



January 18, 2021

To,

The Hon'ble Chairperson and

Registrar & Other members of the National Human Rights Commission,

Manav Adhikar Bhawan, Block-C,

GPO Complex, INA

New Delhi – 110023

Email id: cr.nhrc@nic.in

nhrc.india@nic.in

From,

Citizens for Justice and Peace, Mumbai

Sub: Illegal demolition of a Muslim daily wagher's house in Ujjain, Madhya Pradesh by the Municipal Corporation staff and impartial Police investigation

Respected Sir/Ma'am,

We, at Citizens for Justice and Peace, Mumbai, are writing to you about an incident in Ujjain, Madhya Pradesh between December 25 and 26, 2020 which resulted in the illegal demolition of one Abdul Rafeeq's two storey house in Begum Bagh locality, Ujjain, Madhya Pradesh. On December 25, 2020, a rally (reportedly) by Bajrang Dal and other Right-wing organisations like the Bharatiya Janata Yuva Morcha (BJYM) was organised to raise funds for the construction of Ram Temple in Ayodhya that allegedly came under attack when it passed through a Muslim-dominated area in Ujjain district. The participants reportedly shouted inflammatory slogans, prompting residents to object to the rally. In the aftermath of this, stones were allegedly pelted at the rally when it passed through the Begum Bagh area on December 25, 2020 in the evening.

On December 26, the local administration- Ujjain Municipal Corporation (UMC) went to the Begum Bagh locality and demolished a house of one Abdul Rafeeq and damaged another who came looking for suspects in the stone-pelting incident caught on video the previous day. The administration and Ujjain Municipal Corporation identified the houses from where the alleged stone pelters started throwing stones and razed the illegal constructions of the same. The administration has claimed that the demolition was carried out as the structure was allegedly illegal.

Scathing remarks were also made by the District Collector Asheesh Singh who said that the demolition drive was meant to hurt "criminals who resort to such acts of stone-pelting" economically. The Home Minister of the State Narottam Mishra also said, "Jahan se patthar



aayenge, wahin se toh nikaale jaayenge (They will have to be removed from where the stones came).

*This has been reported in an Indian Express news article that has been marked and annexed hereto as **Annexure A.***

*The video of the demolition which was downloaded by CJP on 05.01.2021 from the verified twitter account named "BJP Madhya Pradesh" has been marked and annexed hereto as **Annexure B.***

Dear sir, the said demolition is illegal and has caused Abdul Rafeeq and his entire family of 19 great loss and hardship. This is in violation of Article 21 of the Constitution of India that guarantees the Right to Shelter to all citizens. In ***Chameli Singh and Ors v. State of Uttar Pradesh and Ors*** (1996) 2 SCC 549, the Supreme court had held that the Right to Shelter is a fundamental right available to every citizen and it was read into Article 21 of the Constitution of India as encompassing within its ambit, the right to shelter to make the right to life more meaningful. It said,

"Shelter for a human being, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically mentally, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop as a human being. Right to shelter when used as an essential requisite to the right to live, should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting."

Recently, the Karnataka High Court in a suo motu matter (**W.P No. 7737 of 2020**) also shared a similar view when migrant worker's shanties were burnt down by miscreants. The Court held that the State Government was duty bound to protect the right to shelter available to the affected families which was guaranteed under Article 21 of the Constitution. The court even directed the state government to pay compensation to the families whose hutments had been demolished.

There is no merit in the administration's argument that the structures were illegal, and that due process was followed. The demolition also took place just the next day of the alleged stone pelting incident raising eyebrows about the timing of it as no other structure was demolished apart from Abdul Rafeeq's house which was allegedly used to throw stones at the rallyist. He has alleged that his neighbour's house which was also identified by the Police was spared since the neighbour Meera Bai was a Hindu. When the authorities entered Meera Bai's house, she begged them not to raze her house, adding, *"Mere ghar se nikle toh udhar ghus gaye"* (They left my house only to enter that one). This clearly displays the malafide intention of the administration targeting only the minorities.

This has been marked and annexed hereto as **abovementioned Annexure A**.

The Madhya Pradesh Municipal Corporation Act, 1956 lays down rules that mandates the issuance of notice to the owner of the house before the demolition, approval of the Mayor-in-Council and an opportunity to the owner to present himself/herself before the Mayor to convince the authority against demolition (section 309). However, none of the prerequisites were followed and Abdul's 35-year-old house was razed within minutes.

The victim Abdul Rafeeq also did not mention any notice that he received from any authority for repair work or demolition to any of the media outlets that reported on the incident. This is clearly a violation of principles of natural justice as also is a discriminatory act. Not giving a person an opportunity to show cause or an opportunity to be heard, before demolishing his home, goes against audi alterum partem, a principle of natural justice and a strong rule which means that nobody will be judged without a fair hearing. Principles of natural justice are integral to and go hand in hand with basic human rights and hence, cannot be skipped while following due process of law. The fact that the civic authorities selectively carried out the demolition and spared from demolition the house that belonged to a Hindu family shows the malafide intention of the public authorities who are supposed to act in good faith and in accordance with the law. A similar incident of demolition with malafide intention was identified by Bombay High Court when the Municipal Corporation had razed some parts of house of film actor Kangana Ranaut after a political leader had threatened her over social media. the Bombay High Court in **Kangana Ranaut vs. MCGM and ors** (WPL 3011/2020) recognised the malice of State administration in demolition of her house and the court questioned the manner in which the demolition was carried out. The court pointed out the wrongfulness of the act which was important to note at the outset that anything which is not authorized by law and which infringes a citizen's rights is wrongful on the part of the state.

The Begum Bagh residents have alleged that the rally was taken through the area on multiple occasions during the day on December 25, and that rather than simply sloganeering, the Bharatiya Janata Yuva Morcha workers were abusing them. Around 60 bikers and 300 workers of the BJYM were passing through the city's Begum Bagh neighbourhood, raising slogans, which was placed on record by the Town Inspector Arvind Singh Tomar of Mahakal police station.

The alleged inflammatory speech and abuses that were hurled at the Begum Bagh residents caused unprecedented damage to the sentiments of the Muslim community that can always create a hostile environment of the minority group, leading to mass violence and further marginalisation and isolation. The **Justice Rajindar Sachar Committee Report** has also made some observations about the Muslim community and how daunting the social, cultural and public interactive spaces in India can be for them. The report states:

"They carry a double burden of being labelled as "anti-national" and as being "appeased" at the same time. While Muslims need to prove on a daily basis that they are not "anti-national" and "terrorists", it is not recognized that the alleged

“appeasement” has not resulted in the desired level of socio-economic development of the Community. In general, Muslims complained that they are constantly looked upon with a great degree of suspicion not only by certain sections of society but also by public institutions and governance structures. This has a depressing effect on their psyche. Many also felt that the media tends to perpetuate this stereotypical image of the Muslims.”

Residents also alleged that stones were pelted from both sides and that it also led to damage of vehicles of many residents, their houses, as well as a clinic but the administration acted only against the residents. The Police failed to take action against the sloganeers and instead in a form of instant punishment razed Abdul’s house rendering him and his entire family homeless. Seventeen Begum Bagh residents have been booked, ten of them under the stringent NSA but as of December 31, 2020, the police have said that they have evidence only against residents of Begum Bagh and not the sloganeers to make arrests or register FIR’s.

*This has been reported in an Indian Express news article that has been marked and annexed hereto as **Annexure C**.*

Once the provocative and offensive sloganeering started, the Police failed to maintain public order and tranquillity on the roads and the locality of Begum Bagh, violating their duties under section 23 (duty of police to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisances) and 31 (Police to keep order in public roads, etc) of the Indian Police Act, 1861. The Police indulged in selective harassment of one particular community to send out a strong message of terrorising them, especially the poor and vulnerable groups.

In the facts and circumstances, we at CJP, urge the Hon’ble Commission to take cognizance of the events that led to the unlawful demolition of Abdul Rafeeq’s two storey house in Ujjain which amounts to selective targeting and discrimination on grounds of religion, which goes against the ethos of our Constitution and which this Hon’ble Commission is obliged to safeguard. It is imperative that this Hon’ble Commission take cognizance of this matter at the earliest so that such incidents which lead to minority communities feeling threatened by society as well as public authorities and developing a fear psychosis is put to a halt and they feel protected by statutory bodies like this Commission and faith in fairness and justice is restored in the society.

Prayers:

We, at Citizens of Justice and Peace earnestly urge this Hon’ble Commission to:

1. Take suo motu cognizance of this case under the Protection of Human Rights Act.
2. Issue directions to the Police Commissioner of Ujjain over the incendiary and inflammatory slogans by the Hindu outfit members



3. Issue directions to set up an independent inquiry to investigate the orders on the basis of which Abdul Rafeeq's house was demolished by the Ujjain Municipal Corporation
4. Initiate an independent and time-bound judicial investigation into all the FIR's registered against the residents of Begum Bagh
5. Take necessary steps to ensure immediate rehabilitation of Abdul Rafeeq and his family
6. Direct the state government to provide appropriate monetary compensation to Abdul Rafeeq and his family for all the lost property and valuables which is commensurate reparation for the crimes committed and suffered by him and his family.
7. Any other relief that this Hon'ble Commission may deem to be necessary and prudent.

Yours Sincerely,

Anil Dharker, President

Teesta Setalvad, Secretary

Annexures

- | | |
|------------|--|
| Annexure A | Indian Express article dated 31.12.2020 |
| Annexure B | Video of demolition downloaded on 05.01.2021 |
| Annexure C | Indian Express article dated 28.12.2020 |