

### A Fact Finding Report by the NCHRO Team

30<sup>th</sup> April 2015

Hyderabad



Two weeks after Hashimpura verdict which acquitted all the police personnel involved in the custodial killings of 42 innocent Muslims, the news about the killing of five Muslims in custody by the Telangana police came as a rude shock to all peace loving people. A seventeen member escort police team of Warangal central prison led by one Uday Bhaskar (RSI) shot and killed five under trial prisoners on their way to Hyderabad trial court. The persons who lost their lives are 1.Viqar Ahmed (UT No 1064) 2.Mohammed Haneef (UT No 1077) 3.Syed Amjad Ali (UT No 1065) 4.Mohammed Zakir (UT No 1002) all from Hyderabad and 5.Izhar Khan (UT No 1066) from Uttar Pradesh. All of them are accused of forming a militant outfit Tehreek – e-Galba -e - Islami and operating a hitting squad targeting the police. They were arrested between 2007 and 2010 on various charges that included terror acts such as attacking police and killing them. They were shifted from prisons in Cherlapalli and other places on the pretext that they were creating trouble there.

According to police version all these five were taken in a minibus from Warangal prison on April 7 morning at 7.55 am to Nampalli trial court in Hyderabad. “On the way at about 10.05 hours when the escort vehicle reached outskirts of Tangatur Village in Alair police station limit UT Prisoner Viqar insisted to stop the vehicle for passing urine, after passing urine and getting into the bus the UT prisoners led by Viqar pounced on the police party snatching an INSAS RIFLE by uttering words ‘MAR SALEKU, CHODNA NAHI’, Then he opened fire on RSI Uday Bhaskar and party. In self defense, police party opened fire resulting in the death of 5 UT prisoners.”

A case is now registered against those killed in this encounter in Alair PS, Nalgonda district (35/2005 u/s 120 b, 143, 147, 397, 307, 224, 332 r/w 149 IPC & S 25 (1), 27 Arms Act).

### **Loopholes in the police story**

The media as well as a number of Human Rights Activists have pointed out many loopholes in the police story. Some of them are:

1. Usually the escort team with the trial prisoners start from the prison complex at about 11 am. Why on this fateful day they have started at 7 am itself? Is it because they want to finish the matter at the early hours on the highway?

2. The distance between Warangal and Hyderabad is 147 km which can be crossed within 3 hrs at the maximum. Usually at the start itself the prisoners are asked to attend the nature's calls and there is no need to stop the vehicle in the midway for this purpose.

3. The photographs published in the media reveal that all of these 5 UT prisoners were hand cuffed and some of them are tied to their seats. Then how can they overpower the 17 strong armed police and tried to kill them?

4. The trial court had said that the trial will continuously be conducted from April 1 to 10 and all the accused should be present in the court daily. Fearing that something very bad is going to happen, the trial prisoners were also pleading that they should be shifted to some prisons in Hyderabad. The accused prisoners had complained to their near and dear that they were tortured heavily during such transits. Viqar Ahmed's father Mohammed Ahmed had submitted a written petition to the chief justice of AP high court on 25

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April 2012 praying that his son should be shifted from Warangal prison as his life is in danger.

On the 6

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April 2015

Viqar Ahmed

himself submitted an affidavit that his life is in danger and hence he should be shifted immediately to any prison in Hyderabad. That prayer was to be heard on the next day in which he and his four other co accused were killed. The under trials had also complained to their relatives that in a previous occasion they were asked to get down from the vehicle and run away which they refused as they knew that it was a ploy to kill them.

5. The trials are to be completed within a few days and the prosecution was not able to prove their cases convincingly due to lack of evidences. The police were fearing that all these five accused will be acquitted at last and left free. Since they were all arrested on charges that included targeting and killing of police personnel the department is not ready to leave them free. Also two weeks back in an encounter between some escaped prisoners and police, those two prisoners and three constables were killed. The Telangana home minister N.Narasimha Reddy termed them as escaped gangsters from UP while the Telangana police branded them as SIMI activists. In these backgrounds to boost the morale of the police these five people should have

been killed in a fake encounter.

The Telangana government is keeping its mouth tightly shut up and the police higher ups were not able to satisfactorily counter the loopholes identified by the activists. The Seshachalam fake encounters in which 20 innocent Tamil workers were killed by the AP police also happened in the same day. We are happy that it was widely condemned by almost all political parties and other such organizations. The NCHRO also performed a fact finding operation joining hands with others on that incident. At the same time we are worried that due attention was not given to this incident by the political parties and organisations in which five youths from a minority community were brutally killed in custody.

### Fact Finding Committee

In this background the **National Confederation of Human Rights Organizations** (NCHRO) has organized a fact finding team to investigate the encounter killings of these five Muslim youths. The team members are:

1. Prof. A. Marx, Chair Person, NCHRO, Chennai, Cell: 094441 20582,
2. Reny Ayline, National Secretary, NCHRO, New Delhi, Cell: 086063 37319,
3. Ko. Sugumaran, Ex-Co Member, NCHRO, Puducherry, Cell: 094980 54640,
4. Adv. A. Mohamed Yusuff, National Secretary, NCHRO, Madurai, Cell: 094898 71185,
5. T.V.H. Prathmesh, Peoples Democratic Forum, Bangalore, Cell: 099163 80689,
6. Talaha Hussain, Student Activist, Bangalore, Cell: 080505 65771,

7.Mohammed Abdul Ahad, Human Rights Activist, Hyderabad, Cell:090303 5044.

8.B.Sreenivasa Rao, National Ex-Co Member, NCHRO, Cell:093938 75195.

This team visited the houses of the victims in Hyderabad and also the encounter spot on the Warangal – Hyderabad highway near Tangatur village in Aler police station limit at which these five youths were shot and killed. We met the closest relatives of at least four of the victims, their lawyer Khalid Saifullah, Lateef Mohammed Khan and Kanneez Fathima of Civil liberties Monitoring Committee, Senior journalist and Editor of Siasat Urdu daily Zahid Ali Khan, some other people and shop owners in Hyderabad and Aler.

After visiting the place of encounter we went to Aler police station where no senior police officers were available. When we contacted the DSP Mohan Reddy, he replied that he was going to attend the magistrate enquiry about the encounters and could not answer our questions. However we were able to meet the Director General of Police of Telangana state Anurag Sharma IPS and the state Minorities Commission Chairman Abid Rasool Khan.

### **Statements of the relatives of the victims**

#### **1.Ishrat Bhanu (32) w/o Dr. Mohammed Haneef**

“My husband Haneef (38) is a Gujarati. His aunt is married to one of our relatives in Hyderabad. In a marriage ceremony we met and married. He is an Unani doctor (BUMS) and he practiced near by. He had no interest in politics and had no contacts with any political parties or movements. Except attending without fail the Friday namas he cannot even be characterised as a religious person. He used to spend at least four hours in the morning and six hours in the evening in his clinic attending his patients. We are shocked to hear from our neighbors on July 11, 2010 that Haneef was arrested from his clinic and taken away by the police after covering his face with a black cloth. He was then implicated with Viqarudeen and others in various cases. We don't know till today why he was targeted by the police. He didn't know Viqaruddin or other people implicated with him till the day before they were arrested. Police never came to our house nor they took him for any enquiry before his arrest. This you can enquire with anybody in

the surrounding area. Now my mother and three children aged 9,8 and 4 are without any bread winner. There were torture marks on the body of my husband apart from eight bullet injuries....”

When we came out of their house a man in plain clothes photographed us all.

### **2. Lakshmi Narayanan, the building owner of Haneef’s clinic and V. Narsingh, the owner of Annapoorna Medicals in the same building**

“Mohammed Haneef is a very normal person and is a good character. Nothing suspicious about his activities. No others except his patients come to see him. Only after his arrest some police came here twice and enquired about him. Before that nobody came here and asked about him. We feel sad to hear his end.

### **3. Mohammed Ahmed f/o Viqar Ahamed (34)**

“I am a retired civil engineer and I spent much of my life in gulf countries. I have five children and Viqar is my younger son. He is pious in nature. He is a B.Com degree holder. He is little emotional and actively takes part in rallies against Babri Masjid demolition. He used to attend DJS programmes. Everything went normal till the Mecca Masjid blast happened. Viqar’s name was implicated with other innocent Muslim boys in that blast case. Since these boys were arrested and tortured by the police my son went underground in late 2007. There afterwards we don’t know his whereabouts. If we had contacts with him we would have advised him. He is good in nature and only the fake cases foisted by the police led him to this end. He was arrested in 2010. He has nothing to do with the conspiracy to kill Narendra Modi. But he was implicated in that case also. He was shifted from Cerlapalli jail to Warangal prison and then to Sabarmathi jail in Gujarat and finally brought to Warangal for trial. Whenever we met him in the jail he complained about police tortures during transits. In the year 2012 I gave a complaint to the chief justice of AP to shift him to any prison in Hyderabad since his life was in danger. Even the day before he was killed he gave a written complaint to the trial judge to shift him from Warangal. In this country and in this life we don’t believe that we can get justice. But I am sure my son will get justice here after...”

#### 4. Imtias Ali b/o Amjad Ali

“Amjad is my elder brother. Viqar Ahmed is our cousin. Amjad was doing embroidery works. He used to go to jim and had no other connections with any organizations, After the Mecca masjid blast Amjad was also implicated in the blast case. He went underground one day after Viqar Ahmed

went underground. In the year 2010 he was arrested. During his underground years he was implicated in a number of cases. Of the thirteen cases against him he was acquitted in almost ten cases. Last year he gave a letter of threat to his life. On 6

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April, one day before he was killed he requested the trial judge to allow him not to be present everyday during the trial since it is difficult for him to travel daily because of his disc problem. But the judge refused. There were so many torture marks in my brother’s body. I have photographed all of them. During my brothers underground period police never gave any trouble to our family.”

#### 5. Mohammed Shahid b/o Mohammed Zakir (32)

“My brother was an auto driver. He was married and has two children. But they were not living with him. He had some financial troubles. He met Viqarudeen when he went to offer prayers in Musheerabad mosque. When Viqar Ahmed asked him to arrange a house for him he helped to find one. Apart from this he had no connection with either

Viqar Ahmed

or others. He had just passed 10

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std and had no political affiliations.”

#### 6. Advocate Shaik Saifullah Khaled

Saifullah Khaled is the lawyer for three of those killed (Viqar Ahmed, Amjad Ali and Zakir). He told that judiciary, NHRC and the political class all have different standards of justice when they face violations of the rights of Muslims. They didn’t take the cold blooded murder of these five Muslim youths seriously. NHRC sent a special team to investigate the Seshachalam murders and asked to submit a report. “Muslim ruling class also not worried about this since they have

strong connections with the ruling parties” he said.

When we asked him about Viquar Ahmed’s connection with the DJS, he replied that, “Viquar Ahmed is an emotional person and DJS is neither a banned organization nor a terrorist outfit. It is just like the RSS. It gave training in physical exercises and some martial arts”. When we asked him about the police propaganda that Viquar Ahmed was the founder member of one Tehreek –e- Galba –e- Islami (TGI), he said that it is a total lie.

After the murder of all these five people he moved the High Court of AP and Telangana with a prayer to exhume the bodies and conduct a re-postmortem. He also prayed for the registration of a case of murders against the escort team. The court was reluctant to pass an order and had postponed the case to June 8 which is meaningless since the bodies will be decomposed totally in the meantime.

When we asked him about the Special investigation team appointed by the Telangana Govt to investigate the encounters he replied that many of the police officers included in that team are notorious for their hate against Muslims.

### **7. Lateef Mohammed Khan and Kaneez Fathima, the office bearers of ‘Civil Liberties Monitoring Committee’**

The ‘Civil Liberties Monitoring Committee’ has published a detailed report on this encounter killings immediately after it happened. Lateef Mohammed Khan has moved the court to pass order for a magisterial enquiry on the encounter which is mandatory as per CrPc 176 (1) (a). This case is also posted to June 8. He had also given a complaint to the station in charge of the Aler PS to register a separate case against the escort party for murder charges under Sec 302 IPC which was refused. Lateef is of the view that the lives of the Muslims of India are in danger and the lives of Muslim prisoners are more dangerous. When we asked about Viquar Ahmed’s connection with the ‘terrorist outfit’ TGI he laughed and said that TGI is an invention of the police to kill these people. He also said that these five youths might have been killed in a nearby ‘tanda’ and brought here.



### 8. Zahid Ali Khan, Editor, Siasat

Zahid Ali Khan is the editor of the Urdu daily Siasat. He told that except Abu Asim Azmi, Samajvadi Party leader local Muslim leaders have not opened their mouth to condemn these fake encounters. It is a clear case of revenge killing contemplated in the higher levels. He opined that some other killing squad other than the escort party might have been employed to kill these victims. Finally he said that he still has strong faith in Indian judicial system and he felt that a judicial enquiry by a sitting judge will bring the facts behind these killings.

### 9. Abid Rasool Khan, Chairman, Minority Commission

When we started to raise our doubts about this encounter story the minorities commission chairman Abid Rasool Khan began to cogently narrate all the loopholes in the police story and said that the commission has raised all these questions and sought explanation from the police and other authorities. When we asked him about his impression on this so called encounter he replied that as a constitutional body he cannot form any impression before proper investigation. Regarding the SIT formed by the government, he said that it is just another police investigation and the commission will press for proper enquiries. When we complained that the Supreme Court directions and NHRC directives were not followed in this case, he said that if we give a written complaint to the commission explaining in what way these directions are violated, he would necessarily take action. Regarding compensation to the families of those killed , he said that if there are any precedents for this, the commission will recommend this also to the government.

### 10.DGP Anurag Sharma

Even before we begin to raise our questions he told that the case is under investigation and replying to our questions would be subjudice. When we asked why no murder case was filed against the police, he replied that the police happened to kill when performing their duties and hence no such case can be filed against them. When we pointed out that in the PUCL vs State of Maharashtra case SC has said (Sep 23, 2014) that such a case should be filed when a person dies in police firing, he asked us to show any reference to it. We immediately showed him a copy of the judgment which he brushed aside saying that they have already consulted legal experts and the attempt to murder case filed against the five persons killed in the encounter is enough to investigate the encounter. He also continued that the SIT will do that. When we pointed out that the leader of the SIT DIG Sangalia has resigned he said that he did it

because of personnel reasons. Before we came out we said that our impression is that it is a cold blooded murder and he replied that he would not respond to this.

### **11. Boora Narsaiah Goud, Nalgonda MP (TRS)**

When we contacted Member of Parliament, Nalgonda Constituency Boora Narsaiah Goud over phone, he hesitated to comment on this encounter. "Now I am in Delhi attending the Parliament. I can't tell at this time, whether it is a real encounter or a fake one without knowing the full facts. I feel that the appointment of a Special Investigation Team is a correct act".

### **Our Observations**

All the loopholes in the police story , that we have narrated in the first part of this report remains unanswerable. All these five people were arrested more or less at the same time and all of them are implicated in all the cases with two other people who are now in jails. In the second part of our report the family members of Viqar Ahmed, Amjad Ali, Mohammed Haneef and Mohammed Zakir narrate their versions about how these five people were implicated in all these cases. The fifth person Izhar Khan from UP is charged as the person who gave a pistol to them.

Of all these five people only Viqarudeen had some political connections. He and his cousin Amjad Ali went underground only to avoid arrest and torture through implicating them in the Mecca majid blast case. The irony here is that a Saffron outfit was behind that blast. But the police targeted Muslim youths as usual. This led Viqar Ahmed and Amjad to go underground. Even their family members didn't know what they were doing and who were behind them in the next three years.

As human rights activists we are concerned here only with rights of these accused. Even if we assume that Viqar Ahmed was responsible for attacking the police we don't know how even before he was arrested the others were implicated in these cases. S 120 (b) was also invoked against them. For this at least five people should be involved in the conspiracy. Without arresting Viqar Ahmed how the police came to know that others are also involved in it?

Though the trials are going on in Nampalli court in Hyderabad, all these arrested were shifted from jails near Hyderabad to Warangal prison on the pretext that they were creating trouble there. This was done only to kill them.

On the fateful day, they started earlier, reached a comparatively safe place where there are no houses nearby, diverted the traffic away from the highways for more than an hour and killed all these five under trials who were handcuffed and tied to their seats.

We strongly believe that this is a cold blooded murder to avenge the killings of police personnel. It was contemplated at a higher level to boost the sagging morale of the Telangana police. Not only those executed this at a lower level are responsible for these murders but those who contemplated this which include not only the higher police officials but also those in political power.

The political class as well the so called custodians of law and order are worried only about the sagging morale of the constabulary, but they were least bothered about the consequences of the solution they choose. This encounter remedy they choose will lead the minorities to loose faith in our democracy and justice delivery system. The ruling class should understand that peace is possible only with justice.

We are very upset with the way in which the judiciary handled this case before and after the encounters. The only last hope of the deprived people is the judiciary. Even the judiciary also leaves them without hope where will they go?

It is high time that we should put an end to this injustice of allowing those responsible for such heinous crimes to escape without facing the law of the land. In the Hashimpura case those cold blooded murderers who killed 42 innocent Muslims are allowed to escape from the law on the pretext that there were no evidences. How could strong evidences be presented before the court when the offenders themselves act as the investigators and prosecutors?

We have to create a clear cut mechanism that will ensure justice to those who are eliminated by the law enforcing agencies of the state.

### **Demands**

1. The special investigation team (SIT) formed by the Telangana government will not do any justice to the victims. This is formed just to give a clean chit to the persons responsible for this fake encounters. We demand a CBI enquiry monitored by the Supreme Court. The bodies of all these five persons killed on April 7, 2015 should be exhumed and re postmortem should be done immediately.

2. All these five persons killed in this fake encounter were in the judicial custody. Killing people in judicial custody is an increasing phenomena in this country. Judiciary is responsible for the life and security of the people in its custody. It is deplorable that judiciary is not concerned about this. In this encounter in the Aler police station limit the judiciary and the Telangana state government should take the full responsibility for these cold blooded murders of the five under trials. We demand a compensation of Rs 30 lakhs to the family members of those killed.

3. Though detailed directives are provided by the Supreme Court and NHRC on what is to be done in the cases of encounter killings a clear cut mechanism should be evolved immediately without any loopholes so that the guilty should not escape from the clutches of law. It should be mandatory that cases should be filed against the police team involved in encounter killings for murder charges (Sec 302 IPC) and they should be suspended from service till they prove that they had no other way except to kill them to save themselves.

**Note:** This Report was published today (30.04.2015) at NSS Press Club, Hyderguda,

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