

Subject: Informative Missive -- Human Rights in Kashmir

Date: Wed, 20 Mar 2002 07:28:35 +0000 (GMT)

From: Parvez Imroz <p\_imroz@yahoo.co.in>

To: michael@playforpeace.org, rajeev@del2.vsnl.net.in


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Friends,

Attached please find the copy of Informative Missive, newsletter of J&K Public Commission on Human Rights.

Manager

Informative Missive

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killing-died in an encounter with security forces at Hajipora.

On 15<sup>th</sup> of February 2001, another heart stunning incident took place in which my daughter got killed. The inhabitants of our area held a protest demonstration against the custodial killing of my nephew's brother-in-law, Jalil Ahmad Shah son of late Abdul Qadir. The protesters were demanding Jalil's body and

I was also in the procession. The security forces opened fire without any provocation resulting in the death of four persons including my daughter, Bilquis, 23, BA student."

Hanceefa said the killing of her husband, son and the daughter has left the family in a pathetic condition. Hanifa has a nubile daughter besides two sons the eldest being the lone bread-earner for them.

## Doda Dairy

### Prevention of Terrorism Ordinance (POTO) comes to Doda

One Alif Din, 56, son of Noor Din a petty government contractor hailing from a wayside village Jathi, of Doda district is a chronic heart patient. From August to ending November 2001 he was at Delhi for medical treatment. He was admitted to KC Pant Hospital for cardiac disorder. But little had it dawned on him that his return to Doda would turn into a nightmare and he will be booked under the draconian Prevention of Terrorism Ordinance (POTO) without any rhyme or reason.

him under FIR 18/ OK dated 31<sup>st</sup> October claiming his involvement in a firing incident. He was booked under section 7/27 Arms Act and section. 307 RPC. When Alif Din moved to the court for bail, the police booked him under POTO.

On 1<sup>st</sup> of November, he was taken to JIC, Doda without any charges, where he was put to sustained interrogation till 19<sup>th</sup> of December 2001. Alif Din was taken to the district hospital, Doda for medical check up.

### Gujjar woman booked under POTO

A Gujjar woman, Gulab has been booked under POTO for involvement in the movement of security forces in Rambhan area. Her husband was a dreaded militant and was killed by the security forces in 1998. The police have also seized the woman's house. Her relatives have denied the police allegations as baseless.

reaching Jammu he was arrested on 28<sup>th</sup> of November 2001 by a constable of police station, Narwal and whisked away to JIC, Doda. There Alif Din was tortured by the then SP Ashkoor Wani for being a "sympathizer of militants". He was allegedly asked by his interrogators to arrange a hefty sum to secure his release. Alif Din refused and police booked

whereas he was picked up on 26<sup>th</sup> of November 2001, police has recorded the date of arrest on 18<sup>th</sup> November.

He was again sent to JIC, Doda on 21<sup>st</sup> of December 2001. After a couple of days he was brought to the District Hospital Doda and was shifted to Jammu for medical check up on 28<sup>th</sup> of December 2001.

\*

### A rape victim's Roodad

To

The Hon'ble Minister of State (Home)  
J&K state  
Camp-Doda

Report made to former minister

A young 22 years old illiterate village household woman seeks indulgence of your esteemed institution for justice.

1. That I reside at Kora Kalilund in Tehsil Doda with my aged-old mother-in-law and a 2-1/2 years old daughter. My husband Abdul Latief being labourer was out of house on 6<sup>th</sup> February 2002.
2. That I was pregnant by about seven months and on 6<sup>th</sup> February 2002, one officer along with about 30 soldiers of 19 Rastriya Rifles camped at Uliampur came to village and entered in our house beating one and all. They beat my mother-in-law and me also. Seeing me somewhat beautiful as they claimed they asked me to send my husband to 10 RR camp. He was not at home. Some made derogatory comments and said they will come at night.
3. That feeling the danger at the hands of these RR troops, I and my mother-in-law being without a male member in the family locked house and slept for a night in a neighbouring house of Mohamdo Khandy.
4. That on the intervening night of 9<sup>th</sup> and 10<sup>th</sup> February 2002 some 15-20 soldiers again visited the village Kora after midnight knocked the door of Mohamdo Khanday's house, entered forcibly got tea prepared in the room where ladies were sleeping. The officer called by his soldiers as *Sahab* (sir) on the pretext of asking some questions took me to another room. Three soldiers accompanied him. The door of other room was closed and two soldiers on the orders of *Sahab* opened my trousers, dropped me on the floor and the *Sahab* raped me. I tried to raise hue and cry but one soldier closed my mouth with my *dupatta* (veil) and the other soldier caught my one arm. The *Sahab* raped me till his satisfaction and then slapped me and directing me not to disclose the rape otherwise his force will kill my

husband doubting him as a militant or sympathizer of militants. I can recognize and identify the culprit by face.

5. That from the moment onwards the child in my womb stopped to show movements. My husband a labourer was out of station. I accompanied with a neighbourer back to Doda consult a lady doctor in District Hospital. She took the matter casually didn't ask for story of injuries and prescribed some medicines. Prescription is preserved. On the intervening night of 11 and 12 I feel acute pain I was shifted to hospital and gynecologist took out the dead baby. Since then I am in the hospital admitted under MRD No.124 ward no. 1 bed No. 5. A Photostat copy of the certificate from the doctors is attached.
6. That on 12<sup>th</sup> of February, the SHO and DSP, Doda visited in presence of Tehsildar Ex. Magistrate, Doda. My statement was only heard but not recorded. I was under impression that FIR may have been registered but now when I was come back to my senses I was told that even a FIR has not been registered against the accused.

*The innocent reputed housewife of Ghanil Ji's country request for justice, which may kindly be administrated.*

Date 14-02-2000

*The Minister has directed SSP, Doda to take an immediate action, but nothing has been done.*

Shameema Begum

W/o Abdul Latief

R/o Korakalilund,  
Doda

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**Title of Naseema Begum**

One Naseema Begum wife of Abdul Qayoom Mir resident of Behota Tehsil, Doda states through an affidavit to the Peoples Forum for Peace, Doda that she is an illiterate household woman of 25 years old and her husband is a labourer who often remains out of home in connection with his daily earnings. That the troops of 8 Rastriya Rifles stationed at Behota many times visited with one or the other pretext to our two room house and misbehaved with them.

On 3<sup>rd</sup> week of January, her husband was arrested by 8 RR troops when he had returned to home from work and was detained for one week. Naseema Begum was taken to a camp on 18<sup>th</sup> of January and she was also detained there for two days. Where she was

forced by the officer to make a statement that militants have given her money for paying it to one Ghulam Nabi Boigo a Sarpanch of the area, failing which they threaten that her husband will be killed. She remained under pressure from the local commander of the 8 RR, who has personal grudge with the Sarpanch, who commands respect in the area. The local commandant said that Sarpanch Ghulam Nabi has defamed him and he wants to teach him a lesson. Naseema was molested in the custody but not raped. She was told her husband will be implicated in a false case. She was told to receive 30,000 rupees from anywhere and pay them for releasing of her husband, as she refused to oblige the army.

### Eight persons massacred in Rajouri

Eight persons were massacred in Rajouri on 20 February 2002. The names of the persons who were massacred are: 1. Shikumar Devi, 2. Shikumar Devi, 3. Shikumar Devi, 4. Shikumar Devi, 5. Shikumar Devi, 6. Shikumar Devi, 7. Shikumar Devi, and 8. Shikumar Devi. They were all women and were killed by the army. The names of the persons who were massacred are: 1. Shikumar Devi, 2. Shikumar Devi, 3. Shikumar Devi, 4. Shikumar Devi, 5. Shikumar Devi, 6. Shikumar Devi, 7. Shikumar Devi, and 8. Shikumar Devi.

### LIST of political detainees detained in different Jails

S.No.	Name of some political detunes detained in different jails	Jails under which they are detained
1.	Mohammed Ashraf Sehrai	Central Jail, Hazari Bagh, Bihar
2.	Mohammed Ashraf	Central Jail, Hazari Bagh, Bihar
3.	Sheikh Abdul Aziz	Central Jail, Hazari Bagh, Bihar
4.	Shakeel Ahmad Bakshi	Central Jail, Hazari Bagh, Bihar
5.	Hakim Abdul Rashid	Central Jail, Jodhpur
6.	Massaraf Alam Dhat	Central Jail, Jodhpur
7.	Mohammed Yousaf Mujahid	Central Jail, Jodhpur
8.	Dr. Ghulam Mohammad Habi	Central Jail, Jodhpur
9.	Adv. Onzi Abdullah	Central Jail, Jodhpur
10.	Ghulam Mohammed Dhat	Central Jail, Jodhpur
11.	Abdul Aziz Dar	Central Jail, Jodhpur

12.	Mukhteyar Ahmad Waza	Central Jail, Jodhpur
13.	Ghulam Nabi Sulji	Central Jail, Srinagar
14.	Ghulam Nabi Dar	Central Jail, Srinagar
15.	Mukhteyar Ahmad Sofi	Central Jail, Srinagar
16.	Parvez Ahmad Dar	District Jail, Kathua
17.	Shabir Ahmad Sheikh	District Jail, Kathua
18.	Saidullah Tantrav	Central Jail, Kot Bhalwal
19.	Ghulam Ahmad Mir	Central Jail, Kot Bhalwal
20.	Amir Mohammed Shamsi	District Jail, Rajouri

### ALLEGED HARASSMENTS

On 1<sup>st</sup> of February, inhabitants of Nowhatta area of Srinagar accused Border Security Force (BSF) Personnel, station in their area against alleged harassing and subject them to inconvenience.

On 15<sup>th</sup> of February, the inhabitants of Hamahna colony, Baramulla, accused the BSF personnel of harassment. The people of the area took to the streets and held protest against

alleged excesses. The inhabitants of the area alleged that the BSF personnel cordon the area every morning and subject the people to inhuman treatment.

However, a BSF spokesman denied these allegations and declared these allegations as baseless and false. He said their men maintain cordial relations with the innocent people.

### Extra Judicial Executions

One Abdul Rahim Gujjar is an alleged case of custodial death from Panzla, Rafiabad, Baramulla. It is alleged that Abdul Rahim was arrested on 1<sup>st</sup> of Feb by the security forces and killed in a 'fake encounter'.

#### Killing of a Poet

On 12<sup>th</sup> of February, a well known poet in literary circles, Abdul Ahad Durr, 45, of Khanpora, Baramulla district working as head clerk in the office of Chief Animal Husbandry, Kupwara was allegedly killed at the hands of 10 JKLF, posted at Baramulla. The people of Baramulla took to the streets and held strong protest demonstration against the killing. Nearly eight thousand people in a procession went to the office of Deputy Commissioner, Baramulla staged a *Dharna* and demanded stern action against the perpetrators. Some pelted stones at the office. The security forces fire several shots in the air to disperse the protestors. A defense spokesman told a local news agency that Abdul

A police spokesman said during interrogation he agreed to lead the security forces to a hideout. While they were returning to their unit, militants opened fire and in the shoot out Rahim was killed.

Ahad was killed in an exchange of fire between the militants and security forces.

The two-member team of PCHR also visited to Baramulla on 14<sup>th</sup> of February where they met different sections of peoples including the relatives of the deceased. Some young people were furious with the press. They told the team that lot of persons in the town have been given the press cards at the behest of intelligence agencies of the army. It is therefore they prevented the photojournalists to take the photographs of the processions, as they believed that the army later on arrests the leading activist of the mob.

At the Baramulla District Bar Association few lawyers express their anger

with the team as daily killings are taken place in remote villages where nobody visits. But only in towns or cities, which are convenient to the Human Right Groups and press reporting, are made. They were aghast over the indifference towards the invisible and major human rights violations being taken place in remote villages, particularly near the LoC.

According to the statement of Wasem son of Abdul Anad Bhat. On the intervening night of 12-13 February, there was a raid conducted by the security forces. And our ailing father was present at the home, before this incident in the month of January & February there was general harassment in the area and people were used to arrest by the security forces. Seven boys were arrested three days back before this incident. In this behalf a delegation has gone to concerned Superintendent of Police including my father.

#### A Government employee killed in custody

A youth identified as Ghulam Rasool, 30, alias Lassa son of Iqbal of Anchar, Soura was allegedly killed in custody at the hands of SOG. He was fathering eight minor children and working in a Mosque as *hamam* (took after the Mosque utilities). He was allegedly arrested by the Special Operation Group (SOG), stationed at Ganderbal on 15<sup>th</sup> of February and later on shot dead him in a cold blood. The news of Ghulam Rasool's killing spread like a wild fire and the people of the area took to the streets and held protest demonstrations against what they called the

#### Youth's body exploded

On 19<sup>th</sup> of February, a youth, namely, Bashir Ahmad Malik son of Habibullah Malik resident of Chak Arsalan Khan, Bandipora was allegedly first arrested by 14 Bastriya Rifles personnel and later detonate his body by an explosive at Chantimulla. But on 21<sup>st</sup> of February, the inhabitants of Bandipora area took to the street and held protest demonstration

The SP assured the delegation that incase army conducts any raid in future the civil administration would be accompanying them to prevent the harassment. That was the grudge against my father and his killing was a preplanned murder. The army asked the name of my elder brother Tariq and my father who was standing on the staircase told us that he will talk to army personnel's himself. Without any provocation my father was shot on his head and chest and my brother Naseer, a student of PUC received bullets in his neck. The army forced the body be buried in their presence. Police took the body at 9:00 am, they were not handing over the body.

One person stated that Major PS Pathak of 10 JKL was responsible for the killing. The Baramulla town observed complete shutdown for three days.

extra judicial execution of Ghulam Rasool at the hands of SOG and demanded the stern action against the perpetrators. In order to disperse the demonstrators police fired in the air.

The inhabitants of the area urged the state government to disband the SOG group of the state police. But the police version was contrary to the people's allegations and declared these allegations as baseless. Police said that Ghulam Rasool was apprehended by the personnel of SOG and army and recovered large quantity of arms and ammunition.

against what they alleged that Bashir Ahmad was killed in custody by security forces. He was tortured ruthlessly and later tied an explosive material with his body and detonated it.

Locals of the area alleged that Bashir was nothing but a farmer, by his profession and has no inclination towards militancy and people of the area demanded

rapid action against the perpetrators who assassinated Bashir Ahmad.

However, a police spokesman alleged that when Bashir Ahmad took them to a hideout for recovery of arms and

ammunitions and an IED blast went off in their way, which resulted in the death of Bashir. Police further alleged that the militants planted this IED to target the security forces personnel.

### Clash and suicides by security forces

On 3<sup>rd</sup> of February, a Central Reserve Police Force jawan committed suicide by shot himself with his service rifle allegedly at Head Quarters, Channi Himmat. The deceased jawan was identified as Sunit Chander Vishwas, 45/60 45 Battalion.

On 16<sup>th</sup> of February, a soldier of 7 regiment stationed at Balakote, on Line of Control in district Poonch opened fire on his colleagues, which resulted on the spot death of his three colleagues. Reports reveal that the grenades were scattered after the heated arguments between the soldiers took place. The deceased were performing their duties at that time of clash and their identities were confirmed as Bavalder, Daljeet Singh, Lante Walke Sukratrey Singh and Sauten Singh.

On 19<sup>th</sup> of February, a Village Defense Committee member committed suicide by shot himself with his service rifle at Baderwah area of district Baramulla. He was identified as Joginder Singh son of Gni Lal resident of Shekaram, Baderwah.

### Disappearances

On 2<sup>nd</sup> of February, 2007, five boys from Ashbagoo, Baniptore after they left their homes are reportedly missing. Their identities of missing boys are confirmed as 1. Nisar Ahmad 2. Firdous Ahmad 3. Firdous 4. Tariq Ahmad and 5. Parvez Ahmad.

A youth from Nowpora Payeen, Kawoosa is reportedly missing since 11<sup>th</sup> of November 2001, after the magam police arrested him. The identity of missing person is confirmed as Ghulam Nabi Dhat son of Ghulam Qadir Bhat. His family alleged that the court has

ordered his release on bail twice but the police choose not to release him. The relatives of Ghulam Nabi have requested the Home Minister and the DGP for the intervention in this matter.

On 26<sup>th</sup> of February, a Jama'at activist identified as Akhbar Ahmad Masroor resident of Krusan, Lolab is reportedly missing. His family members alleged that the security forces arrested him and took him to some unknown destination. His family members are worried of his welfare.

Date	Custodial killings	Women killed	Children killed	Disappearances
Feb 1	1	1	3	"
Feb 2	"	1	"	5
Feb 5	"	1	1	"
Feb 12	1	"	"	"
Feb 15	1	2	"	"
Feb 17	"	2	5	"
Feb 19	1	"	"	"

Feb 20	*	1	*	*
Feb 26	*	*	*	1
Total	4	8	9	6

### Women-Children Killed

On 1<sup>st</sup> of Feb a woman identified as Zareena Begum wife of Kabir Hussain resident of village Sarothi in Mender area of Sunakote area was died on spot when some unidentified armed men forced entry into her house and shot her dead.

In another incident three children were killed when some unidentified men hurled a grenade in Basal Uchhampur. They were identified as Mohammed Clayom son of Nisar Mohammed, Showkat Ali son of Nizar Mohammed and Shaid Mohammed son of Mohammed Siddiq.

On 2<sup>nd</sup> of February, a woman was shot dead by some unknown gunmen identified as Kashmiri wife Mohammed Shariq resident of Kolbadhan, Dool Gulabganj.

On 5<sup>th</sup> of February, a three years old girl identified as Javeda Anisul Najat, son of Ghulam Mohammed Najat who received a bullet injury on 4<sup>th</sup> February in an encounter between militants and security forces in a remote village Karama near Dandport. Later on 5<sup>th</sup> of February the 3000 meter troops injured a young girl. The killing of Javeda results in the death of his mother who was a heart patient and did not resist his shock.

On 16<sup>th</sup> of February, a woman identified as Lal Begum daughter of Zamrood Hussain was killed in a cross firing between militants and security forces in Kajarou district.

In another incident at the immediate area of Kajarou district a woman identified as Jameela Bt daughter of late Mohammed Jafar was first abducted by unidentified gunmen and later on shot her dead.

On the intervening night of 17 & 18 of February, some unidentified gunmen forced entry into the house at Kalarote Dharmanal, Rajpud and opened fire indiscriminately on the inmates. In the incident seven men and one woman, including nine children and two women were killed, the deceased were identified Jaiji Devi, 40, Shakuntala Devi, 36, 17 year old Chhotu Ram, Himla Devi, 13, Babli, 8, Babulgan, 7 and Madam Kumar, 7.

Feb 26, a woman identified as Zoolia Begum wife of Mohammed Shariq was killed when she was caught in a cross firing between militants and security forces at Basni Khali, Gurala Branch.

### Killings in the month of February

Date	Soldiers	Militants	Civilians	Counter Insurgents
Feb 1	*	5	6	*
Feb 2	2	5	3	1
Feb 3	3	12	1	*



Feb 4	*	2	*	1
Feb 5	*	2	2	*
Feb 6	*	5	*	*
Feb 7	1 SPO	1	3 (1 NC worker)	*
Feb 8	1	5	1	*

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Feb 9	*	5	1	*
Feb 10	3	2	*	*
Feb 11	*	3	1	*
Feb 12	1	2	*	1
Feb 13	2	8	1	*
Feb 14	*	*	1	*
Feb 15	1	18	3	*
Feb 16	*	4	3	1
Feb 17	*	2	1	*
Feb 18	*	8	*	*
Feb 19	3	3	1	*
Feb 20	1	6	2	1
Feb 21	*	3	1	*
Feb 22	1	3	2	*
Feb 23	*	7	3	*
Feb 24	*	2	2	*
Feb 25	1	2	2	*
Feb 26	*	2	1	*
Feb 27	*	3	2	*
Feb 28	*	4	3	1
Total	20 (1 officer)	125	52	6

### Chronology of February

- Feb 1: Five militants, five civilians, a block president of Peoples Democratic Party and his security guard were killed in several militancy related incidents in the state.
- Feb 2: Five militants, a suspected army informer, a woman and two Village Defense Committee members and two civilians were killed in several militancy related incidents in the state.
- \* A Special Police Officer's mother's nose and ears are chopped allegedly by militants and his father was beaten ruthlessly when they denied saying anything about their son.
- Feb 3: Twelve militants and two army jawans were killed in several militancy related incidents while as police recovered a dead body of a walnut dealer identified as Mukhtiyar Ahmad Kuchay of Rajpora, Tral in JK.
- Feb 4: Six militants and two women were killed in several militancy related incidents and a pro-government militant was shot dead by security forces mistaken him as a militant in JK.
- Feb 5: Two militants, a child and his mother were killed in several militancy related

Feb 6: Eight militants were killed in different militancy related incidents in JK.

- Feb 7: One militant, two civilians, a National Conference worker and an SPO were killed in several militancy related incidents in the state.
- Feb 8: Five militants, a soldier and a civilian died in several militancy related incidents in the state.
- Feb 9: Five militants and a civilian died in several militancy related incidents in the state.
- Feb 10: Two militants and three soldiers were killed in militancy related incidents in the state.
- Feb 11: Security forces during a search and cordon operation recovered an unidentified dead body of a youth from Moghal Maidian area of Doda district.  
\* : Three militants were killed while as four soldiers were injured in several militancy related incidents in the state.
- Feb 12: Two militants and a BSF man died in several militancy related incidents in the state.  
\* : Police recovered a dead body of one Mushtaq Ahmad Wani s/o Mohammed Yousuf Wani from Krangsoo on Mattan, Islamabad. The deceased according to reports was a pro-government militant.
- Feb 13: Eight militants, two cops and an ex-serviceman died in several militancy related incidents in the state.  
\* : Police fired in air at Baramulla to disperse a protest demonstration who are protesting against the killing of a government employee namely, Abdul Ahad at the hands of security forces
- Feb 14: A group of unidentified gunmen first abducted the son of a cop in Rajouri district and later chopped off his nose, ear and shot him dead.
- Feb 15: Eighteen militants, a soldier and three civilians including two women were killed in several militancy related incidents in the state.
- Feb 16: Four militants and an alleged security forces informer died in several militancy related incidents in the state.  
\* : A dead body of one Mam Din son of Fathe Mohammed was recovered by the police from Gabra in Karnah, Kupwara.
- Feb 17: Two militants, five miners, two women and a civilian were killed in several militancy related incidents in the state.
- Feb 18: Eight militants were killed while as two soldiers and SPO received injuries in different militancy related incidents in the state.

- Feb 19: Three militants, two soldiers and a civilian died while as scores of persons received injuries in several militancy related incidents in the state.
- \* : The army personnel allegedly severely beaten scores of people including a girl namely, Afshana Hamida a student of 11<sup>th</sup> class who later was hospitalized after the army was attacked by the militants.
- Feb 20: Six militants, a BSF man, a pro-government militant and two civilians including a woman died in several militancy related incidents in the state.
- Feb 21: Three militants and a civilian died in several militancy related incidents in the state.
- \* : Police recovered the dead body of a youth from Gopalpora, Mattan identified as Mohammed Yousuf son of Mohammed Rajab resident of Ondsoo, Achabal.
- Feb 22: Three militants, two civilians and a soldier died in several militancy related incidents in the state.
- Feb 23: Three civilians and seven militants were killed in several militancy related incidents in the state.
- Feb 24: Two militants and two civilians were killed in several militancy related incidents in the state.
- Feb 25: A soldier and two civilians were killed in several militancy related incidents in the state.
- Feb 26: Two militants and a civilian died in several militancy related incidents in the state.
- Feb 26: A Block President of National Conference was shot dead by some unidentified gunmen at Hazrabal, Zakura. The deceased has been identified as Haji Mohammed Ismael Dar.
- Feb 27: Three militants and two civilians were killed while as scores of cops received injuries in several militancy related incidents in the state.
- Feb 28: Four militants, a pro-government militant and three civilians were killed in several militancy related incidents in the state.

#### Legal Cell

PCHR has constituted a legal cell, which will be providing free legal assistance to the victims of human rights violations. Besides, PCHR will be filing Public interest petition before the Supreme Court of India and State High Court for enforcing the fundamental rights of the people.

For help contact: Legal Cell, PCHR, The Bund Amira Kadal, Srinagar Tel. No. 456394

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EDITOR

PARVEZ IMROZ

Published by

## PUBLIC COMMISSION ON HUMAN RIGHTS

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Democracy requires transparency, as in an open society people have right to know about the affairs of the state. But in our state, which is reeling under conflict from the past 12 years, both state and center governments seem afraid of transparency. The rulers don't want the truth to be known by the people particularly by the victims and the international community as rightly said long back that the truth becomes the first causality in the war. The state government has appointed different enquiries, whenever there has been massive human right violation followed by national and international outcry. Most of these enquiries have been administrative in nature to be conducted by concerned Deputy Commissioners. Also two commissions under the Commissions of Enquiry Act, 1962, have been appointed (Pandian Commission and O.P. Sharma Commission) to enquire into the incidents relating to unprovoked firing. The findings of five administrative enquiries ordered by the government in 2001 have not been made public for obvious reasons.

Besides the administrative and statutory enquiries from time to time, the army has also conducted internal enquiries, whenever the soldiers ran amuck. And again the findings of these probes have not been made public on the *alibi* that it will demoralize the army, which is fighting a proxy war. Ironically the unprovoked firings on unarmed civilians have been dismissed as aberrations, which does take place when army has to fight what the government calls "trans-border terrorism".

But the major reason before the army and the government in the state of Jammu and Kashmir is to avoid the embarrassment from the human right groups and international humanitarian concerns, which they fear, have also

political dimensions. Whenever the major incidents have taken place in the state be it Gow Kadal massacre, Kinnun-Poshpora mass rape or Bijbehara killings nobody knows what about the progress of the investigations and why perpetrators were not punished.

It is only the Pandian Commission (which probed the firing on peaceful demonstration at Barakpora/Bulbul Nowgam, Anantnag on 03-04-2000) that proved an exception. The commission termed the firing unjustified and provided suggestions for preventing recurrence of such events in future. No surprise that the Pandian Commission was highly acclaimed by the people of J&K as it unveiled the "democratic face" of the killers.

The Pandian Commission was tabled in the house but its recommendations were not implemented. The seven public servants belonging to SOG and CRPF who were held responsible for unwarranted attack amounting to murder, attempt murder and causing grievous hurts and without any justifications and authority, no action was taken. It is learned that the officers have been promoted instead of punished. The resilience of the government under the pressure of the union government to conduct further investigations into the incidents of Chitisingpora and Panchalathan was refused. The Public Commission for Human Rights (PCHR) has managed a copy of Pandian Commission and has decided to publish relevant portion of it in this issue of *Missive*.

PCHR believes the exposure of perpetrators of human right abuses are the major deterrent to minimize the human right violations and it is therefore the report of Pandian Commission is being published.

## Findings of Pandian Commission

The PCHR is publishing the excerpts of the 153 pages Commission report for the readers. Though the report was tabled in the State Legislature, it was not made public. The PCHR has managed a copy of the enquiry and is reproducing the relevant portions.

### Preface

The Government of Jammu and Kashmir, having felt in its opinion that it was necessary to appoint a Commission of Inquiry to enquire into the event of firing on a procession of inhabitants from Achabal area of district Anantnag at Barakpora/Bulbul Nowgam (Anantnag). On 3<sup>rd</sup> of April 2000 in exercise of the powers conferred by Section 3 of the Jammu and Kashmir Commission of Enquiry Act, 1962 (hereinafter referred to as 'the Act') has appointed this Commission of Enquiry under Notification No. SPQ 99 dated 17<sup>th</sup> April 2000, with the following terms of reference:-

- (a) To enquire into the causes and circumstances leading to the event of firing at Barakpora/Bulbul/Nowgam, (Anantnag) on 3<sup>rd</sup> of April, 2000, resulting in the death of five persons on the spot and causing injuries to others of whom three succumbed to their injuries subsequently;
- (b) to enquire whether the force used in firing on the crowd was justified or not;

Commission under the above said Notification was to submit its report within three months period, which was later extended by a subsequent Notification SRO. No. 236 dated 10<sup>th</sup> July, 2000 directing "that in Notification SRO-99 dated 17<sup>th</sup> April, 2000 "for the words 'three months' found in paragraph 3, the words 'seven months shall be substituted."

At the threshold, I, being the One Man Commission under the above said Notification of Enquiry, thank the Government of Jammu and Kashmir for having provided me with an opportunity to serve in this Commission under the above said Notification in enquiring into the event of firing under reference and to make suggestions for preventing recurrence of such events in future. In response to the above Government Notification SRO No. 99 dated April 2000, the Commission

took charge and commenced its functioning from 16<sup>th</sup> May 2000 (AN). On the very next day i.e. 17<sup>th</sup> May, 2000, the Commission along with its secretary, Shri G.Q. Mughal and other officials visited the scene spot of firing at Barakpora / Bulbul Nowgam (Anantnag) and the SCG and CRPF Camp Building barring the security posts

Thereafter, on the 20<sup>th</sup> May, 2000, the Commission issued a public Notification (No. IPC / J&K- Aug / 2000/77-30) inviting all the individuals, group of persons, associations, and organizations having knowledge, directly or indirectly of facts and circumstances relating to the matters referred to the Commission and having interest in the proceedings before the Commission or who wish to assist the Commission in the suggestions, to furnish their statement of facts / allegations in the form of affidavits duly verified and authenticated within the meaning of section 139 of Jammu and Kashmir Code of Civil Procedure, S.V.1977 (1920 A.D) along with three Photostat spare copies thereof, within 15 days from the date of publication of the Notification. This Notification was published on 20<sup>th</sup> May, 2000 in various newspapers both in English and Urdu, which are in wide circulation in the State of Jammu and Kashmir and in addition by broadcast and telecast. Besides sending a copy of this Notification to the President Bar Association, Association of the District & Sessions Court, Anantnag.

Thereafter at the request of some organizations, the period for filing of statements / allegations was extended by ten more days with effect from the date of expiry of the earlier period by a subsequent Notification vide No. JFC / J&K- Aug / 2000 / 7-30/A/67-62 dated 6<sup>th</sup> June 2000. This subsequent Notification was also given due to publicity in the same manner as was given to the original Notification (the copies of the Notification of the Government No. 99 / 2000 dated 17<sup>th</sup> April, 2000 and the subsequent notification No. 236 dated 10<sup>th</sup> July, 2000 as well as the Commission

Notifications dated 20-05-2000 and 06-06-2000 are annexed herewith).

In addition to the above, a letter was addressed to the President, State Guadiwara Board, Jammu with a copy of a President, State Akatt Dal, Jammu for information in response to their telegraphic request dated 04-06-2000, intimating the extension of time for filing of statement / affidavits.

Pursuant to the public Notification so issued, 69 affidavits inclusive of one from the then SHO, Achabal, Police Station, Shri Sayeed Gazanffer, Sub-Inspector, were received.

The Commission started hearing and recording of evidence of the complainants witnesses including some of the injured and others from 07-06-2000 holding the enquiry at Dak Bungalow, Khanabal (Anantnag). The complainants were represented by their counsel

Shri Manzoor Ahmad Ganie of Srinagar and Shri Zulfikar Ahmad Jan and Shri Muneeb Ahmad Shari of Anantnag and the Commission was assisted by the learned counsel Shri B.A. Jallu from the very beginning. Up to 06-06-2000 the Commission has completed the recording of the evidence of eleven witnesses (C.Ws. 1 to 11) and four witnesses on the side of the Commission (Comm. W.Nos. 1 to 4). After the recording of the evidences of these witnesses was completed, the Commission issued a Notice Ret. No. JPU J&K, Aug 1/ 2000 dated 20-6-2000 under section 10 of the Act read with rule 9 of the J&K Commission Enquiry rules, 1964 informing each one of the personnel of both SOG and CRPF that the Commission on consideration of the evidence, oral and documentary, made available to it till then (i.e. 20<sup>th</sup> June, 2000) and of several affidavits received, was of the opinion that there was prima facie evidence involving every one of those personnel posted/stationed at Barakpota Camp (Anantnag) with the incident of firing against the processionists who were proceeding towards Anantnag from Achabal on 03-04-2000 at about 1:45 or 2:00 p.m. resulting in the death of eight persons in total and injuring many other processionists and the Commission was of the view that the above prima facie evidence if un-rebutted was likely to prejudicially affect everyone of them and hence the Commission considered it necessary to enquire into the conduct of the personnel relating to the incident of the

firing and adding that the notice was given to them in order to give a reasonable opportunity of being heard in the enquiry and producing evidence in their defense and calling upon them to appear before the Commission at Dak Bungalow, Khanabal, (Anantnag) at 11 am on 24<sup>th</sup> of June 2000 either in person or through their counsel or with the permission of the Commission by any other person, if any of the person or all so desire. (A copy of the notice is also annexed here with).

It may be mentioned in this context that a parallel investigation in respect of this incident is being conducted under the Code of Criminal Procedure by the Deputy Superintendent of Police Anantnag and it is said that the investigation is nearing completion.

On 24<sup>th</sup> June 2000 Shri Anil Bhan, learned counsel appeared before the Commission on behalf of the SOG and CRPF personnel and requested for extending the time to file their statements of rebuttal in the form of affidavits, up to 5<sup>th</sup> July, 2000. At the request of the learned counsel for all parties, it was directed that the copies of the affidavits received from the complainants, side and the other records received from the police and the evidence recorded till then to be furnished free of cost to the counsel for the complainants as well as to the counsel for SOG and CRPF personnel on or before 26<sup>th</sup> June. Further enquiry was posted to 5<sup>th</sup> July 2000, on which date, learned counsel Shri Anil Bhan took further time for filing the affidavits of the SOG and CRPF personnel and the list of witnesses to be cross-examined along with the names of the witnesses to be summoned on their behalf. At his request the matter was adjourned to 12<sup>th</sup> July 2000. On 12<sup>th</sup> July 2000 the affidavits sworn to by five SOG personnel and 10 CRPF personnel were submitted. Thereafter, for the examination of the remaining complainants witnesses and cross-examinations of the witnesses already examined the enquiry was adjourned to 19<sup>th</sup> July, 2000 from which date onwards up to 26<sup>th</sup> of August, 2000 evidence of the witnesses was recorded and documents were marked. Thereafter, with the consent of all the concerned parties, the venue was shifted to Banquet Hall, Srinagar, where the evidence of the Commission witnesses No's. 14-21 were recorded. The examination of the witnesses, viz., complainants witnesses 1 to 21 and Commission witnesses 1 to 21 was completed by 19<sup>th</sup> of September, 2000 on which date the



Commission, at the request of the counsel for both the parties, directed that copies of all the depositions of the witnesses to be furnished to both parties free of cost. The matter stood posted to 10<sup>th</sup> October, 2000 to enable the learned counsel to finally address the Commission. Learned counsel Shri Manzoor Ahmad Ganje and Shri Zulfiqar Ahmad Jan on behalf of the complainants Shri Anil Bhan on behalf of the SOG / CRPF personnel finally addressed the Commission on 10<sup>th</sup> Oct, 2000, on which date the proceedings of the Commission stood closed.

Though the Commission classified some of the witnesses as complainants (C.Ws.) and some other as Commission witnesses (Comm. Ws) and similarly marked the documents, such a classification was adopted only for a proper understanding and appreciation of the charge and counter-charge of the respective parties. However, such a procedure was adopted to facilitate understanding the case of the respective parties.

The Commission, in its view, felt that it would be in the fitness of things to seek the considered views of some of the high officials of the Government to discuss the measures to be adopted for preventing recurrence of the event like Barakpora in future and accordingly had a formal meeting with the following officials at 4 pm on 13<sup>th</sup> Oct, 2000.

1. Shri C Phonsog, IAS, Principal Secretary to Government, Home Department, J&K, Srinagar.
2. Shri Naveed Masood, IAS, Commissioner and Secretary to Government general Administration Department, J&K, Srinagar.
3. Shri Khurshheed Ahmad, Commissioner and Secretary to Government, Law Department, J&K, Srinagar and

4. Shri Khurshheed A.Gani, IAS, Divisional Commissioner, Srinagar, Kashmir.

All the above officials were kind enough to attend the meeting and put forth their viewpoints in the matter.

Learned counsel appearing for both the parties also gave their views when they made their final representations before the Commission on 10<sup>th</sup> Oct 2000.

The Commission, without side-stepping any of the facts brought before it, has fervently made its sincere efforts to deeply and thoroughly analyse all the oral, circumstantial and documentary evidence made available to it, in their proper perspective in the backdrop of the causes and circumstances that lead to the event of the firing, to the best of its ability in an objective and impartial manner and without being carried away by any emotional or sensational consideration and has rendered its finding of facts besides making several suggestions to avoid recurrence of such events in future.

The Commission is submitting its finding of facts and suggestions with the hope that the Government will consider the same and draw its own course of action for expeditious implementation.

The Commission is thankful to all learned counsels who appeared for all the parties and the learned counsel for the Commission, who all co-operated in smooth conduct of its enquiry and completion of its report within the prescribed time; and to all the concerned officials of the Government for their kind and timely co-operation, the absence of which the Commission could have not been able to complete the process of enquiry and submit its report and to all the high officials, who attended the meeting held on 13<sup>th</sup> October, 2000 and put forth their views.

(October 27-2000 Justice Ratnaval Pandian (One Man Commission of Enquiry))

### **Background of Barakpora event**

(The causes and circumstances that led to the event of firing at Barakpora / Bulbul Nowgam on 03/04/2000)

This Commission even at the very inception fervently feels it veritably imperative to give a graphic sketch of the revolting background of the causes and circumstances leading to the event of firing at Barakpora/ Bulbul Nowgam on 3<sup>rd</sup> of April, 2000 as a

prelude by recapitulating the unbroken and continuous sequence of the two other earlier events-namely, the dastardly killings of thirty-six people of Sikh community at Chittisingpora and the killings of five persons at in Pathribal in Panchthalhan which are most germane to the

event under reference, without which the Barakpora event will appear to be an isolated and disjunctive one without any root cause of genesis. To put it briefly, the Barakpora event, indeed, would not have happened but for the prior two successive events i.e. one closely following the other with in the proximity of four days.

The terms of reference under SRO-99 dated 17<sup>th</sup> April, 2000, though, in their ambit and scope, are limited only to the enquiry into "the event of firing on a procession of inhabitants from Achabal area of district Anantnag at Barakpora/Bulbul Nowgam (Anantnag) on 3<sup>rd</sup> April, 2000" except the one under term- (d) requiring the Commission in general "to make suggestions for preventing recurrence of such events in future," this Commission, in order to have a perfect and comprehensive understanding of "the causes and circumstances leading to the event of firing at Barakpora" has felt it necessary to give a brief summary of the gory details of brutality of the two earlier encounters. But, at the same time, this Commission is very much conscious of its jurisdiction and limitation within the terms of reference and also of the fact that the two earlier events which are stated to be the root causes for the present one under enquiry are neither within its purview nor the Commission is called upon to drill-deep into the facts of those two events and render its finding.

Be that as it may, the totality of the evidence-both oral and documentary-placed before and collected by the Commission, as well as the affidavits submitted by individuals and few organizations demonstrably show, in no uncertain terms, that all the three events that had happened within a short span of two weeks in the district of Anantnag, are inextricably inter-linked with or interconnected to each other.

In the above back-drop of the unbroken chain of events, this Commission, on a deep cogitation, strongly feels it inevitable even at the threshold to categorize all the events in serialism and to make a peripheral survey of the two earlier instances/events, in order to have an insight study thorough understanding of the "causes and circumstances leading to the event of firing at Barakpora".

The three horrible incidents referred to above are:-

(I) The dastardly and horrendous killings of 36 innocent people of the Sikh community at Chittisingpora in Anantnag district on the late evening of 20<sup>th</sup> March 2000.

(II) The abduction of five persons on 24<sup>th</sup> March, 2000 from three different places at the barbaric killings of those persons on the following day, i.e., on 25<sup>th</sup> March in an alleged encounter at Pathribal in Panochalthan within the limits of Anantnag district and thereafter obliterating the evidence by completely charring three of the dead bodies within a "Khol" i.e. (small hut made of wooden logs with earthen top) and leaving one of the remaining with missing of the entire upper portion of the body over and above the chest including head all with the main fire intention to getting rid of even the last traces of physical identity and finally burying all the dead bodies at the various places with in a radius of 2 to 2 1/2 km and far away from the scene of aliened encounter.

(III) The event of firing at Barakpora/Bulbul, Nowgam within the jurisdiction of Anantnag district on 3<sup>rd</sup> April, 2000 resulting into the death of five persons on the spot and causing injuries to many others of whom three succumbed to their injuries subsequently.

Before setting forth sketchy account of the events that had happened at Chittisingpora and at Pathribal in Panochalthan, the cumulative effect of which was the root cause for the subsequently firing even at Barakpora, this Commission primarily contemplates to duly take not of certain indisputable significant features which place a dominant role in assisting the Commission to survey the then prevailing situation and circumstances under which all the gruesome killings took place and also to properly evaluate the evidence in such background, so that all the issues cent around the terms of notification are examined in the correct perspective without ducking any of those issues.

The common features are:-

1. All the three events of originating from Chittisingpora massacre, then followed by the killing at Pathribal in Panochalthan and ending with

Barakpora event had happened within the limit of Anantnag district:

2. all the events took place in a continuous sequences without much lag of intervening period and within the proximity places and as well proximity of 14 days i.e. between 20<sup>th</sup> March 2000 and 5<sup>th</sup> April 2000;
3. all the occurrences had happened within the jurisdiction of the Deputy Commissioner (DC) as well as the Senior Superintendent of Police (SSP) of the district Anantnag.
4. Of the three extreme instances of killings, the scene of the tragic occurrence of Chittisingpora event is within the jurisdiction of the police post, Mattan, and the scene spot of the Barakpora event is well within the jurisdiction of the Anantnag town police station. The remaining scene spot of the event that occurred at Pathribal Pancehalthan within the jurisdiction of Achabal police station.
5. The criminal cases in respect of the occurrences at Chittisingpora & Barakpora were registered in the town police station, of Anantnag, though the investigation of the case relating to Chittisingpora instance was thereafter transferred to Mattan police post. Apart from the above cases, two other complaints of missing of three persons (i.e. one from Anantnag town area and two from Hallan) which are related to the instance of killings at Pathribal Pancehalthan, were lodged at the town police station of Anantnag though the main case of Pathribal occurrence had already been registered at Achabal, Police Station which case of abduction alone within the two other cases registered in the town police station, Anantnag on the bases of the two complaints of missing is now directed to be investigated by a special

investigation team by a judicial order of the learned CJM, Anantnag.

However, the investigation of the Barakpora event was with the Stationed House Officer (SHO) of the town police station, Anantnag which investigation is now taken up by the Dy.SP, Anantnag under the orders of the SSP, Anantnag dated 11<sup>th</sup> April 2000.

The three case numbers as registered in the respective FIR's follows: -

- (a) FIR. No. 85 of 2000 (relating to the event of Chittisingpora).
- (b) FIR. Nos. 16 of 2000 of Achabal, police station regarding abductions of two Juma Khans of Brari Angan, 98 & 99 of 2000 of Anantnag, town police station relating to the missing of the three persons, namely, Shree Zahoor Ahmad Dalal of Anantnag and Shree Mohammed Yousuf Malik and Shree Bashir Ahmad Dhat of Hallan respectively.
- (c) FIR. No. 93 of 2000 of Anantnag, town police station relating to the event of firing at Barakpora/ Bulbul, Nowgam.

The investigation of all the above three cases are still pending with the respective investigating officers.

Now the Commission, in the ensuing part of this chapter, intends to give a brief summary of the events that had happened firstly at Chittisingpora on the night of 20<sup>th</sup> March, 2000 and secondly Pathribal-Pancehalthan on 25<sup>th</sup> March, 2000 consequent upon the abductions of two Juma Khan's of Brari Angan on 23<sup>rd</sup> / 24<sup>th</sup> March, 2000 and the missing of three persons i.e. two from Hallan and one from Anantnag two on 24<sup>th</sup> of March, 2000 which are the root causes and circumstances that led to the firing at Barakpora/ Bulbul, Nowgam on 3<sup>rd</sup> of April 2000.

### Finding of the Commission

Under the terms of reference of the notification SR NO. 99 dated 17<sup>th</sup> April, 2000, the Commission is asked to make enquiry and submit its report on the terms of reference specified therein, namely:

- (a) Enquire into the causes and circumstances leading to the event of the firing at Barakpora, Bulbul, Nowgam (Anantnag) on 3<sup>rd</sup> of April, 2000, resulting into the death of 5 persons on the spot and causing injuries to others of whom three succumbed to their injuries subsequently;
- (b) Enquire whether the force used in firing on the crowd was justified or not;
- (c) Fix responsibility for using excessive force if any; and
- (d) Make suggestions for preventing recurrence of such events in future.

As a prelude, the Commission likes to refer to an observation relating to the nature of the findings of a Commission of enquiry, made by Chandur Chud, J. (As he then was) in state of Karnataka a Union of India (1977 (4) SSC 608) which was decided by a seven judges constitution bench of the Supreme Court of India. The said observation reads as follows:

"It is clear from these provisions in the general scheme of the act that a Commission of enquiry appointed under the act is a purely fact finding body which has no power to pronounce a finding or a definite judgment. It has to collect facts through the evidence led before it and on a consideration thereof is required to submit its report which the appointing authority may or may not accept."

This Commission being fully conscious of the scope and ambit of a Commission of enquiry and the authority of the govt. to review the Commissions finding of facts, intends to record its findings on a comprehensive and detailed discussion, made under above various heads, as under:

Reg: Terms of Reference Clause (a):

On a close reading and by a strict interpretation of this term of reference, the Commission would like to bifurcate this term into two parts. Firstly, the facts and

circumstances that lead to the event of firing at Barakpora / Bulbul Nowgam, Anantnag on 3<sup>rd</sup> April 2000, resulting into the death of 8 persons and causation of injuries to 14 persons of whom some seriously; and

Secondly, the proximate causes and circumstances that provoked or in sighted the individuals from Achabal area to lead a procession to Anantnag town on the fateful day.

So far as the first part is concerned, the Commission has already given its finding under chapter 1<sup>st</sup> that the event of Barakpora is one of the links in the unbroken chain of three incidents namely, the first event that happened at Chittisingpora on the late evening of 20<sup>th</sup> March 2000, followed by the second event at Pathribal Panchalhan on 25<sup>th</sup> March 2000 and finally the 3<sup>rd</sup> event. Under reference on 30 April, 2000 all with in a span of weeks.

Of the two earlier events, the second event occurred at Pathribal, Panchalhan serves as the direct cause for the third event at Barakpora. In other words, had the Pathribal Panchalhan event not happened, the event at Barakpora would never have occurred. Therefore the Commissions finding on the first part is that the earlier causes and the circumstances resulting from the two events at Chittisingpora and Pathribal Panchalhan direct root causes which lead to the third event Barakpora.

On the second part for consideration under reference (a) the Commission holds that the immediate causes and circumstances that formed or provoked people of Brari Angan to take out a procession on 3<sup>rd</sup> April, 2000 where the discontentment and frustration of those aggrieved people that their demands, placed before the district authorities, particularly, the DC as early as on 26<sup>th</sup> of March, 2000.

The combination of causes and circumstances falling under the above mentioned two parts of reference (a) where solely responsible for the event of firing at Barakpora on 3<sup>rd</sup> April 2000.

Reg: Term of Reference Clause (b)

Under this reference the Commission is required to make enquiry whether the force used

in firing on the crowd was justified or not?

The Commission records its finding that there was absolute no justification for resorting to firing on the crowd on 3<sup>rd</sup> April 2000 and the said firing was deliberate and unjustified.

#### Reg. Term of Reference Clause (C)

Under this head, the Commission is required to fix the responsibility for using excessive force if any.

(a) In the view of the Commission, the question of using excessive force would arise only at all there was a cause of firing and not otherwise. In the background of the Commission's finding *under reference*

(b) Above the Commission records its finding on this reference.

(c) That the firing that occurred on that day killing 8 innocent persons and injuring 14 other, some of them seriously, is nothing sort of an unwarranted brutal attack amounting to murder, attempted to murder and causing grievous and simple hurt without any justification and authority. In giving this finding, the Commission fixes the responsibility only on the following person of the SOG and CRPF.

1. Shri Ashok Kumar, ASI of SOG, No. 619 /IRP;
2. Shri Krishan Kumar, H.C. of SOG, No. 26, 5<sup>th</sup> Ba. JKAP;
3. Shri Chaman I.ai, Sgret. of SOG, No. 3 STF (140.D);
4. Shri R.P. Roy, Commander (SI) of CRPF, No. 680395635;
5. Shri P.C. Hundique, Constable of CRPF, No. 861242928;
6. Shri Sham Kumar, Constable of CRPF, No. 861190555, and
7. Shri S.V. Limbekar @ Venkati, constable of CRPF, No. 911444195.

As regards the other personnel, who were stationed in the camp on the date of occurrence, the Commission holds that they had never participated in the event and as such no responsibility could be fixed on them.

A few affidavits have been filed by some of the deponents falling under group 'D' of annexure 2<sup>nd</sup> making certain allegations

against the echelons of the high ranking police officials, the averments of some of which apparently seem to have been made on presumptions. Such allegations are not sustained by any other material. Some of the allegations are contrary to the evidence before the Commission. Another set of allegation are out of the Commission's purview. Though sufficient opportunity was given to the deponents of some organizations at the request of the counsel for the complainants to appear before the Commission, none has appeared before the Commission is not in a position to express its view on those allegations and it is constrained to hold that no findings could be rendered on such unsubstantiated presumptions and on those which are out of the purview of reference.

#### Terms of Reference Clause (d)

Suggestions for prevention recurrence of such events in future

Under the notification SRO 99 / 2000 dated 17<sup>th</sup> April 2000 the Commission, in addition to make an enquiry regarding the event of firing at Barakpora and submitting its finding of facts have been asked to make suggestions for preventing of recurrence of such events in future. A careful reading this term of reference Clause (d) makes it clear that the suggestions have to be confined only for prevention recurrence of such events meaning thereby an event of the nature of the one that happened at Barakpora. Therefore, the Commission, in order to make the suggestions asked for, has under taken comprehensive study of the lapses, it falls and short comings of the forces in maintaining law and order or managing controlling any assemblage / processions, agitations / demonstrations, and in this connection held a meeting of some high officials of the state on 13-10-2000 and sort their views on the subjects.

The following officers participated in the said meeting:-

1. Principal Secretary to the Government Home Department.
2. Commissioner and Secretary to Government, General Administration Department.

3. Commissioner and secretary to Government, Law Department.

4. Divisional Commissioner, Kashmir.

5. Secretary, Commission of Enquiry.

Besides, after taking into consideration the concerned provisions of law and rules of the viewpoints put forth by the above officials the Commission feels that if the following measures are adopted by the law enforcing agencies the recurrence of such events can be prevented/minimized in future:

(i) Forces like SOG/ SIF/ CRPF/ BSF and ITBP, which are meant to fight against militancy should not be called or given free hand to deal directly with law and order problems like controlling or disposing of any assembly or stoppage or processions, even if in turn out to be unlawful. In case it becomes unavoidable to do so then in case special forces if needed, be called assist the district police for dealing with law and order problems and they should act under the strict instructions, advice, control, and supervision of the district authorities that is District Magistrate (D.C) and the District S.S.F./ S.P.

(ii) Necessary amendments should be made in the rules / manual under which the District Magistrate should be empowered to exercise his effective control over the district police. And whenever unlawful assembly, procession or demonstration is to be disposed off by the police. An Executive Magistrate should be present on the spot, under whose orders the police should use reasonable minimum force to deal with such assembly or procession or demonstration, as a last resort when the situation becomes unmanageable. The areas of the district should be divided and demarked into various zones / sub zones and a subordinate Executive Magistrate should be put in charge of such zones / sub-zones by the District Magistrate under a general order. And whenever the service / presence of an executive magistrate is needed by the police, the latter should be able to contact the concerned magistrate directly and immediately and there should be no need of requesting the District Magistrate to depute some magistrate to deal with any situation which course action normally consumes much of time and the situation may go beyond control by then.

(iii) In no case police should have authority to open firing on the unlawful assembly / procession / demonstration or even to use heavy *lathi* charge without the specific and written order of the magistrate who may be present on the spot.

(iv) Even if the assemblage / procession / demonstration goes unmanageable, the police force even with the aid of the special forces, first of all should resort only to mollification and then to administer *serai* warning and thereafter resort to use of water cannons, tear smoke and if necessary, mild *lathi* charge and finally, caution them by firing in the air and only in special situation and extraordinary circumstances warranting opening of fire, they should use only ordinary fire arms with rubber bullets, that too, under the order of the magistrate present there. For these purposes every head quarter of the police should be provided with sufficient water cannons, tear smoke, rubber bullet fire arm. But at no point of time militarized weapons should be used against the civilian mob.

(V) No police officer less than the rank of an inspector with sufficient service experience should be put in charge of a police station and no police officer less than the rank of a sub inspector should be put in charge of a police post.

(VI) As far as possible a Gazetted Police Officer go on the spot to deal with any law and order situation or to disperse any unlawful assembly/ masses and he too, should take any action only as per the advice or written order of the magistrate present on the spot.

(VII) There should be complete union, co-ordination, co-operation and mutual understanding between the District Magistrate and the District Superintendent of Police and the District Magistrate being a superior officer, should have educate control over the District Superintendent of Police. This can be possible only if District Magistrate is empowered to write APRs of the District Superintendent of the Police and he should also be empowered to review the APRs of all the subordinate Gazetted Police Officer in the concerned district.

(VIII) In case any person is to be taken for interrogation by any police personnel or special police or even by the army, the authority

concerned should give advance intimation to the local Station House Office of the concerned police station and the concerned *chowkedar* (guard) giving the reasons for taking the person into the custody and such information passed onto the concerned police officials and *chowkedar* should be entered in their daily diaries. Even if the local police take any one for interrogation to the police station, they must send intimation to the nearest magistrate as to why such an action restored to.

(IX) The intelligent wing of the police should always be alert in collecting information of any plan of the people for going in for demonstration etc. and send advance intimation

to the Police Headquarters and the concerned police station on the bases of which, the police should take primitive measures by securing the unruly elements of that area in advance and draw a plan of action before hand.

(X) The government may also consider introducing "community policing" in all the civilian areas in a state of having the militarized policing".

(XI) Lastly the force, whether local or special or otherwise, must be strictly instructed and advised that a crowd is more to be managed than to be controlled by using force, by adopting this method serious consequences can be averted.

## Recommendations

There can be no second opinion that the incident that had taken place in front of the SOG and CRPF Camp at Barakpora / Bulbul Nowgam, Anantnag (Iqbal Chowk) is nothing but a sort of butchery in which 8 innocent persons had laid their lives and 14 persons sustained injuries of whom some were very seriously. The loss of life is irrevocable. The family members on accounts of the extermination of their near and dear have almost come to the verge of their life. To respective wives of some of the deceased, the world itself has come to an end. All though who have lost their husband and children are poor people living in hilly areas therefore, under their circumstances the Commission feels obliged on humane consideration to make the following recommendations:

- (1) The government may be pleased to consider payment of at least a sum of rupees two lakhs (2,00,000) to the legal heir (s) of each and everyone of the deceased persons by way of compensation;
- (2) Among the injured persons complainants witnesses 9 to 10 are proved to have sustained very serious injuries and it is only by the grace of Almighty that they escaped death C.W.9 (Shree Ghulam Nabi Bhat) in his evidence has stated before the Commission that due to the serious

injuries sustained by him, both of his thighs his private parts has been rendered sterile and as a result of that he has become impotent and is unable to carry out is matrimonial obligations. It was represented during the course of enquiry that complainant witness No. 10 (Sheri Abdul Aziz Sheikh) is still bed ridden. Therefore, the Commission recommends that both of these two injured persons paid a sum of rupees of 1 Lakh each by way of compensation;

- (3) of the 14 injured persons, 8 persons have sustained grievous injuries due to gunfire. Barring the two persons mentioned in Cl. (2) above ( i.e., C.Ws, 9 & 10), the remaining 6 persons whom sustained grievous injuries are:
  - (a) Sheri Abdul Ahad Wani son of Abdul Aziz Wani resident of Utrasoo (C.W.1);
  - (b) Sheri Abdul Gani Khan son of Mohammed Abdullah Khan resident of Utrasoo (C.W.2);
  - (c) Sheri Haji Noor Alam Khan son of Akbar Ali Khan resident of Brari Agan (C.W.3);
  - (d) Sheri Abdul Majeed Khan son of Ghulam Nabi Khan

resident of Brari Agan (C.W. 5)

(e) Shri Ghulam Rasool Koka son of Khazir Mohammad Koka resident of Brari Agan (C.W. 25)

(f) Qasim Khan son of Mir Zaman Khan resident of Brari Agan (C.W. 29)

Regarding the 6 persons mentioned above (C.W. NOs. 1,2,3,5,25 & 29), the Commission recommends whether government may be pleased to pay a sum of rupees twenty-five thousand (Rs. 25,000) by way of compensation in which one of them who had sustained grievous injuries.

The 6 other injured persons who have sustained injuries, simple in nature, are as follows:

(A) Shree Ghulam Hassan Bhat son of Abdul Samad Bhat resident of Utrasoo (C.W. 4)

(B) Shree Showkat Ahmad Shah Son of Shams-ud-Din Shah resident of Utrasoo (C.W.6)

(C) Shree Javid Ahmad Khan son of late Mohammed Ayub Khan resident of Utrasoo (C.W.7)

(D) Shree Basit Ahmad Khan son of Malika Khan resident of Utrasoo (C.W.8)

(E) Shree Abdul Rehman Mir son of Fathe Mir resident of Kren (C.W.30)

(F) Shree Ali Mohammad Hajjam son of Mohammad Akbar Hajjam resident of Utrasoo (C.W.31).

The Commission recommends that the government may be pleased to pay a sum of rupees ten thousand (Rs.10000) to the above said six persons who have received simple injuries.

Among the injured witnesses, complainant witnesses No.2, Shree Abdul Ganj Khan, 25, son of Mohammed Abdullah Khan resident of Utrasoo, Khanpora, a graduate has received a bullet injury in his right forearm. Taken into consideration the fact that he is a graduate from lilly track, the Commission feels obliged to recommend to the government that this witness may be provided with an employment suitable to his qualification in any of the departments of the government, in addition to the payment of compensation recommended above.

Before parting with this report, the Commission makes it clear that the investigation to the events under reference has to proceed uninfluenced and uninhabited by the finding of this Commission and the conclusion Commissions arrived at by the Commission as regards those event (s) shall not have any bearing over the bearing of any case that may be pending before any court.

### Tragic family of the Valley

On 13<sup>th</sup> of January 2002, a highly depressed and disappointed middle-aged woman, namely, Haneefa wife of late Mohammed Maqbool Rather resident of Hiagam in Baranulla district approached the office of PCHR to reveal her pathetic tale.

My husband was a *Sarpanch* and an activist of National Conference. At the beginning of militancy he was threatened to disassociate himself from the NC and resign publicly. After threat perceptions my husband left the party for his safety.

In 1992, army arrested my son, Hilal, 25, (militant at that time) during a search and

cordon operation along with two other militants. After three-months detention he was released.

Hardly a fortnight of Hilal's release, some masked gunmen abducted my husband and on next day on 29<sup>th</sup> of September 1992, our neighbour namely, Showkat informs us about his assassination. We rushed to Hiagam stand where my husband was hanged, and brought his body to home.

I was yet to overcome the husband's loss when death revisited my family. On 18<sup>th</sup> of August 1993 my second son, Hilal Ahmad Rather-who had earlier deserted the militant ranks but joined again following his father's