

# PEOPLE'S UNION FOR CIVIL LIBERTIES

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**People's Union for Civil Liberties (PUCL) condemns the detention of climate activist Sonam Wangchuk and about 150 Ladakhi Padyatris by the Delhi police and the arbitrary imposition of prohibitory orders under Section 163 BNSS by the Delhi Police Commissioner.**

**PUCL demands that the Ladakhi Padyatris be released immediately and be allowed to continue their democratic and peaceful 'Delhi Chalo Padyatra' towards Rajghat, for raising their legitimate demands for environmental protections and constitutional safeguards in the Ladakh region.**

**PUCL calls upon the Delhi Police Commissioner to revoke the prohibitory order under Section 163 BNSS imposing ban on the constitutionally guaranteed right to assembly and to stop the misuse of powers under Section 163 to silence dissent and democratic expression.**

1<sup>st</sup> October 2024

The PUCL strongly condemns the detention by the Delhi police of about 150 Ladakhi protestors who had travelled from Ladakh and were to reach Delhi today under the leadership of educationist and environmentalist Sonam Wangchuk. The protestors had embarked on a peaceful 'Delhi Chalo Padyatra' of over 900 kms undertaken for last 30 days which entailed travel through the states and UT Jammu & Kashmir, Himachal Pradesh, Chandigarh, Haryana, before being stopped at the Singhu border last night i.e. on September 30, 2024. The detention of the Ladakhi Padyatris who embarked on foot from Leh on September 1, 2024 towards the national capital, is the latest in a trend of arbitrary measures employed by the Delhi police to curb all forms of peaceful protest in the capital.

The group of protestors who had been marching despite facing bad weather and hardship, were detained just short of their destination in Delhi where they were arriving to place their legitimate demands before the Central government and reinvigorate the stalled dialogue with the Ladakhi leadership. Their four-point agenda for the talks include their long standing demands for – statehood for Ladakh, the extension of the Constitution's Sixth Schedule, an early recruitment process along with a public service commission for Ladakh, and separate Lok Sabha seats for Leh and Kargil districts. Even earlier the peaceful protests of Ladakhis has been met with the strong arm of the state.

The video of the protestors entering Delhi shared by Sonam Wangchuk on X, shows the presence of a force of hundreds of police officers on site to detain the 150-odd Ladakhi satyagrahis. At the time of releasing this statement, the detained protestors had been separated in 5-6 different thanas at the Delhi border, and till now, nobody has knowledge of where Sonam Wangchuk has been kept. What is also disturbing is that when the lawyers reached the border, the police stopped the detainees from signing Vakalatnama, thereby denying them effective legal representation in violation of their fundamental rights.

It is appalling that the Delhi Police Commissioner Mr. Sanjay Arora issued a prohibitory order under Section 163 of BNSS (formerly Section 144 of CrPC) on 30<sup>th</sup> September, 2024 restricting all protests, demonstrations in the territory of Delhi between 30<sup>th</sup> September to 5<sup>th</sup> October 2024. In addition to the conspicuous timing of the prohibitory order, the order itself read like a weather report, without providing any substantiated ground for public disorder or disturbance in the name of which these directions have been issued. Not only does this constitute an abuse of the power granted under Section 163 of BNSS, but the reasons cited for imposing the prohibitory order are no less mischievous and politically motivated.

The prohibitory order starts by stating that “*the general atmosphere in Delhi is sensitive from a law and order point of view due to current issues like prevailing atmosphere- in view of the proposed Waqf Amendment Bill and the issue of Shahi Idgah in Sadar Bazaar,*”. This is an alarming statement, in as much as no new incident has happened in the month-long, dialogue, discussion around the Waqf bill and similarly the dismissal of the Waqf committee petition in the Shahi Idgah Park matter by the Delhi High Court has not resulted in communal tension in the area. In fact, the people have appealed against this order and are seeking legal platforms for justice.

There is no clarification made on whether there is any communal surcharge or anything new has been precipitated to justify such blanket curtailment of constitutional freedoms on that count. The order proceeds to cite the “*...politically surcharged issue of MCD elections and pending results of DUSU elections.*”. Again this is a complete eyewash in as much as the elections in the MCD and DUSU have been happening for several decades. It can be categorically stated that no extraordinary incident has happened in the past decade in the run-up or the aftermath of DUSU and MCD elections, which can be the cause for week-long denial of public action.

Further the order issued by the police commissioner goes on to say that “*there will be heavy movement of VVIPs and dignitaries in the area of New Delhi and central district, on 2<sup>nd</sup> October, the birth anniversary of Mahatma Gandhi.*” How can heavy VVIP movement become a cause of prohibitory orders for the public, is again confounding. Further, it goes on to say that “*Jammu and Kashmir and Haryana legislative assembly elections are underway, and thus, there is need to have continuous check on movement of persons and vehicles from Delhi borders*”, and hence, “*pockets inhabited by migrants from the states may become particularly vulnerable on account of infiltration and instigations at the behest of anti-social elements and elements having vested interests in creating public order disturbances in the national capital*”.

Since when is the happening of elections in other states and general apprehension of disturbance an excuse to impose a ban on freedom of assembly. Lastly, the prohibitory order cites the festival season of Dussehra still a fortnight away, and Diwali, still a month away. It is appalling that a festival has become a cause of prohibitory order in independent India out of apprehension of public disturbance. Infact during festivals there is more vigilance and police on the ground to prevent easy movement and free assembly of the people.

From a reading of the prohibitory order it appears to have been issued citing any available excuse, save and except for the publicly known protest march of the Ladakhi satyagrahis who were arriving on the same day i.e. September 30, 2024 at the Delhi border. This prohibitory order has been used to stop Sonam Wangchuk and 150 Ladakhi Padyatris at the Delhi borders, hence the question that begs to be answered is whether the government treats them as infiltrators and instigators creating public disorder in the national capital. This not only raises strong suspicion on the justifications provided by the Delhi police in the prohibitory order, but also points to a clear case of misuse of Section 163 of the BNSS with a view to silence the legitimate voice of Ladakhi people and citizens of the country. This is also part of the growing trend in the country of the frequent misuse and continuous imposition of prohibitory orders under Section 144 CrPC / Section 163 BNSS, with a view to curtail constitutional freedoms and democratic expression of citizens, which has made peaceful protests virtually impossible in Delhi and other parts of the country due to the backlash faced by citizens on account of denial of permission, use of police force, detention and criminalisation of protesters, thereby having the effect of silencing people's voices.

On the eve of Gandhi Jayanti, declared as the International day of Non-violence, this action of the Delhi police and the government against peaceful protestors and satyagrahis, signals to the increasing dangers involved in public action and advocacy. It is not only a violation of constitutional freedoms under Article 19 of the Indian Constitution, but an undermining of our democracy and curb on public participation of active citizenry, which cannot be allowed. PUCL strongly condemns the issuance of prohibitory order by the Delhi Commissioner and demands that the same be immediately withdrawn. Sonam Wangchuk and all the Ladakhi Padyatris must be released immediately and allowed to conclude their march at Rajghat as planned.

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