

NATIONAL ALLIANCE OF PEOPLE'S MOVEMENTS
C/o CHEMICAL MAZDOOR SABHA, FIRST FLOOR, HAJI HABIB
BUILDING,
NAIGAON CROSS ROAD, DADAR (E), MUMBAI 400014, 022-24150529
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Mumbai Update

15/02/08

- Complaint filed with Maharashtra State Human Rights Commission for non-action of the State & police administration against Raj Thackeray & his party workers.
- Action demanded against the erring police officials.
- Mumbai residents strongly protest the parochialism of political parties, to strengthen the struggle for a democratic State & society.

Mumbai and other parts of Maharashtra particularly, Nashik has for the past many days seen parochialism and unprovoked attacks on innocent citizens, their only fault being, they being migrants. These attacks which have now taken toll of life and loss of property. Shockingly the State and Police administration has been a mute spectator to this *tandav* and have shown no seriousness in restricting the violence.

Yesterday, a delegation of more than 50 people met the Maharashtra State Human Rights Commissioner to register a complaint against the State & Police administration. The complaint has been formally registered and will be called upon for hearing in the next few days. The delegation consisted of senior social activist Medha Patkar, Mukta Srivastava, Simpreet Singh, Prof. J. Adsule, F. Mithibolvala, Kaushalaya Salve, Maju V., Hyder Imam, Amit Maru, Grace, Reshma.....

The copy of the complaint is being attached below for your information.

In Solidarity,

Copy of the Complaint registered with Maharashtra SHRC

To,

14 February 2008

**The Chairperson,
Maharashtra State Human Rights Commission,
Mumbai.**

Respected Sir,

This petition is being submitted to you on behalf of the lakhs of citizens, whose rights; constitutional as well as human, have been violated and curtailed by the planned and well thought off attacks by people belonging to certain political party and the following abetment of its duty by the State and police administration in protecting the life and property and also in containing the spread of the violence.

As you must be aware of, through the pres reports and otherwise, the Maharashtra Nannirman Sena (MNS), the political headed by Sh. Raj Thackeray took a stance against the migrants from north Indian states and other parts of the country. Starting with the occasional out burst by these political leaders against the migrants from select states of U.P & Bihar they tried to promote enmity between people thus disturbing public peace and harmony. Also many of these speeches and comments were against national integration and were towards denying the constitutional rights of those who were being targeted.

Thus in the last 13 days there has been instances whereby innocent citizens, which included hawkers and taxi drivers were roughed up, mercilessly beaten, their wares destroyed. At several places in Maharashtra, including Mumbai, Thane, Nashik, Pune, Aurangabad there were incidents of stone pelting, forcible shut down of shops and other establishments. By creating this environment of threat and terror, they have been successful in compelling thousands of residents of Mumbai, Nashik etc to leave their decade's old residence. MNS has un-hesitantly owned the responsibility and credit of these incidents.

The events have taken a very unfortunate turn with the report of one innocent citizen and government sector Ambadas Dharrao, Nashik scrubbing to injuries because of the stone pelting by the party workers of MNS on 13th Feb. Thus all this has led to loss of life as well as property-public & private; with life at large being held at ransom by a handful of miscreants.

Inter State migration is because of various factors, both at the push and pull level. Also with the policies and plans in place that are to further the process of urbanization, the citizens cannot be left at the mercy of the political parties and politicians who behave as rowdies and create divide amongst populations while damaging the social fabric and inter community relations.

It is beyond doubt that all this is in clear violation of the Constitution of our country. By attacking the migrants and asking them to return, their fundamental rights have been curtailed and denied.

The State by not acting effectively against the miscreants has failed in carrying out its obligations in the equal protection of the laws within the territory of India (Art 14). Targeting and attacking the migrants from north India is a violation of Article 15 as it prohibit discrimination on grounds of religion, race, caste, sex or place of birth.

By compelling these people to leave their place of residence, citizens right to move freely throughout the territory of India(Art 19-d), to reside and settle in any part of the territory of India(Art 19-e) and to practice any profession or to carry on any occupation, trade or business(Art 19-f) has been violated.

From the facts narrated above the following is apparent:

ABDICATION OF STATUTORY POWERS IN FAVOUR OF RAJ THACKERAY:

- (a) Section 149 of the Cr.P.C. casts a statutory obligation on the Police to prevent the commission of cognisable offences. Despite the fact that it got known that Raj Thackeray was resolved to embarking upon an act to promote hatred and strife among people along regional lines, yet the Police remained a silent spectator and indulged in dereliction of their duties.
- (b) Under section 151(3) of the Cr.P.C., powers have been conferred on the Police to detain a person as a preventive measure so that he may not be at large to commit an offences which can case a detrimental consequence to public peace and tranquillity. As a sequel to such a detention, Police can seek the approval of the Magistrate to place such a person in custody for a period of about one month. Since a statute confers such a power, yet the Police did not use its powers in this reference.
- (c) For a person who is '*likely to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity*' it becomes obligatory on the part of the Police to have used the legal provisions contained in section 107 of the Cr.P.C. and to have made such a person sign a bond through these Chapter Proceedings so that he would not indulge in future acts detrimental to harmony among the communities. Despite these eloquent provisions, yet the Police simply abdicated its obligations to invoke its powers which otherwise it was duty bound to do.
- (d) As per section 154 of the Cr.P.C., an FIR has to be registered at once if its get known to the Police that a person has committed an offence. There is no provision in law to take a legal opinion before an FIR is registered. Even otherwise the issues were so conspicuous and self-speaking that there was no requirement at all to have referred this matter for a legal opinion. Despite such prevailing and unambiguous provisions in the Cr.P.C., yet the Police did not register an FIR in the matter for several days.
- (e) Even though the established procedure in every Police Station in Mumbai, is that when a person is arrested in the afternoon he is produced in the Court the next day. For the night he is invariably put in the lock-up of the Police Station. However, in this case, special procedures were devised to confer a discriminatory favour to Raj Thackeray. Despite the

fact that Police had the right to keep him custody for a period of 24 hrs., and also by deviating from the procedures generally followed in case of common people, he was produced instantly before the Court of the Magistrate so that he may be released on bail. This renders the conduct of the Police as very suspicious.

We, therefore demand and request you to intervene by directing the Government of Maharashtra to immediately and effectively ensure the safety of life and property of the innocent citizens and for the reason of the acts of criminal omission made by the Police in this matter, this Hon'ble Commission is requested to grant the following prayers:

PRAYERS:

- (a) THAT the State Government be asked to take action under section 217 of the IPC and also under other relevant sections against the officers of the Police who indulged in a criminal omission to not have invoked stern action against Raj Thackeray which led to breach of peace.
- (b) THAT Home Department Government of Maharashtra be asked to start departmental enquiries against the delinquent Police officers.
- (c) THAT this Hon'ble Commission may order granting compensation to those persons who suffered loss of property and even life for the reason of such inaction by the Police.
- (d) THAT this Hon'ble Commission may order the Government of Maharashtra to act sternly towards protecting the Constitutional & Human Rights of the citizens of the city and other parts of the state.

ENDORISING ORGANISATIONS;

Ghar Bachao Ghar Banao Andolan
India Centre for Human Rights & Litigation
YUVA
Shahar Vika Manch
Aawas Adhikar Kriti Samiti
CRH
Majlis
People's Media Initiative
EKTA (Committee for Communal Amity)

Citizens for Peace Forum Against Oppression of Women

Apnalaya

Chemical Mazdoor Sabha

Nirbhay Bano Andolan

Aawami Bharat

Pheriwala Vikas Sangh

Aawaz-E-Niswa

SAATHI

NAPM