

Hashimpura Massacre: Hashimpura Massacre: A brutal and bone – chilling action of custodial killings

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Abstract

On October 31st, 2018, the Delhi High Court reversing the judgment of Sessions Court convicted the 16 personnel of the UP Provincial Armed Constabulary (PAC) for the massacre of Muslims committed 31 years ago. It is one of the rare instance of the justice delivery system responding to the long pain and suffering of a community and sentencing 16 police personnel together to life imprisonment.

Keywords: Hashimpura, (PAC), Massacre, High Court Judgment

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Introduction

Hashimpura is a mohalla, i.e. a small area of Meerut city in Uttar Pradesh. It is a colony of Muslim ansari weavers. Many people earn meager sums as artisans, weavers and daily wages labourers to keep themselves and their families going.

Those days in 1987, Meerut and other cities in Uttar Pradesh were on the edge after Rajiv Gandhi had ordered the locks of the Babri Masjid in Ayudhya (District Faizabad), to be opened for prayers by Hindus . There had been sporadic incidents of violence and the Army and paramilitary forces had been called in. A company of the 41st battalion of the Provincial Armed Constabulary (PAC) had been posted in Meerut.

In April 1987, a Shab-e-baraat (a festival of Muslims) procession had been stoned and a few shops on the road outside Hashimpura had been set on fire. The area had been tense for days thereafter.

In May, 1987 communal riots took place in Meerut District. As a result, the police, paramilitary, military forces and 'C-Company' of the 41st Battalion of the

Provincial Armed Constabulary (PAC) had been posted at mohalla Hashimpura for riot control and security.

On 21st May 1987, the brother of an Army Major was killed in the mohalla adjacent to Hashimpura and two rifles belonging to the PAC personnel were looted by certain anti social elements. This led to the registration of FIR No. 204/1987 at Police Station Civil Lines, Meerut under Sections 147, 148, 149, 302, 307,336, 347, & 436 of the Indian Penal Code (IPC).

In the afternoon of 22nd May 1987, the administration decided to raid in Hashimpura and the area had been sealed. It was a Friday in the month of Ramzan and people were hours away from breaking their fast. Late afternoon, the security forces arrived — some barged in, others trooped down from terraces, and raided homes. ^[1]

The Incident

On 22nd May 1987 post noon, around 644 Muslim men, were arrested under Sections 107, 116 and 151 Cr PC. They were first rounded up under a Peepal tree in Hashimpura and divided into two groups. The

first group comprised elderly men and adolescent boys and the second group comprised young men. They were to be sent to the Police Station Civil Lines and Police Lines in Meerut in the trucks of the PAC, the Army, the Central Reserve Police Force (CRPF) and the local police on the directions of the Meerut District Administration. However, about 42 to 45 able bodied elderly men and youth were separated and asked to board a yellow coloured truck with PAC written on it in white paint. Mr. Surender Pal Singh was the Platoon Commander of the C-Company of the 41st Battalion of the PAC. It is stated that about 18 to 20 PAC jawans also got into the same truck having registration No. URU-1493, belonging to the same Company of PAC. The truck, driven by Constable Mokam Singh, moved away from Mohalla Hashimpura towards the Delhi road and after about 1 to 1½ hours reached the patri (unconstructed road) of Gang canal (river) in Murad Nagar (District Ghaziabad) . Then travelling for about 1½ kilometers on the patri, the truck was brought to a halt. The lights of the truck were then switched off. After stopping the truck, the accused personnel of the PAC started bringing down the persons from their hold one by one. Each of them was shot by the PAC personnel with .303 rifles in cold blood and their bodies thrown in a watery grave in the upper Gang canal.

The first person to be brought down- Mohd. Yasin, was shot with the rifle of one of the PAC jawans and his body was thrown into the Gang canal . The next one, Ashraf, was similarly brought down, fired at and killed and his body was thrown into the canal. The third person brought down was Zulfiqar Nasir , who became the 1st prosecution witness in the trial. He too was shot by the accused and thrown into the canal. However he deliberately stopped breathing, feigning death and managed to survive by concealing himself in the bushes around the water and later escaping on foot from the canal. Those inside the truck started shouting "Bachao – Bachao" but the PAC personnel started indiscriminate firing on them. However , noticing the headlights of a vehicle approaching them, they stopped firing and the PAC truck URU-1493 was then driven back to the main road and taken at the pul/culvert of the Hindon Canal near Makanpur village in Ghaziabad district itself, where the remaining abducted persons were pulled down from the truck and fired at point blank range one by one . 15 to 20 persons, who were thus killed, were thrown into the Hindon canal. However, Babuddin and three others Mohd. Naeem, Mohd. Usman and Muzib-ur-Rehman who were also similarly shot at and thrown into the

canal, miraculously survived to recount the horrific tale as prosecution witnesses. ^[2]

Identification Of Deceased

Out of the 38 deceased, in these incidents only 16 dead bodies were recovered and out of those 16, only 11 persons could be identified by their respective relatives. The 22 bodies of the abducted persons could never be found. Many of the identified dead bodies recovered were labelled as "unknown persons". Their post-mortems were nevertheless conducted. It is shocking that the dead bodies recovered were never shown to the families of the deceased/missing persons. This means that there was no identification of the aforementioned dead bodies and deceased/missing persons were identified by the witnesses from the photographs exhibited by photo journalist Mr Praveen Jain (working as Chief Photographer of the 'Sunday Mail' at that time) present at the spot. Leela Dhar, an accused, who was part of the PAC jawans also suffered an injury by a ricocheting bullet in the indiscriminate firing at Gang Nahar in the Truck.

Aftermath

As the news of the incident spread across the media, minority rights organizations and human rights organizations voiced their outrage. ^[3]

The then Prime Minister Rajiv Gandhi also visited the city and the riot affected areas on 30th May 1987 along with the then Chief Minister of UP Mr. Vir Bahadur Singh. ^[4]

The human rights body, People's Union for Civil Liberties(PUCL), appointed an investigation committee comprising the then PUCL President, (former Justice) Rajindar Sachar, I. K. Gujral (who later became Prime Minister of India), and others, and the committee brought out its report on 23 June 1987.

On 24th May1987, the Government of Uttar Pradesh ordered an inquiry by the Crime Branch Central Investigation Department (CB-CID) of Uttar Pradesh Police. ^[5] In its report, submitted in 1994, the CB-CID recommended prosecution of 37 employees of the PAC and the police department, but the government gave permission for 19 of them only to be prosecuted and charge sheet was submitted against them in Ghaziabad court in 1996.

The Criminal Justice Process

The criminal justice process in connection with the murders commenced with the registration of two first information reports (FIRs). FIR No.110/1987 registered at Police Station Link Road, Ghaziabad on 22nd May, 1987 itself and FIR No.141/1987 registered at Police Station Murad Nagar, Ghaziabad on 23rd May, 1987. On 24th May, 1987 the investigation of both FIRs was transferred to the Crime Branch,

Criminal Investigation Department (CB-CID), Uttar Pradesh. After the inquiry, a charge sheet was filed with the Chief Judicial Magistrate (CJM), Ghaziabad in 1996 who issued Bailable and non Bailable warrants for the accused policemen to appear before the court 23 times between 1996 and 2000. Eventually, under public pressure, 16 of the accused surrendered before the Ghaziabad court in 2000, and were subsequently released on bail and were back in service. [6]

In 2001, after an inordinate delay in pre-trial proceedings at Ghaziabad, kin of victims and survivors filed a petition before the Supreme Court for transferring the case from Ghaziabad to New Delhi stating that the conditions there would be more conducive, which the Supreme Court granted in September, 2002. But the case couldn't start, as the state government didn't appoint a Special Public Prosecutor for the case till November 2004, though he was later replaced by S. Adlakha, as the former was found to be under-qualified. [7]

Finally, in May 2006, charges were framed against all the accused PAC personnel for murder, conspiracy to murder, attempt to murder, and tampering with evidence, etc. under Sections 302/ 120B/ 307/ 201/ 149/ 364/ 148/ 147 of the Indian Penal Code, and the trial was scheduled to begin in July. On 15 July 2006, the day the trial was to begin, it was deferred to 22 July by Additional Sessions Judge N P Kaushik of Delhi Sessions Court, after the prosecution said authorities in Uttar Pradesh had yet to send important case material to Delhi. He also issued notices, both to the Chief Secretary and Law Secretary of Uttar Pradesh state, seeking an explanation as to "why this case has not been dealt with appropriately on an urgent basis". [8]

Later, when on 22nd July 2006, the trials began, and one of four survivors, Zulfikar Nasser deposed at the Tis Hazari court, three of the 19 original accused including platoon commander Surender Pal Singh, under whose instructions the massacre was allegedly committed, were already dead. Later on the second day, when the case property was sought by the judge, it was revealed that the rifles used had already been redistributed amongst the jawans of 41-B Vahini Battalion of the PAC (to which the accused belonged), after forensic analysis by CFSL Hyderabad. [9]

As per survivor witness Mohamad Usman, who deposed in February 2007,.. "after three boys were pulled out and shot point blank, the others in the truck started screaming so the PAC jawans opened fire to quiet them". [10]

By May 2010, 63 of the 161 persons listed as witnesses, by CB-CID had been examined. However, none of the eyewitnesses could recognize any of the accused PAC personnel. [11]

The Tis Hazari Court, Delhi on 21 March 2015 acquitted all the 16 accused in the Hashimpura massacre case of 1987, due to insufficient evidence. [12]

The Court emphasized that the survivors could not recognize any of the accused PAC personnel. The Uttar Pradesh Government challenged the order of the trial court in Delhi High Court by way of appeal and announced a compensation of Rs. 5 lakh to family of each victim. [13] Appeal were also filed by the victims and their families and all three have been decided together.

Justice for Victims of custodial killings

On October 31st, 2018, the Delhi High Court convicted the 16 personnel of the PAC and sentenced them to life imprisonment, overturning the trial courts verdict. [14]

Thus about 31 years, which included two state ordered probes and a long legal battle, families of about 40 Muslim men who were victims of custodial killings received justice through the judgment of a division bench of Hon'ble Justices S Muralidhar and Vinod Goel The Hon'ble High Court itself observed, **"We are conscious that for the families of those killed, this is perhaps too little, too late. They have had to wait for 31 years for justice. The monetary compensation they have received cannot make up for the lives lost. This case points to the system failure.**

According to earlier reports 42 Muslims were said to have been killed. However, after carefully perusing all documents on record, the Hon'ble Delhi High Court concluded that 38 innocent and unarmed Muslims were killed and so the Court setting aside the impugned judgment of the trial Court acquitting the 16 accused convicted each of them for the offences under Section 120-B and Sections 302, 364, 201 all read with Section 120-B IPC and considering the entire facts and circumstances of the case including period of trial, the age of accused and compensation paid to the victims, the Hon'ble Court sentenced each of the 16 accused to life imprisonment for the offence punishable under Section 302 read with Section 120 B IPC making it clear that the life imprisonment will mean the remainder of the persons natural life.

For the other offences, the sentence awarded to each of the 16 accused is as under:

(i) For the offence punishable under Section 120B IPC, to imprisonment for life;

(ii) For the offence punishable under Section 364 IPC read with Section 120B IPC, to rigorous imprisonment (RI) for 10 years and fine of Rs. 10,000 and in default of payment of fine to six months' simple imprisonment (SI);

(iii) For the offence punishable under Section 307 IPC read with Section 120B IPC, to RI for 5 years and fine of Rs.10,000 and in default of payment of fine to six months" SI; and

(iv) For the offence punishable under Section 201 read with Section 120B IPC, to RI for 3 years and fine of Rs. 10, 000 and in default of payment of fine to six months' SI. The above sentences have been directed to run concurrently.

The High court directed to all the convicts to surrender on or before November 22, 2018, failing which the Station House Officer concerned will immediately take them into custody for serving out the sentences awarded to each of them .^[15]

Conclusion

The Hashimpura massacre case will always be remembered by not only the families of those killed, but also by people of the area as they have had to wait for 31 years for justice but it is also a reminder that there is a constant need for reassurance that policing and the criminal justice process in the country and will remain fair and free from all the prejudices. The monetary compensation they have received though cannot make up for the lives lost but sending the guilty/PAC personnel to jail for whole of their life will wipe out the tears of victims to a large extent.

However, this judgment is not yet final as the accused PAC personnel convicted in this case have got the right of appeal to Hon'ble Supreme Court and all the eyes will now be on Hon'ble Supreme Court's final verdict: We hope that this verdict will do ultimate justice with the victims and their families.

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