



**Standard Operating Procedure
(SOP):**

**“Coordinated Approach to
Handling Agrarian Movements”**

**National Police Mission Division
Bureau of Police Research & Development
Ministry of Home Affairs
Government of India
New Delhi**

COORDINATED APPROACH TO HANDLING AGRARIAN MOVEMENTS

Agrarian movements witnessed in recent times are premised on multifarious issues which affect farmers nationwide. Though such events are not entirely sporadic and some information regarding an impending movement including major demands, proposed route, prominent leaders, likely strength of the gathering, etc., is available beforehand, it is imperative to devise a coordinated approach to deal with such movements in a holistic manner in the form of a broad Standard Operating Procedure (SOP).

This SOP, thus, aims to examine the issue of handling agrarian movements in the course of three interconnected stages, namely, the Pre-agitation, during the agitation & the Post-agitation stage, envisaging a shift in strategy from use of force to negotiated management.

The SOP also seeks to create a permanent 3-tier structure in the form of Integrated Cells (ICs) at the District, State and the National levels to engage with the core demands of the farmers. These are being tentatively called the District Integrated Cell (DIC), the State Integrated Cell (SIC) and the National Integrated Cell (NIC). The Integrated Cells (ICs) would be permanent bodies and would be expected to keep themselves abreast of developments and issues that may be agitating the farmers.

- **Composition of the ICs**

- The District Integrated Cell (DIC) would comprise the District Magistrate, the Superintendent of Police and representative(s) from department(s) concerned.
- The State Integrated Cell (SIC) would include the Chief Secretary, Director General of Police and Secretary/Secretaries of department(s) concerned.
- The National Integrated Cell (NIC) would comprise the Union Home Secretary, DIB and Secretary/Secretaries of concerned Ministries.

- The DIC, SIC and NIC may co-opt any other individual or group, from the government or outside, as they deem fit, and/or as the situation demands.
- The DICs and SICs would be expected to hold regular coordination meetings with farmers' groups/representatives, related NGOs, other stakeholder departments as well as corporates involved, if any, in order to keep themselves abreast of issues and developments.

Pre-Agitation Phase

- **Establishment of an 'Integrated Cell' at district, state and national levels to deal with the core demands on which the movement is based**
 - At the district level, the primary responsibility of the DIC would be to engage with the aggrieved farmers and resolve their issues or assure them of early resolution, so as to diffuse the situation.
 - In case, the aggrieved farmers decide to launch the movement and are dissatisfied despite the efforts at the district level or decide to expand the scope of their agitation over more than one district, the next point of engagement shall be the State Integrated Cell (SIC). In the event of non-resolution of the core issues at the state level or anticipation of the movement shifting towards the national capital, the National Integrated Cell (NIC) shall engage with the aggrieved farmers.
- **Use of vernacular media**
 - Educational/awareness videos/short films, in local language, on government schemes for the welfare of farmers should be aired on vernacular TV channels. Likewise, such schemes should also be widely publicised in vernacular newspapers for the benefit of farmers.

- Street plays/*nukkadnataks* on themes such as farmers' welfare, agrarian schemes, technological advancements in agriculture, etc., in collaboration with the related NGOs, should be conducted in vernacular.

- **Intelligence Sharing Mechanism**

- A mechanism for proactive real time sharing of intelligence between Special Branches of all the states and UTs should be operationalised. This assumes relevance in the backdrop of recent movements from various states culminating in the national capital. Real time sharing of inputs regarding the likely route, approximate strength of the gathering, important leaders, whether the gathering is armed, etc, shall ensure better preparedness on part of the administration and Police set up of the states falling en-route to deal with the emerging situation.
- Besides, field level officers of the Police and administration should keep themselves aware of the background of the movement and the political proclivities of the individuals spearheading it, so as to ease the process of deciding the points of engagement.

- **Extensive use of technology**

- It should be ensured that Police is adequately equipped with the latest riot control equipment that is light weight and innocuous.
- Deployment of armed Police personnel should be avoided.
- Mufti-clad Police personnel, equipped with concealed cameras may be detailed to merge with the crowd and be deployed at the pressure points.
- Use of non-lethal equipment should be ensured.

- **Social media management**

- Mobilisation of farmers and dissemination of information amongst them takes place on closed social media platforms, particularly, WhatsApp groups. DICs/SICs and the NICs should endeavour to have such groups identified for procuring first-hand information regarding the plans of the leadership, course of the movement and inner deliberations.
- It would also be extremely vital to monitor the narrative of the urban intelligentsia on social media platforms such as Twitter and Facebook as agrarian movements invite expression of opinions/solidarity from across sections of society.
- Think tanks and popular faces should be involved by the DICs/SICs for countering propaganda.
- Besides, quick dissemination of fake news and rumours through social media has the potential of undoing the efforts made towards defusing the situation. A Media Briefing Cell should be set up by the ICs to present the true picture of the events. Further, the official social media handles of the Police and civil administration should provide updates on the situation, particularly highlighting the progress made in negotiating with the aggrieved farmers, so as to counter fake news/rumours.

- **Training of Police personnel in soft skills**

- Regular training modules aimed at inculcating soft skills for public dealing and behaviour management in stressful situations such as mob-containment should be conducted for Police personnel of all ranks by the states and UTs.
- As Police, being the law enforcement arm of the State, becomes the last responder in agrarian movements with violent overtones, such training would ensure that the situation is not aggravated further

due to behavioural issues of the Police force deployed to handle the situation.

- BPR&D has already initiated a programme of training Police personnel in soft skills and would be made the nodal agency for soft skill training of Police personnel. This would require a commensurate upgrading of infrastructure and manpower at the BPR&D.

- **Primary ownership of the issue**

- The primary ownership of farmers issue should rest with the civil administration and Police of the district where the mobilisation begins. It is necessary for the DM and SP concerned to take up responsibility for redressing and resolving the farmers' grievances through the district level cell and ensuring that it does not spill over to other areas or snowball into a national level issue.

Agitation Phase

- Smooth coordination between the stakeholder agencies and their concurrence on any action to be taken to defuse the situation. An integrated command involving the members of the district, state or national cell, as the case may be, should be set up for quick decision making
- Engaging with the leadership and ensuring that the movement does not spiral out of control. In case, the agitators are adamant on moving to the state or national capital, they should be sensitised as to the ground realities, including various restrictions such as prohibitory orders, route diversions, relevant judgements of the Supreme Court or High Courts, etc
- Notifying non-Police premises as jails for confinement of protestors in the event of violence and imposition of Section 144 Cr. PC

- Real time social media updates through official handles of Police and administration to counter propaganda and fake news
- Political leadership should be involved to assure and engage the protestors
- Identifying exit routes for easy and quick dispersal of the crowd

Post-Agitation Phase

- Holding of a debriefing session to review the handling of the situation and for correctives for future.
- Proper documentation of the entire series of events and action taken.
- Sharing of experience and notes on debriefing with Special Branches of all states and UTs
- Maintenance and cultivation of contacts amongst farmers, including leaders as well as foot soldiers
- Monitoring social media narratives
- As such movements are most likely to take place close to Parliamentary or Assembly sessions, the district level cell should apprise the state level and national level cells to sensitise the Government at highest levels to address the farmers' concerns well in time.

Relevant observations by various Courts pertaining to handling of agrarian movements

I. Calcutta High Court

Association For Protection Of Democratic Rights & Anr. v/s State Of West Bengal And Ors.

Dated: November 16, 2007

Equivalent citations: 2007 (4) CHN 842

Author: S Nijjar, Chief Justice

Bench: S Nijjar, P C Ghose

74. These observations cannot be understood to mean that resorting to indiscriminate gunfire would be permissible. The observations rather tend to show that liberty occupies a place of pride in our socio-political order.

We are unable to accept the submission of the learned Advocate General that discriminate firing by the police would be permissible under the provisions of Criminal Procedure Code, 1973. The Police Act, 1861 or the West Bengal Police Regulations, 1943. It is not possible to accept the submission that the mob had prevented the police from performing its duties. We are also unable to accept the submission that it is permissible to indiscriminately open fire to control the crowd. There is no material before the Court that the assembly of the farmers agitating against acquisition of their land was in any manner causing danger to the life of any police personnel. It is for this reason that the enquiry would be necessary to be conducted by an independent agency as to whether the crowd was actually carrying any lethal weapons. Unless such materials are placed before the Court, it cannot be held that the decision of the police to open fire was justified.

84. On the perusal of the Regulations it would appear that the Police ' Regulations provide a series of checks and balances for the use of firearms by the police force for the dispersion of unlawful assemblies. Regulation 151 provides that when a Magistrate is present with an armed party, employed for the suppression of a riot or the dispersion of unlawful assemblies, he shall give the warning prescribed by Regulation 153(c)(ii). Regulation 154 provides for general rules relating to the use of firearms. Regulation 155 specifies that the Magistrate may himself give the order to open fire or may direct officer in command to issue the order. In case the Magistrate is not present the officer himself can issue the order provided he considers it to be necessary. Regulation 156 provides for action to be taken after the police have used firearms. A detailed report is to be submitted to the District Magistrate. Regulation 157 provides that whenever the police have used firearms a full executive enquiry to ascertain whether the firing was justified and whether the Regulations were obeyed, shall be held as soon as it can possibly be arranged. Thus, it appears that the Regulations provide a comprehensive guide for the control of the use of firearms. We are unable to accept the submission of the learned Advocate General that since the Regulations 152 to 154 were complied with, the police cannot be accused of indiscriminate firing at the Nandigram "unlawful assembly". We are of the considered opinion, that if Regulations 151, 152, 153 and 154 are strictly complied, there would

be no scope for indiscriminate firing into a huge crowd. The Regulations permit only target specific shooting, which would be impossible when the police is faced with a crowd of thousands. Firstly it would be very difficult to identify the targets. Even if they are identified, they would have to be isolated before they could be shot. Therefore, detailed provisions have been made in these Regulations about the method and manner of firing. The object is clearly to minimise the injuries. Regulation 151 gives the power to the Magistrate when present to direct the Officer-in-Command to use force or open fire. Regulation 152 specifically provides for the precautions which have to be observed by a police officer in command of an armed party for the suppression of a riot or the dispersal of an unlawful assembly. The Regulation is as under:

152.-(i) he should so dispose it that it has effective a field of fire as circumstances permit;

(ii) he shall not bring it so close to a mob as to risk either its being overwhelmed by a sudden rush or its being forced to inflict heavy casualties;

(iii) if, in order to minimise injuries from missiles, the party is extended, he shall not allow it to extend so far as to affect his ability to exercise strict fire control;

(iv) he should order bayonets to be fixed;

(v) he shall give orders to the party to load, when he thinks fit loading without such orders it strictly forbidden;

(vi) for the purposes of fire control he shall ordinarily divide his force into sections of not more than ten men each and place each section under a responsible commander;

(vii) if the party is, or is likely to be, attacked from two directions, he shall post the men in two ranks, each facing one of those directions, with sufficient space between such ranks to enable him to move between the ranks and to control the firing; and

(viii) generally he should follow the riot drill instructions as closely as circumstances permit.

85. A perusal of the aforesaid would show that it is the bounden duty of the officer in command that the armed party shall be so disposed as to have an effective field of fire as circumstances permit. The armed party shall not be brought so close to the mob as to inflict heavy casualties. The firing should always be under his strict control to minimize injuries. Even loading and unloading of the arms can only be done only specific orders of the officer-in-command. The armed forces have to be divided into small sections of not more than ten men. These directions contained in Regulation 152 are mandatory in nature. Therefore, no laxity can be permitted in their performance.

86. Regulation 153 lays down the eventualities in which fire arms permitted to be used. Undoubtedly, firearms are permitted to be used for the dispersal of unlawful assemblies. The procedure to be followed in such circumstances is as under:

153 (c) Use of firearms to disperse an unlawful assembly,:

(c) An order to fire upon a crowd should be regarded as an extreme measure to which recourse should be had only in the last resort when it is absolutely for the defence of life or property or when a Magistrate, an Officer-in-Charge of a police station or police officer superior in rank to such officer considers it impossible to disperse a mob by any other means.

(iii) Before an order is given to fire upon a crowd the Magistrate or, if no Magistrate is present, the police officer in command shall give full and sufficient warning to the rioters that they will be fired upon if they do not disperse immediately.

(ii) All ranks engaged in the suppression of a riot or in the dispersal of a riotous assembly must await the orders of a Magistrate, an officer-in-Charge of a police station or a police officer superior in rank to such officer before firing.

87. A perusal of this provisions would show that an order to fire upon a crowd should be regarded as an extreme measure to which resort should be made only in the last resort. When it is absolutely necessary for the defence of life or property. An order to fire upon a crowd can also be made when a Magistrate, Officer-in-Charge of a police station or police officer superior in rank to such officers considered impossible to disperse a mob by any other means. Due to the drastic consequences that the gun-firing would have, it has been made mandatory for the police officer in command to give full and sufficient warning to the rioters that they will be fired upon if they do not disperse immediately.

II. Madras High Court

P. Perumal v/s The Superintendent of Police, District Namakkal

Dated: November 08, 2018

Coram: Justice N. Anand Venatesh

W.P. Nos. 27870, 27873, 27866, 27876 , 28170, and 28175 of 2018

9. It is an admitted case that the farmers across seven Districts want to express their grievance with regard to the payment of compensation for acquiring their lands to put up power transmission project. The agitation is planned to be conducted only in a Private Patta Land. Strictly speaking, permission under Section 30(2) of the Police Act is not even contemplated. However, since the agitation is going to be attended by a large number of people, the Police has to necessarily step in in order to maintain peace and to stop any unnecessary law and order problem. That does not mean that the respondent Police can all together stop the petitioners from conducting the <http://www.judis.nic.in> agitation by imposing a blanket bar under Section 30(2) of of the Police Act. This provision is more regulatory in nature and it cannot be used to completely curtail the freedom of speech and trifle any democratic dissent of the citizens. After all, the farming lands are being taken over for a power project and the farmers are seeking for a proper payment of compensation under the amended Land Acquisition Act. According to the petitioners, the farmers have been deprived of the payment of proper compensation, and therefore, the only way, the farmers can make the State Government pay the compensation is by drawing their attention, by conducting a peaceful Sit-in- Protest in the lands belonging to the farmers. The Sit-in agitation conducted in the Patta Land belonging to the farmers cannot be prevented by the respondent Police. The respective impugned orders that are the subject matter in all the writ petitions clearly reflect colourable exercise of power and clear non application of mind. All the impugned orders therefore, are liable to be set aside by this Court.the Police Act. This provision is more regulatory in nature and it cannot be used to completely curtail the freedom of speech and trifle any democratic dissent of the citizens. After all, the farming lands are being taken over for a power project and the farmers are seeking for a proper payment of compensation under the amended Land Acquisition Act. According to the petitioners, the farmers have been deprived of the payment of proper compensation, and therefore, the only way, the farmers can make the State Government pay the compensation is by drawing their attention, by conducting a peaceful Sit-in- Protest in the lands belonging to the farmers. The Sit-in agitation conducted in the Patta Land belonging to the farmers cannot be prevented by the respondent Police. The respective impugned orders that are the subject matter in all the writ petitions clearly reflect colourable exercise of power and clear non application of mind. All the impugned orders therefore, are liable to be set aside by this Court.

10. In the result, the writ petitions are allowed. The petitioners are entitled to carry on with the Sit-in agitation in their own Private Land. It is also made clear that the petitioners shall strictly comply with the undertaking given by them in their affidavit at para 18.

**III. Madhya Pradesh High Court
Medha Patkar v/s State of M.P. And Anr**

Dated: September 25, 2007

Equivalent citations: 2008 CriLJ 47, 2007 (4) MPHT 219

Author: A Patnaik, Chief Justice

Bench: A Patnaik, A Singh

1. This is a Public Interest Litigation registered pursuant to a letter dated 26.7.2007 from District Jail, Indore, written by the petitioner on behalf of the people affected by the SardarSarovar Project who, while agitating from their demands for rehabilitation were arrested and detained in the Badwani and Indore Jails.

22. Under Article 19(1)(a) of the Constitution, all citizens shall have the fundamental right to freedom of speech and expression and under Article 19(1)(b) of the Constitution they have the fundamental right to freedom to assemble peaceably and without arms. When a group of citizens, therefore, assemble and shout slogans making some demands they exercise their fundamental rights guaranteed under Articles 19(1)(a) and 19(1)(b) of the Constitution. This will be clear from the decision of the Supreme Court in Kameshwar Prasad and Ors. v. State of Bihar 1962 AIR 1166 in which the Constitution Bench held that the right to make a demonstration is covered by either or both of the two freedoms guaranteed by Article 19(1)(a) and 19(1)(b) of the Constitution. Paragraph 13 of the judgment in Kameshwar Prasad as reported in the AIR is quoted hereinbelow:

The first question that falls to be considered is whether the right to make a 'demonstration' is covered by either or both of the two freedoms guaranteed by Article 19(1)(a) and 19(1)(b). A 'demonstration' is defined in the Concise Oxford Dictionary as "an outward exhibition of feeling, as an exhibition of opinion on political or other question especially a public meeting or procession".

In Webster it is defined as a public exhibition by a party, sect or society...as by a parade or mass-meeting". Without going very much into the niceties of language, it might be broadly stated that a demonstration is a visible manifestation of the feelings or sentiments of an individual or a group. It is thus a communication of one's ideas to others to whom it is intended to be conveyed. It is in effect therefore a form of speech or of expression, because speech need not be vocal since signs made by a dumb person would also be a form of speech. It has however to be recognized that the argument before us is confined to the rule prohibiting demonstration which is a form of speech and expression or of a mere assembly and speeches therein and not other forms of demonstration which do not fall within the content of Article 19(1)(a) or 19(1)(b). A demonstration might take the form of an assembly and even then the intention is to convey to the person or authority to whom the communication is intended the feelings of the group which assembles. It necessarily follows that there are forms of demonstration, which would fall within the freedoms guaranteed by Article 19(1)(a) and 19(1)(b). It is needless to add that from the very nature of things a demonstration may take various forms; it may be noisy and disorderly, for instance stone-throwing by a crowd may be cited as an example of a violent and disorderly demonstration and this would not obviously be within Article 19(1)(a) or

(b). It can equally be peaceful and orderly such as happens when the members of the group merely wear some badge drawing attention to their grievances.

23. The fundamental right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution, however, is not an absolute right and under Clause (2) of Article 19 of the Constitution, the State can make a law imposing reasonable restrictions on the exercise of this right in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence. Similarly, the fundamental right to freedom to assemble peaceably and without arms guaranteed under Article 19(1)(b) of the Constitution is not an absolute right and under Clause (3) of Article 19 of the Constitution, the State can make a law imposing in the interests of sovereignty and integrity of India or public order, reasonable restrictions on the exercise of this right. Thus, on both the fundamental rights to freedom of speech and expression guaranteed under Article 19(1)(a) and to freedom to assemble peaceably and without arms guaranteed under Article 19(1)(b), the State can make law imposing reasonable restrictions in the interests of public order.

24. One such provision of law made by the State in the interests of public order, on which respondents have relied upon, is Section 151 of the Cr P.C., which is quoted hereinbelow:

Section 151(1): A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

(2) No person arrested under Sub-section (1) shall be detained in custody for a period exceeding twenty-four hours from the time of his arrest unless his further detention is required or authorized under any other provisions of this Code or of any other law for the time being in force.

The very language of Sub-section (1) of Section 151 Cr.P.C. quoted above makes it clear that before the Police Officer resorts to Section 151 Cr.P.C. to arrest without orders from a Magistrate and without a warrant, it must appear to him that the person, who is sought to be arrested, is designing to commit a cognizable offence and that the commission of offence cannot be prevented except by such arrest. This interpretation of Section 151 Cr.P.C. has been given by the Supreme Court in Ahmed NoormohmedBhatti v. State of Gujarat and Ors. . Paragraph 5 (five) of the judgment in Ahmed NoormohmedBhatti as reported in the SCC is quoted hereinbelow:

A mere perusal of Section 151 of the Code of Criminal Procedure makes it clear that the conditions under which a police officer may arrest a person without an order from a Magistrate and without a warrant, have been laid down in Section 151. He can do so only if he has come to know of a design of the person concerned to commit any cognizable offence. A further condition for the exercise of such power, which must also be fulfilled, is that the arrest should be made only if it appears to the police officer concerned that the commission of the offence cannot be otherwise,

prevented. The section, therefore, expressly lays down the requirements for the exercise of the power to arrest without an order from a Magistrate and without a warrant. If these conditions are not fulfilled and a person is arrested under Section 151 of the Code of Criminal Procedure, the arresting authority may be exposed to proceedings under the law. Sub-section (2) lays down the rule that normally a person so arrested shall be detained in custody not for a period exceeding 24 hours. It, therefore, follows that in the absence of anything else, on expiry of 24 hours, he must be released. The release, however, is not instead upon only when his further detention is required or authorized under any other provision of the Code or of any other law for the time being in force.

25. Another provision of law made by the State in the interest of public order on which reliance is placed by the respondents, is Section 107 Cr.P.C.

26. The object of Section 107 Cr.P.C. was explained by a Constitution Bench of the Supreme Court in *MadhuLimaye and Anr. v. SDM Monghyr and Ors.* AIR 1971 SC 2486. Paragraphs 33 and 34 of the Judgment in *MadhuLimaye and Anr. v. SDM Monghyr and Ors.* (supra) are quoted hereinbelow:

33. The gist of Section 107 may now be given. It enables certain specified classes of Magistrates to make an order calling upon a person to show cause why he should not be ordered to execute a bond, with or without sureties for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix. The condition of taking action is that the Magistrate is informed and he is of opinion that there is sufficient ground for proceeding that a person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity. The Magistrate can proceed if the person is within his jurisdiction or the place of the apprehended breach of the peace or disturbance is within the local limits of his jurisdiction. The section goes on to empower even a Magistrate not empowered to take action, to record his reason for acting, and then to order the arrest of the person (if not already in custody or before the Court) with a view to sending him before a Magistrate empowered to deal with the case, together with a copy of his reasons. The Magistrate before whom such a person is sent may in his discretion detain such person in custody pending further action by him.

34. It will be clear from the paragraphs of the judgment of the Supreme Court in *MadhuLimaye and Anr. v. SDM Monghyr and Ors.* (supra) quoted above that Section 107 Cr.P.C. is aimed at persons who by their conduct cause a reasonable apprehension in the mind of the Magistrate that there is likelihood of breach of the peace or disturbance of the public tranquillity and the power is to be used by the Magistrate under Section 107 Cr.P.C. for the preservation of public peace and tranquillity and to prevent commission of offence. Paragraph 16 of the judgment in *MadhuLimaye and Anr. v. SDM Monghyr and Ors.* (supra), in which the Supreme Court has explained the terms "public order" and "public tranquillity" is quoted hereinbelow:

27. The Supreme Court has also held in *Himatlal K. Shah v. Police Commissioner, Ahmedabad*, that the State cannot by law abridge or take away the right of assembly by prohibiting assembly on every public street or public place though it can

only make regulations in aid of the right of assembly of each citizen and can only impose reasonable restrictions in the interests of public order. Paragraph 33 of the judgment of Sikri C.J. delivered on behalf of himself and on behalf of A.N. Ray and Jaganmohan Reddy, JJ, in Himatlal K. Shah is quoted hereinbelow:

...the State cannot by law abridge or take away the right of assembly by prohibiting assembly on every public street or public place. The State can only make regulations in aid of the right of assembly of each citizen and can only impose reasonable restrictions in the interest of public order. This Court in Babulal Parate v. State of Maharashtra, rightly observed:

The right of citizens to take out processions or to hold public meetings flows from the right in Article 19(1)(b) to assemble peaceably and without arms and the right to move anywhere in the territory of India.

28. Bearing in mind the aforesaid law laid down by the Supreme Court in the decisions discussed above, we find that on 25.7.2007 the petitioner and other agitators were exercising their fundamental rights to freedom of speech and expression and to assemble peaceably and without arms guaranteed under Articles 19(1)(a) and 19(1)(b) of the Constitution, when they had assembled on the road and were shouting slogans demanding land for land and demanding other rehabilitation measures and there was nothing in their conduct to show that they had any design to commit a cognizable offence the commission of which had to be prevented by their arrest by the Police under Section 151 Cr.P.C., and yet they were forcibly dragged by the Police and put in the van on the evening of 25th July 2007. We also find that although the petitioner and other agitators had done nothing to give rise to even an apprehension that they will disturb the public tranquillity, public peace or public order²⁹. We may now consider the relief that can be granted to the petitioner and other agitators, who were arrested and detained in Badwani and Indore Jails, when they have already been released from custody on 30.7.2007. In Rudul Sah v. State of Bihar and Anr., the Supreme Court has held that one of the ways in which violation of the fundamental right under Article 21 of the Constitution by the authorities of the State can reasonably be prevented is to direct payment of monetary compensation to the individuals whose rights are affected. Chandrachud, C.J., as his Lordship then was, who delivered the judgment on behalf of the three Judge Bench, in para 10, has held:

...Article 21 which guarantees the right to life and liberty will be denuded of its significant content if the power of this Court were limited to passing orders of release from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Article 21 secured, is to mulct its violators in the payment of monetary compensation. Administrative sclerosis leading to flagrant infringements of fundamental rights cannot be corrected by any other method open to the judiciary to adopt. The right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the State as a shield. If civilization is not to perish in this country as it has perished in some others too well known to suffer mention, it is necessary to educate ourselves into accepting that, respect for the rights of individuals is the true bastion of

democracy. Therefore, the State must repair the damage done by its officers to the petitioner's rights. It may have recourse against those officers.

30. In a recent case in State of Maharashtra v. Christian Community Welfare Council of India and Anr. , the Supreme Court has observed that the law that the liability to pay to aggrieved party who has suffered because of police excesses cannot be doubted and has further held that whether such compensation paid by the State can be recovered from the officers concerned will depend on the fact whether the alleged misdeeds by the officers concerned are committed in course of discharge of their lawful duties or beyond or in excess of the same and this will have to be determined in a proper inquiry.

31. We, therefore, direct the State of Madhya Pradesh to pay compensation of Rs. 10,000/- (Rupees Ten Thousand) to the petitioner and each of the male and female agitators, who were arrested in the evening of 25.7.2007 and thereafter detained in Badwani and Indore Jails, in violation of their fundamental rights guaranteed under Articles 19 and 21 of the Constitution within a period of two months from today. We further hold that and it will be open for the State to recover the compensation paid from the officers responsible for the unauthorized arrest and detention of the petitioner and other agitators in accordance with law after proper inquiry.

We make it clear that we have not directed the State of Madhya Pradesh to pay any compensation to the agitators who were arrested on 25.7.2007 but were released soon thereafter and were not detained in the jail at Badwani or Indore.

With the aforesaid directions, the writ petition is allowed with costs of Rs. 10,000/- which will also be paid by the State to the petitioner within two months from today.

**IV. Madhya Pradesh High Court
Kamlesh v/s Home Department**

Dated: July 11, 2019

**Writ Petition Nos.3595/2017, 3892/2017,3894/2017, 3606/2017, 3622/2017and
5861/2017 (PILs)**

02- The petitioner has stated before this Court that the State has failed to protect the fundamental rights of the citizens and therefore, he has filed the writ and prayed for following reliefs:-

"10.1) The respondents may kindly be directed to immediately take necessary action to ensure life and safety of general public, public and private vehicles, shops and markets etc. from the protesters.

10.2) The respondents may kindly be directed to make sufficient arrangements to provide vegetables, fruits, milk and other dairy and agriculture products at various places in police protection.

10.3) Enough police protection may kindly be given to farmers and sellers to sale their products.

10.4) An independent committee may kindly be constituted to inquire the whole issue and strict action may kindly be taken against violent protesters and erred police and administrative officers.

10.5) Respondents may kindly be directed to submit a detailed report of the whole matter and majors taken by the respondents to control the situation and protect life and liberty of the general public.

10.6) A mediation committee may kindly be constituted to settle the dispute between farmers and the State of Madhya Pradesh.

10.7) Any other order which the Hon'ble Court deems fit and proper in facts and circumstances of the case may also be granted."

03- A detailed and exhaustive reply has been filed in the matter and it has been stated by the State Government that the farmers went on strike from 01st to 10th June and a "non cooperation movement" started by them i.e. stoppage of supply of vegetables, milk and other agricultural produces and the situation was monitored closely by the State Government.

Writ Petition Nos.3595/2017, 3892/2017, 3894/2017, 3606/2017, 3622/2017 and 5861/2017 (PILs) 04- It has been stated that alternative arrangements were made by the State Government by supplying day to day needs and proper deployment of police forces was also done in the entire State of Madhya Pradesh. However, in some of the cities the movement started by the farmers, which was a non cooperation movement, on account of involvement of some miscreant and anti-social elements, the movement turned violent specially in the Mandsaur, Dewas and Shajapur districts. 05- It has been stated by the State Government that they have deployed 05 Companies of CRPF, 03 Companies of CISF, 06 Companies of Rapid Action Force as well as local police. It has also been stated that as many as 289 cases have been registered in thirteen districts against those persons, who have committed crime and a Judicial Inquiry Commission has been constituted under the

Chairmanship of Hon'ble Shri Justice J. K. Jain (Retd.). It has also been stated that the Inquiry Commission has submitted its report in the matter.

22- Payment of compensation depends upon various factors as argued before this Court and for the loss of life, the State Government Writ Petition Nos. 3595/2017, 3892/2017, 3894/2017, 3606/2017, 3622/2017 and 5861/2017 (PILs) has taken a policy decision to pay compensation to the dependents of those persons, who were killed in police firing. 23- The reply of the State Government reveals that a large number of cases have been registered against those persons who were involved in violence and in destroying public property. It has also been stated that one member Inquiry Commission under the State Enquiry Commission Act, 1952 has submitted its report in the matter. 24- This Court has carefully gone through the writ petition as well as the reply filed by the respondents. The State Government in its wisdom has granted compensation to the family members of those persons, who have lost their sole bread winner. This Court does not find any reason to set aside the decision taken by the State Government granting compensation. However, as an Inquiry Commission has already been constituted and a report has been submitted in the matter, the respondent / State shall be free to take appropriate action in the matter keeping in view the inquiry report. In light of the aforesaid, writ petition stands disposed of.

26- Reliance has been placed upon a judgment delivered by the apex Court in the case of Extra Judl. Exec. Victim Families Assn. & Anr. Vs. Union of India & Ors. reported in 2017 (7) Scale 716. 27- This Court has carefully gone through the aforesaid judgment. In the aforesaid there was an allegation that about 1528 persons have been killed in fake encounters by police personnel and personnel in uniform of the armed forces of the Union and in those circumstances, SIT was constituted. In the present case, there is no such contingency involved. Persons have been killed on account of police firing as stated in the writ petition as the mob has turned violent and the police was left with no other remedy except to fire. Compensation (Rs.1 Crore each) has already been given to the families of the deceased and Inquiry Commission has already been constituted in the matter and therefore, this Court does not find any reason to constitute a SIT or to hand over the investigation to Central Bureau of Investigation. 28- Resultantly, as a report has already been submitted in the matter by the Hon'ble Shri Justice J. K. Jain (Retd.), the writ petition stands disposed of with a liberty to the State Government to take appropriate action in the matter in accordance with law.
