

Darshan Singh Dalla—

A case study of

**How India
disregards
its courts**



Punjab Human Rights Organisation (Regd.)

The Story of Darshan Singh Dalla

Media reported in April 1988 that Darshan Singh Dalla, a Sikh activist had been arrested by the police. On April 2, 1988, the Punjabi Tribune carried a news projecting the demand for production of Dalla before a Judicial Magistrate. On April 6, Akali Patrika through a story carried the charge that Dalla was in the custody of the police. It was pleaded that either he should be released forthwith or tried in accordance with law. Ajit, yet another daily, reported on April 7, 1988, that the detenu was in the custody of Raikot police and that he was being tortured. Akali Patrika reported the charge on April 20, 1988 that the detenu continued to be in the custody of the police and pleaded for his formal arrest if there was any case against him. On April 21, again, an item in Akali Patrika demanded the detenu's release.

Wife approaches P. H. R. O.

In the meanwhile, Bibi Paramjit Kaur, wife of the detenu, approached the Punjab Human Rights Organisation through its General Secretary, D. S. Gill, requesting him to take necessary action to ensure that her husband was dealt with in accordance with law and not extrajudicially as, she feared, was being done.

In mid May, 1988, the Government of India prepared and released a document listing charges against and evidence of Pakistan's involvement in Punjab stating specifically, *inter alia*, that on information supplied by Darshan Singh Dalla on March 27-28, 1988, to the police a huge quantity of weapons was recovered.

From other pieces of information, it was made out that Darshan Singh Dalla was arrested by the Ropar police from the Ropar bus stand on March 26, 1988. The Government of India's document mentioned above corroborated the information. Subsequent information stated that the detenu also remained in the custody of the Hoshiarpur police in the first week of April, 1988.

P. H. R. O. investigations revealed that Dalla, 32, was an activist of Khalistan Liberation Force. He belonged to Dalla village in Ludhiana district. He was an artisan by profession and was landless. Dalla was first arrested on January 16, 1985

alongwith Gurdev Singh Kaonke, who later became Chief of Akal Takhat. Both faced the charge of an attempt to assassinate Kirpal Singh, the then Jathedar of Akal Takhat. After spending a year in Ludhiana jail, Dalla was bailed out in December 1985.

Graduation to "A" Class

According to Paramjit Kaur, Dalla was reportedly and frequently held as and when any incident of violence in or around Jagraon took place. The police harassment became unbearable and Dalla had to leave house to go underground. Subsequently the police arrested and tortured for quite some time 35-40 relations of Dalla including wife and brothers and declared him an "A" class extremist with Rs. One Lakh as reward to anyone revealing his whereabouts. The police went to the extent of untethering animals from the family's house leaving them to no one's care and even locked the house.

There was no one to fend for the family which included the 26-year-old wife, the 60 year-old-mother, Mukhtiar Kaur and the five-year-old daughter, Amritpal Kaur. It was in these circumstances that the wife approached P. H. R. O. for legal help and the General Secretary, as "next friend" of Dalla, filed a writ petition, in the Punjab and Haryana High Court, at Chandigarh.

The prolonged case, in which young, professionally dedicated advocate, R. S. Bains, appeared for D. S. Gill, resulted in the Punjab and Haryana High Court passing the following order on October 27, 1989 :

"Criminal Writ Petition No 1779 of 1989.

D. S. Gill versus State of Punjab and others.

S. S. Grewal, J.

This petition under Articles 226/227 of the Constitution of India relates to grant of writ of Habeas Corpus for the production of detenu Darshan Singh Dalla and, if his custody was found illegal, to set him free in accordance with Article 21 of the Constitution.

This petition has been filed by Mr. D. S. Gill, a practising Advocate at Ludhiana on the allegations that detenu was arrested from Ropar bus stand on 26th of March 1988 by Ropar District Police. It was further pleaded that the detenu was neither produced before any Judicial Magistrate nor was he arrested

under the National Security Act. It was further pleaded that the whereabouts of said detenu had not been disclosed to his friends and family members in spite of persistent efforts made by the petitioner and that the detenu was kept in illegal custody of Ropar police for a week and then handed over to para military forces. The detenu was last seen at Hoshiarpur City Police Station in the first week of April, 1988, and since then no information concerning the said detenu was given to his family members. It was also pleaded that the news concerning the arrest of detenu was also published in daily Akali Patrika and daily Ajit, Jullundur as well as Punjabi Tribune Chandigarh. The demand for release of the petitioner from police custody or his production in a court of law was published in newspapers in April 1988 but to no effect. It was also pleaded that Union of India (respondent No. 2) published a booklet in May, 1988, concerning some recent recoveries of weapons in Punjab wherein at item No. 1 dated 27th/28th of March, 1988, it is mentioned that on the basis of disclosures made by Darshan Singh Dalla, a notorious terrorist of Ludhiana and Bhupinder Singh, a Canadian Sikh, who sneaked into India from Pakistan, a substantial quantity of weapons including explosives were recovered from a secret hide-out in Patti area of Amritsar district. This arms cache included 13 Ak-47 Chinese rifles, an American rifle with round magazine, 4 sophisticated bombs and 18 detonators along with 14 anti-tank grenades and power charges, which were used in recent attack by terrorists on C.R.P.F. camp at Phagwara.

Union of India (respondent No. 2) in its reply denied the averments that the Ministry of Home Affairs has brought out a booklet of involvement of Pakistan in terrorism in Panjab. It was specifically admitted that the portion quoted by the petitioner is an extract from this booklet. It was, however, pleaded that the conclusion drawn by the petitioner to the effect that the said disclosures were based on confessional statement of Darshan Singh Dalla is incorrect and that the said disclosures were brought to the knowledge of Deputy Secretary, Ministry of Home Affairs, who has filed written statement on behalf of Union of India, by a source and it would not be in the public interest to disclose the identity of the source. It was, however, pleaded that the Union of India has no information concerning the where-

abouts of Darshan Singh Dalla.

On behalf of respondent Punjab State (respondent No. 3) Mr. Chander Shekhar, Senior Superintendent of Police, Ropar, through his written statement, denied the averments in the petition. It was denied that the detenu was either arrested or detained by Ropar police. Rather it was pleaded that it had absolutely no knowledge about the said detenu.

In the affidavit filed on behalf of S. S. P., Hoshiarpur (respondent No. 4) it was pleaded that Darshan Singh Dalla (alleged detenu) was neither arrested in any case by the Hoshiarpur police, nor was he in police custody nor wanted in any case in the district.

Vide order of this court, dated 26th of July, 1989, counsel for the Union of India sought time to find out as to whether the information given in the booklet about the recent recoveries of weapons in Punjab, published by the Government of India, concerning the allegations levelled in para No. 5 of the petition and para No. 7 of the written reply filed by the Union of India through its Deputy Secretary, Ministry of Home affairs, Mr. S.C. Aggarwal, was correct or not.

In pursuance of the said order, Mr. S. C. Aggarwal, Deputy Secretary, Ministry of Home Affairs, filed another reply in form of affidavit wherein it was re-affirmed that the facts stated in para No. 7 of the affidavit filed earlier by him were based on official records and were believed to be true. However, as regards further particulars of the matter, it was mentioned that the disclosures about concealment of weapons by Darshan Singh Dalla came to be known to the police in Amritsar district through a source. Acting on this, the police raided the house of one Boor Singh *Nihang* in police station Patti area of district Amritsar and weapons were recovered. Case F. I. R. No. 37 dated 28th of March 1988 under Sections 216-A I.P.C., 25/54/59 of the Arms Act, 3/4 of T.A.D.A. and 4/5 of the Explosives Act was registered at Police Station Patti, District Amritsar and that giving further particulars of the source will not be in public interest, as it would compromise the operations of the security forces and endanger the lives of similar sources.

Counsel for the parties were heard. On behalf of petitioner, it was submitted that Union of India in its affidavit

has pleaded that the Government of India in booklet has specifically mentioned that on the basis of disclosures made by Darshan Singh Dalla, a notorious terrorist of Ludhiana and Bhupinder Singh, a Canadian Sikh, who sneaked into India from Pakistan, a substantial quantity of weapons and explosives were recovered from a secret hideout in Patti area of Amritsar district. On the basis of the contents of the aforesaid booklet published by the Union of India, it was submitted that since the contents of the booklet are based on the disclosures said to have been made by the said detenu, it is quite apparent that Darshan Singh Dalla remained or is still in custody of para military forces belonging to the Union of India and the State Government too would be deemed to be in knowledge of the whereabouts of the said detenu, and, would also know about his illegal detention.

On the other hand, on behalf of the respondents it was submitted that the said detenu is neither in the custody of the Union of India, nor of the State Government and that the reference with-regard to the contents of the booklet, referred to above, merely indicate that the said disclosures were made by Darshan Singh Dalla to some other source and information in this regard has trickled down from some source and, it would not be desirable in the public interest to disclose that source.

A careful perusal of the contents of the booklet referred to above in reply filed by Union of India leaves no one in doubt that reference in the said booklet is only with-regard to the disclosures made by Darshan Singh Dalla himself. It is significant to note that there is no reference whatsoever in the contents of the booklet, referred to in the pleadings of the parties, that disclosures were made by Darshan Singh Dalla to some one else or that information with regard to these disclosures actually trickled down to the Union of India through some other source. In case the arguments advanced on behalf of the respondents including Union of India in this respect had been correct then normally, this aspect of the case would find specific reference in the contents of the said booklet. The explanation furnished on behalf of the respondents, including Union of India, in this regard does not seem to be a plausible explanation. Since the Union of India, in its second affidavit, has reaffirmed the contents of the said booklet about the disclosures made by Darshan Singh Dalla

on or about 27th/28th of March 1988, it is quite apparent that Darshan Singh Dalla remained in the custody either of the respondents or of the para military forces on or about 27th or 28th of March 1988. This aspect of the case supports the allegations made in the petition that detenu was taken in illegal custody by the Ropar police on 26th of March 1988 or, that subsequently he was sent in the custody of Hoshiarpur police in April 1988. The affidavits of police authorities including that of Senior Superintendent of Police, Ropar, to the contrary cannot be relied upon as correct, in the circumstances of this case. In the absence of any specific plea on behalf of the respondents that Darshan Singh Dalla is in legal custody on the basis of registration of a specific criminal case or under preventive detention, the custody of detenu with the respondents would be illegal.

In the facts and circumstances of this case, neither the Union of India nor the State Government can any more be absolved from keeping the detenu in illegal custody.

For the foregoing reasons the respondents, both Union of India and Punjab State, are directed to produce Darshan Singh Dalla in this court on 7th of November, 1989.

October 27, 1989.

Signed : S. S. Grewal
Judge".

Both the governments disobeyed the court's specific order to produce the detenu on November 7, 1989. Dalla was not produced on November 7, 1989, or later, till the time of writing the report on March 20, 1990.

Appeal to human rights groups

P. H. R. O. regrets the behaviour of the Government of India and the Punjab State. The two appear to have much to conceal from the court as well as from the public. P. H. R. O. comes to the inescapable conclusion that Darshan Singh Dalla's is a typical case of organised "disappearance" of young Sikhs and their detention in illegal custody, or even extrajudicial elimination.

P. H. R. O. requests the judiciary to act with dispatch to punish the guilty in the case. It is a matter of concern that the highest court in the State of Punjab should have been rendered powerless by the Indian State which is not tired of proclaiming itself as the largest democracy in the world.

P. H. R. O. requests Amnesty International and other human rights groups worldwide to press the Government of India to end criminalisation of the security forces, punish the guilty in the Dalla case, adequately compensate the affected family and release or try Darshan Singh Dalla.

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Punjab Human Rights Organisation (Regd.)

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Punjab Human Rights Organisation Publications

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