

29.03.12

Present: Mr. Anant Asthana, Mr. Bhupesh C. Samad, Tsering C. & Sevtlana Correya, Advocates
Mr. Pawan Sharma, Standing Counsel (Criminal) with Mr. Harsh Prabhakar, Advocates with SI K.P. Singh, P.S. Paharganj for State

1. We have taken suo moto notice of the basis of newspaper reports and on specific mentioning by Mr. Anant Asthana, Advocate alleging the harassment being meted out to the Indian Citizens having resemblance to the Tibetan Nationals, in the wake of BRICS summit being held in the city on 29/29 March, 2012. It is suspected in the newspapers and is also the concern expressed by Mr. Asthana that the police is hounding each and everyone who looks like a Tibetan by face and in this process many persons from North East & Ladakh are interrogated and harassed. It is further stated that even their movements are curtailed on mere suspicion which according to Mr. Asthana violates their personal liberty. It is also submitted that many persons are detained at police stations and in jails, without any authority of law and some of them even appear to be below the 18 years of age and therefore cannot be kept in police stations in jails. It is further stated that this action of the police is causing panic amongst Tibetans, North Easterns as well as those originating from Ladakh. On this basis immediate and urgent directions are sought.
2. We had requested Mr. Pawan Sharma, learned Standing Counsel (Criminal) Govt. of NCT of Delhi to take instructions in the matter . He has produced a copy of order dated 27th March, 2012 passed by Foreigners Regional Registration Officer, Civil Authority (FRRO), New Delhi as per which restrictions under clause (e) (2) of Section 3 of the Foreigners' Act, 1946 and under para 11(2) of the Foreigners Order, 1948 have been imposed on specified Tibetans as well as other Tibetans. The aforesaid restriction is as under:-

“That the mentioned Tibetans will not move out of the premises i.e. Ambedkar Bhawan, Pahar Hanj, Delhi till 30.03.2012, 9 PM as there is every likelihood that they may indulge in undesirable activities like agitation/ demonstration which may cause law and order problems and disturbance of peace and also , it would affect the smooth conduct of BRICS

summit, scheduled to be held on 28/29-03-2012 in New Delhi.

Non-compliance of this order will render them liable for prosecution under Section 14 of the Foreigners Act, 1946.”

The names of 182 Tibetans are mentioned in the list attached with this order. Mr. PAwan Sharma further submits that some Tibetans have been detained/ arrested under Section 107/151 of Cr.P.C.

3. No doubt, the police and other authorities including FRRO, as and when suspect any law and order situation, are entitled to take remedial/ preventive measures. At the same time it is also the duty of the police not to put anybody to unnecessary harassment and unwarranted interrogations. The aforesaid order is in respect of 197 Tibetans and other Tibetans; therefore persons from North East or Ldakh cannot be subjected to any interrogation / detention pursuant thereto.
4. However Mr. Pawan Sharma on instructions states that all the persons detained/ arrested in pursuant to above, would be released by 10:45 AM on 30.03.2012.
5. Mr. Asthana however states that since such issues arise repeatedly , notwithstanding assurance aforesaid, this Court should take cognizance of the matter to prevent such harassment in future.
6. In view of urgency we have passed the order aforesaid without formal petition. However if Mr. Asthana or anyone else feels the matter requires consideration, they shall be at liberty to file a formal petition.
7. Copy of this order be given dasti under signature of court master to the counsels for the parties.

ACTING CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J

MARCH 29, 2012/PP..