary and the DGP of Tamil Nadu) that steps were urgently undertaken and a revised charge sheet filed by the CBCID on 8.8.2011.

I respectfully submit that both the undersigned as well as the 5 victims/ HRDs placed their trust completely on the CBCID hoping that a fair enquiry would take place. The steps narrated above and in particular the very cautious steps of both investigation officers of the CBCID not to take on file at all investigation undertaken by the NHRC even into consideration by accessing and pursuing the documents and in addition not even summoning the undersigned or for that matter any of the victims or two organisations i.e., People's Watch and Dalit Foundation show the anxiety on the part of the CBCID to only protect the skin of their own bretheren in their human rights violation already committed earlier.

It is extremely unfortunate that completely contrary to all the rights that are enshrined for Human Rights Defenders and the responsibilities to be carried out by the instrumentalities of the State in the UN Declaration on Human Rights Defenders in this case, had the Honourable NHRC handled this matter speedily they would have been able to match up to the extra speed shown on the part of the local police in filing their initial charge sheet. It is the delay of the order of the Honourable Commission as late as 25.5.2011 – almost 9 months after the occurrence, that also encouraged CBCID police not to respect the Honourable Commission and in not wanting to even consider the investigation by the Honourable Commission were encouraged to once again file charge sheet against Human Rights Defenders. It is thus that in this country human rights violations are not only committed against Human Rights Defenders alone but every effort to investigate these violations are not covered up once, but covered up several times by the investigating officers, including the CBCID, to safeguard their bretheren who indulge in violations of human rights.

This is a fit case to show how a well equipped organisation with sufficient documentation and sufficient knowledge of law and human rights had to run from the pillar to post to avoid further shame, further harassment, further anxieties to themselves and the victims in the case.

All this cost money for which records are available with the undersigned. Sufficient documentations for all payments made for the legal interventions are available with the undersigned. (Copy of the said documentation of expenses incurred by the undersigned is enclosed as annexure 15 series).

**Part 4:**

It is interesting and pertinent to point out this on the allegation by the police quoting their own words and quoting the words of senior officers has highly placed as an SP stating that “the said victim/accused had come to the police station stating that they had come from “Government Human Rights Commission”. This is a standard word used by not only by the SP Mr.Asraf Garg in his letter addressed to the Commission dated 19.12.2010, but also by Mr. S. Baulraj, DSP, Crime Branch CID in his letter to the Commission dated

3.5.2011. None of them have attempted to explain how “Government Human Rights Commission” is equivalent to the “State Human Rights Commission”. There is no institution whatsoever that is existing in the State of Tamil Nadu which is titled as “Government Human Rights Commission”. It is surprising that the officer of the rank of the SP who is today supposed to be well aware of every event that has taken place in the district has chosen to address a letter using this nomenclature even 4 months after the occurrence knowing fully well that the officers of the NHRC were intervening in this case. The fact that Human Rights Defenders never ostracize the police but would always like to approach them for the right context is proved by the fact that once again Dalit Foundation and People’s Watch conducted the same training a year later in the same venue in the city of Madurai and invited none other than the same Mr. Asraf Garg IPS who was then serving as SP, Madurai (having been transferred from Tirunelveli) to inaugurate the same training program with one of the accused/victims and the undersigned on the Dias during the inaugural!! This points out that the Human Rights Defenders associated with the case had nothing to hide to but only more to reveal and reveal that we possess the moral courage to invite the very same SP upon whose orders the arrest had taken place on 15.8.2010 to come and see for himself that we were genuine Human Rights Defenders and never wanted to pose as anything more than Human Rights Defenders. Annexure 16 series are paper clippings and photographs of the said SP inaugurating the Dalit Human Rights training programs.

**Part 5:**

We respectfully submit that Section 18 of the Protection of Human Rights Act reads as follows:

The Commission may take any of the following steps upon the completion of an inquiry held under this act, namely

1. Where the inquiry discloses, the Commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other

- section as the Commission may deem fit against the concerned person or persons;
2. approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;
  3. recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;
  4. subject to the provisions of clause (5) provide a copy of the inquiry report to the petitioner or his representative;
  5. the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;
  6. the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commissions.

In the circumstances of the above case based on

- (a) findings of the enquiry team of the NHRC,
- (b) the conclusions of the enquiry team of the NHRC,
- (c) recommendations of the enquiry team of the NHRC
- (d) based on the fact that extra speed demonstrated by the Inspector of Police, Veeravanallur police station in filing the initial charge sheet
- (e) the contempt performed by the Inspector of Police in filing the charge sheet even after a stay from the Honourable High Court.
- (f) Total unwillingness on the part of the two DSPs investigating the case denovo as per the orders of the Honourable High Court to take on record in the investigation report of the Honourable NHRC or any statements formally obtained from Human Rights Defenders concerned who have been falsely targeted in this case.

All this categorically proves that the case on hand is a case which not only discloses the commission of violation of human rights, but negligence on the part of several higher officials of the CBCID upto the rank of the DGP and the Chief Secretary to collude with one another and ensure that an accused in an FIR will always be charge sheeted and never given the benefit of doubt through genuine police investigation.

Therefore this Honourable Commission may kindly consider that this is a fit case to recommend Payment of compensation to each of the accused/victims as well as the members of their family after separate ascertaining from each of them and their families what are special circumstances of discomfort that each of them have undergone.

It is the case today that Mr. Gnanathiraviam who even from the investigation of the NHRC investigating team was clearly reported not to have undergone any medical treatment for his diabetes while he was in the prison has an amputated leg today with which he has physically appeared before the Judicial Magistrate Court in Tirunelveli upon receiving the summon. The two victim girls namely, Priya and Sudha have been humiliated by the CBCID police who took their photographs to their native village in Tumkur district of Karnataka and defamed them in their attempt to serve summons on them recently. Ms. Bharathi Pillai, a law graduate who has completed her law course from the New York University School of Law and spent one year volunteering in People's Watch had to go back to New York only to be told that she could not register before the Bar Council because she was honest enough to mention that she had a criminal case in crime No.161 of 2010 before Veeravanallur police station!!! Thus this young woman lawyer of Indian origin whose parents are Non-Resident Indian and who came only to learn and work with the law and legal institutions for the poor in this country, had to sacrifice her profession in law by not being able to register herself as a lawyer before their Bar Council in the US for more than a year. Thus, sufficient independent evidence will have to be let in by each of the victim/accused to prove the actual loss that they have suffered in order that adequate compensation is paid to each of them by the State for not only

violation, but the continued ordeal, harassment, humiliation that each of them had to independently suffer.

From the report of the investigation team of the Honourable Commission it is clear that

1. There is a false implication in this case even at the stage of the FIR.
2. That there is a concealment of evidence by the police officers
3. That there is an inclusion of false witness by the police in this case.

Thus, it is clear that this is a fit case also for prosecuting not only the lower police officers, but also all the senior police officers including Mr. T.K. Pugazhenti, Additional Superintendent of Police (Prohibition and Enforcement Wing), Tirunelveli district, Mr. Asra Garg IPS, the then SP of Tirunelveli district and the DGP of Tamil Nadu along with the DSP Ramu, Inspector of Police Murugesan, Women S.I. Rosaline and all the other who gave false evidence and the investigating officers of the CBCID who followed their regular bretheren in a similar investigation. The Honourable Commission may kindly consider appointing its own lawyer to initiate the prosecution on behalf of the victims or hand over the said prosecution to the CBI to prosecute the said police officers.

c) Section 12 of the Protection of Human Rights Act dealing with functions of the Commission reads as follows:

“(b) the Commission shall perform all or any of the following functions namely intervening in any proceedings involving any allegation of violation of Human Rights pending before a Court with approval of such Court”

Similarly Section 18(b) also provides the Honourable Commission power to approach Supreme Court or High Court concerned for such directions, orders, Writs as the Court may deem necessary after completion of an enquiry held under the Act using any of these powers the one under Section 12 or under Section 18. The Honourable Commission may kindly appreciate the possibility of intervening in all the matters that are pending before the Madurai Bench of the Madras High Court that have been referred supra. This is by virtue of the fact that all the matters pending refer to clearly an allegation of

violation of human rights and in addition the Honourable Commission has after investigation and the enquiry report come to the categorical conclusion that it is no longer an allegation, but a human rights violation.

Since this matter pertains to a Human Rights Defender this is a fit case for the Honourable Commission to develop its own jurisprudence in protecting Human Rights Defenders and demonstrating before the nation and comity of Defenders across length and breadth of this large democracy, that the Honourable Commission will travel to any length to protect not only the rights of HRDs, but their dignity and their sacrifice. In these circumstances the Honourable Commission may kindly consider engaging the services of an independent lawyer who does not represent the State of Tamil Nadu and who has experience in human rights cases to intervene on behalf of the NHRC in each of these proceedings before the Madurai Bench of the Madras High Court.

What the Human Rights Defenders in this case urgently require is an immediate stay of the case proceedings before the Judicial Magistrate Court (JM-1), Tirunelveli where the victim/accused Gnana Dhiraviam, Anandhan, Ms. Nisharga Priya and Sudha - all excepting Ms. Bharathi Pillai, have now received summons and also physically appeared before the Court. The next hearing is being 26<sup>th</sup> of March, 2012. Police are yet to serve summon on Ms. Bharathi Pillai.

Therefore all the facts cited above have to be brought to the attention of the Honourable High Court so that an order of staying the proceedings is obtained. In addition, this is also a fit case for the Honourable Commission to independently approach the Madurai Bench of the Madras High Court under a separate Writ Petition for remedies that the Honourable Commission deems fit in this case. An opportunity to not only stand by the Human Rights Defenders but also an opportunity to demonstrate Nationally and globally that the National Human Rights Commission is committed to Human Rights Defenders; that the Human Rights Commission is committed to enforcing the UN Declaration on Human Rights Defenders, 1998; that the NHRC will ensure compensation and prosecution.

In addition, mere compensation and prosecution are not only remedies that the global Human Rights Standards determine to day. The Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of 19<sup>th</sup> December,2005 in addition speaks about restitution, compensation, rehabilitation in addition also the principle of satisfaction which includes a public apology including acknowledgement of the facts and acceptance of responsibilities. The opportunity unfurl itself to the NHRC to be able to use this case as a fit case to ask for a Writ of the High Court for all the senior officers to publicly apologise acknowledging the facts and acceptance of responsibility in this case. In addition, the same UN Principles also speaks about the guarantee of non-repetition so that each of these officers who apologise also guarantee the non-repetition of these violation during their future tenure any where in the country. Thus, the NHRC would move its jurisprudence in protecting Human Rights Defenders, from compensation, to prosecution, to satisfaction and to guaranteeing of non-repetition.

**Conclusion:**

The undersigned has chosen to present the above response to your kind letter under 4 parts. However, in conclusion, we wish to state that the matter is one of the urgency. Any further delay on the intervention of the Honourable Commission will only cause further hardship for the 2 accused/Human Rights Defenders to travel from Tumkur district in Karnataka to Tirunelveli district in Tamil Nadu to attend the hearing on 26<sup>th</sup> March, 2012 and for Mr. Ghana Dhiraviam with an amputated leg to attend the Court on 26<sup>th</sup> March, 2012. The normal remedy open to the accused would be to once again rush to protect their human rights on their own to quash the present charge sheet. However, in view of very positive developments that have emerged and the very intensive investigation undertaken by the investigation wing of the NHRC with very positive orders of the Honourable Commission dated 26<sup>th</sup> May 2011, the undersigned wish to hope that the above responses will be placed before the Honourable Commission expeditiously and if necessary providing the undersigned an opportunity to appear before a Full Commission and present all these averments at an early date.

However, if the Honourable Commission is of the view that it is in agreement with the proposition made by the undersigned, the undersigned will not press for being heard in person, allowing the Honourable Commission to pass speedy orders as a Full Commission in this matter. Since the matter deals with proposition of law, International Human Rights Standards, the Honourable Commission may be pleased to hear this case this either as a Full Commission or Division Bench. The undersigned will be placing this letter before the Judicial Magistrate, Tirunelveli explaining to the Honourable Court that the accused/victims anticipate urgent intervention to be undertaken by the NHRC before the High Court. I therefore humbly urge the Honourable Commission to handle the matter under consideration expeditiously and pass orders without providing any further opportunity to the State to further delay the already delayed process.

Thanking you,  
Yours sincerely

(Henri Tiphagne)  
Executive Director, People's Watch