

## Case IND 200209

### **Alleged torture and ill-treatment/ Death threats/ Lack of an effective investigation/ Risk of impunity**

The International Secretariat of the World Organisation Against Torture (OMCT) requests your **URGENT** intervention in the following situation in **India**.

#### **Brief description of the situation**

The International Secretariat of OMCT has been informed by *Banglar Manabadhikar Suraksha Mancha* (MASUM), a member of OMCT SOS-Torture Network, about the alleged torture and ill-treatment while in Border Security Force (BSF) custody of 28-year-old Mr. **Mojahar Seikh**, residing at Char Parashpur, Sushil Colony, Murshidabad district, in West Bengal.

According to the information received, on 28 December 2008, Mr. Mojahar Seikh was arrested by BSF officers at Farajipara BSF Camp, Out-Post no. 1, 90 Battalion, B-Company, apparently without any reasons. Mr. Mojahar Seikh had bought 8kg of rice at a nearby ration dealer shop and had deposited the ration slip at the said BSF Camp. However, BSF reportedly seized the rice and detained Mr. Mojahar Seikh from 10:30am to approximately 5:00pm.

It is reported that when Mr. Mojahar Seikh asked the BSF officers why he was being detained, he was severely hit first by two BSF officers with their wooden sticks, and, once he fell on the ground, three other BSF officers started beating him with their boots. Then, the BSF officers reportedly told him to run away otherwise he would be killed. Mr. Mojahar Seikh tried to escape but failed due to his injuries, including to his genitals. He was reportedly helped by passers-by and then examined by a doctor, before being admitted at Sadikhan Diar B.P.H.C. Hospital, Sadikhan Diar, Murshidabad. He was medically treated until 1 January 2009.

According to the same information received, on 8 January 2009, Mr. Mojahar Seikh lodged a complaint against the alleged BSF officers at Jalangi police station, but the officer on charge reportedly refused the complaint. Mr. Mojahar Seikh then lodged a complaint before the District Magistrate, Murshidabad and the Superintendent of Police, Murshidabad. There he was informed that Jalangi police station had opened a criminal case against the alleged BSF officers (case no. 7/2009 dated 8.1.2009). However, till this date, the police reportedly failed to carry an effective investigation into the case.

The International Secretariat of OMCT is gravely concerned for the physical and psychological integrity of Mr. Mojahar Seikh following the allegations of torture and ill-treatment. OMCT wishes to recall that according to article 7 of the International Covenant on Civil and Political Rights, to which India is Party, “*no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment*”. OMCT is further concerned by the delays in initiating investigations into these allegations and fears that the perpetrators may enjoy impunity. Indeed, OMCT has already reported cases in which local police having jurisdiction along the Indo-Bangladesh border have consistently avoided taking any action against the BSF whenever a crime is reported against a BSF officer at the police station. OMCT therefore calls on the competent authorities to carry out a **prompt, effective, thorough, independent and impartial investigation** into these allegations, the result of which must be made public, in order to bring those responsible before a competent, independent and impartial tribunal and apply penal, civil and/or administrative sanctions as provided by law.

#### **Action requested**

Please write to the authorities in India urging them to:

- i. Guarantee in all circumstance the physical and psychological integrity of Mr. Mojahar Seikh;
- ii. Carry out a prompt, effective, thorough, independent and impartial investigation into the allegations of torture and ill-treatment, the result of which must be made public, in order

- to bring those responsible before a competent, independent and impartial tribunal and apply penal, civil and/or administrative sanctions as provided by law;
- iii. Ensure that adequate, effective and prompt reparation, including adequate compensation, proper medical care and rehabilitation, is granted to the victim;
  - iv. Guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards

### **Addresses**

- Shri Manmohan Singh, Prime Minister of India, Prime Minister's Office, Room number 152, South Block, New Delhi, Fax: + 91 11 2301 6857
- Shri Shivraj Patil, Union Minister of Home Affairs, Ministry of Home Affairs, 104-107 North Block, New Delhi 110 001 India, Fax: +91 11 2309 2979.
- Justice K. G. Balkrishnan, Chief Justice of India, Supreme Court, Tilak Marg, New Delhi -1, Fax: +91 11 233 83792, Email: [supremecourt@nic.in](mailto:supremecourt@nic.in)
- Justice Rajendra Babu, Chairperson, National Human Rights Commission of India, Faridkot House, Copernicus Marg, New Delhi 110 001, Tel: +91 11 230 74448, Fax: +91 11 2334 0016, Email: [chairnhrc@nic.in](mailto:chairnhrc@nic.in)
- Justice Shyamal Kumar Sen, Chairman, West Bengal Human Rights Commission, Bhabani Bhaban, Alipur, Kolkata -27. Phone +91-33-24797727, 24791629, Fax - 24799633, Email: [wbhrc@cal3.vsnl.net.in](mailto:wbhrc@cal3.vsnl.net.in)
- Mr. Gopalkrishna Gandhi, Governor, West Bengal, Raj Bhaban, Kolkata – 62, Phone: +91 33-2200 1641, Fax: +91 33 – 2200 2444 / 2200 1649, [secy-gov-wb@nic.in](mailto:secy-gov-wb@nic.in)
- Mr. M. L. Kumawat, Director General, BSF, Block No. 10, CGO Complex, Lodhi Road, New Delhi 110003, Tel.: + 91 11 24362181, +91 11 24360016
- Ambassador Extraordinary and Plenipotentiary Permanent Representative to the United Nations (Geneva), Rue du Valais 9, 1202 Geneva, Tel: +41 22 906 86 86, Fax: +41 22 906 86 96, Email: [mission.india@ties.itu.int](mailto:mission.india@ties.itu.int)

Please also write to the embassies of India in your respective country.

Geneva, 20 February 2009

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.