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**NV.GEN/PMI/353/16/2020**

**5<sup>th</sup> January, 2022**

The Permanent Mission of India to the Office of the United Nations and Other International Organizations in Geneva presents its compliments to the Special Procedures Branch of the Human Rights Council and has the honour to refer to joint communication No. AL/IND/10/2021 dated 11<sup>th</sup> June, 2021, received from the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on minority issues and requests that the following information may be brought to the attention of the concerned Special Rapporteurs.

2. The Permanent Mission of India would like to submit that the National Investigation Agency is investigating case RC-01/2020/NIA/MUM dated 24.01.2020, arising out of case on First Information Report No. 04/2018, dated 08.01.2018, at Police Station Vishram Baug, Pune Maharashtra, relating to incendiary and provocative speeches and presentations given during 'Elgar Parishad' organized by Kabir kala Manch at Shaniwar Wada, Pune, which promoted enmity between various caste groups and led to violence resulting in loss of life and state wide agitations.

3. Charge sheets under various sections of the Indian Penal Code and the Unlawful Activities (Prevention) Act were filed by the Pune Police against 09 arrested accused persons for their role in the commission of the instant crime on 15.11.2018 and 21.02.2019. These chargesheets were filed in the concerned courts based on documentary and oral evidence collected during the investigation and after following the due process of law. It may be noted that the matter is now sub-judice.

**4. The factual and legal Information for the arrest and ongoing detention of Ms. Sudha Bharadwaj, Mr. Stan Swamy, Mr. Hany Babu, Mr. Surendra Gadling, Mr. Mahesh Raut, Mr. Sudhir Dhawale, Mr. Vernon Gonsalves, Mr. Rona Wilson, Ms. Shoma Sen, Mr. Arun Frerreira, Mr. Anand Teitumbde, Mr. Gautam Navalakha, Mr. Romesh Chaichor, Mr Sagar Gorjkhe and Ms. Jyoti Jagtap in relation to the Bhima Koregaon case requested by Special Procedures mandate holders is given below:** These individuals were arrested

following the due procedure established by law for the offences committed by them in furtherance of the activities of banned terrorist organization, Communist Party of India (Maoist). The procedure for arresting the accused has been established by the provisions of the Special enactments, i.e., the National Investigation Agency Act, 2008, the Unlawful Activities (Prevention) Act, 1967 and the General Law, i.e., Code of Criminal Procedure, 1973. The said laws have been upheld to be constitutionally valid and the said legislations have been confirmed to be intra-vires to the Constitution of India. The chargesheets filed mention the nature of offences committed by each accused and the charges laid are ably supported by both documentary and oral evidence that surfaced against each accused person during the process of investigation. The case is currently sub judice.

**5. Information on access to medical facilities and COVID-19 Prevention**

**Measures :** All prisoners are provided with medical aid as per their requirement at the Mumbai District Women Prison, Byculla. On the recommendation of the Medical Officer, all women prisoners were tested on 18.04.21. Accused Sudha Bhardwaj and other two were tested for Covid-19 RT-PCR test on 18/04/2021. With regard to the Talaja jail, it is informed that in order to prevent spread of COVID among inmates and prison staff as well as early detection of COVID cases, random RT-PCR Testing is done at large scale in all prisons of the State.

**6. Prison Conditions:** The Two prisons referred to in the Joint Communication – Byculla Women's Jail and Talaja Jail have adequate facilities for the inmates including female prisoners. Besides regular medical facility as available in the prison, Experts, such as Physician, Dermatologists, Gynecologists, Psychiatrist and Pediatrician, also visit the prison on weekly basis to take care of inmates.

7. The Permanent Mission of India would also like to inform that the accused individuals in the cases have made submissions at length before the Hon'ble Courts for enlargement on bail. The concerned Courts, after hearing the submissions and upon perusal of the evidence, have denied bail on merits, by issuing speaking orders in the bail petitions. The copy of the order of the Hon'ble High Court of Bombay on the petition filed by Ms. Sudha Bhardwaj is placed at Annexure I. It may be noted that as per the Court's order her counsel appearing for the petition informed the Court that since the petitioner (after filing the writ petition) has received medical treatment, the petition is not pressing the prayer for seeking bail on medical grounds.

8. The detailed orders passed by the Court of Special Judge NIA, Bombay, rejecting the bail application moved by Mr. Stan Swamy, is placed at Annexure II. The copy of the order of the Hon'ble High Court of Bombay in the appeal filed by Mr. Stan Swamy is placed at Annexure III. On 28.5.2021, as per the directions of the Hon'ble Bombay High Court in criminal appeal No. 444/2021. Mr. Stan Swamy was sent to the hospital of his own choice, i.e. the Holy family Hospital Bandra, Mumbai, for further investigation and treatment. Before sending him to the Holy Family Hospital, Bandra, his Rapid Antigen Testing was done at Talaja Prison Hospital the same day by the Prison Medical Officer and the result

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was found to be COVID Negative. During treatment at the Holy Family Hospital Bandra, he passed away at 1324 hrs on 5.7. 2021.

9. The above-mentioned individuals are accused persons in NIA case RC-01/2020/NIA/Mum and have been detained and charged strictly in accordance with law, based on the evidence collected during meticulous investigation into the activities of the banned terrorist organization, CPI (Maoist). During the course of their arrest and detention, human rights of the individuals were duly protected and strict adherence to international Human Rights Covenants and Treaties has been ensured.

10. The Permanent Mission of India to the Office of the United Nations and other International Organizations in Geneva avails itself of this opportunity to renew to the Special Procedures Branch of the Human Rights Council the assurances of its highest consideration.

**The Secretariat of the Human Rights Council,  
(Kind Attn: Officer in charge, Special Procedures Branch)  
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