

Rule of Law must ensure that Hashimpura never Happens

(A case study on the Barbaric use of state force)

Maintenance of Public order and rule of law is an important core sovereign duty of the state. Ultimately enforcement of law of the land is the responsibility of the Police. Our Police is still working in old style of antidemocratic of British era. As Police Act 1861 was legislated to Control and rule over the Indian people, *not* to serve. People's Centric approach is still missing that's why Sardar Patel had asked the police a different role in his own words "You have served the previous regime under different Conditions. The people then had a different attitude to you but the reasons for that attitude have now vanished. Now the time has come when you can secure the affection and regard of the people ". But transformation has not taken Place that's why National Police Commission had mentioned that " the present Organisation of the police, based on the Police Act of 1861 , is not suited for the current times because an authoritarian police of the Imperial regime cannot function well in a democratic Country". One of the most important Problem of the Indian Police is the anti-minorities perception and thinking with communal mind setup and no respect for the Law of the land. There is a misconception that there is always Political interference in the Police functioning that is not correct. Several time biased attitude of the police and assurance not to catch by the state also leads to communal behaviour in the police .Especially when the police force is taking the side one of the community and doing nothing to stop the communal riots. In the several riots there have been serious failure at the side of the administration in dealing with the communal situation and even police becomes part of the mob and marching with the violent mob to kill and burn the houses of the minorities . As found in the several reports of the commission of the enquiry like the Justice Raghbir Dayal Commission (Ranchi riots, 1967), Justice P Jaganmohan Reddy Commission (Ahmedabad riots, 1969), Justice D. P.

Madon Commission (Bhiwandi riots, 1970), Justice Ranganath Misra Commission (Delhi riots, 1984), Justice B N Srikrishna Commission (Bombay riots 1992-93) and also the National Human Rights Commission. For specific example is the commission of inquiry of the anti-Sikh riots in Delhi 1984 *"The riots occurred broadly on account of the total passivity, callousness and indifference of the police in the matter of controlling the situation and protecting the people of the Sikh community. Several instances have come to be narrated where police personnel were found marching behind or mingled in the crowd. Since they did not make any attempt to stop the mob from indulging in criminal acts, an inference has been drawn that they were part of the mob and had the common intention and purpose. The Commission was shocked to find that there were incidents where the police wanted clear and definite allegations against the anti-social elements in different localities to be dropped out while recording FIRs."* By and large of observation was made by the National Human Rights Commission in the Gujarat riots in 2002 *"The tragic events in Gujarat, starting with the Godhra incident and continuing with the violence that rocked the State for over two months, have greatly saddened the nation. There is no doubt, in the opinion of this Commission, that there was a comprehensive failure on the part of the State Government to control the persistent violation of the rights to life, liberty, equality and dignity of the people of the State. It is, of course, essential to heal the wounds and to look to a future of peace and harmony. But the pursuit of these high objectives must be based on justice and the upholding of the values of the Constitution of the Republic and the laws of the land. That is why it remains of fundamental importance that the measures that require to be taken to bring the violators of human rights to book are indeed taken"* So I have gone in the Specific case study of the horrific incidence Hashimpura which was the act of the state terrorism. Hashimpura was the locality in the Meerut district of the Uttar Pradesh about 82.50 Km of the north-east of Delhi. With the Population of the half million (As per the census of the 1987) of which 62.5 percent

are Hindus and 34percent Muslims .Many of them earn as artisans and labours. On 22 May the barbaric use of state force around 42-45 young men of all Muslim community rounded up by the Provincials armed Constabulary packed the truck and taken away. Each of them was shot by the PAC the bodies dispatched into Ganga canal and some into the Hindon river. Only eleven bodies were recovered and Five persons were survived. Babudin was survived and also injured .On basic of the his information FIR was registered by the superintendent of Police Vibhuti Narain Rai. PAC personnel were involved of 41Battalion. Then the case was transferred to the CB-CID of Uttar Pradesh police. Charge sheet was filed against 19 accused. Brief legal sequences of the Hashimpura are as following:

(A)-In 1988- UP government orders CB-CID inquiry

(B)-CB-CID Submits the report to the Government

(C) Charge sheet filed against 19 accused before Chief judicial magistrate , Ghaziabad by CB-CID of the Uttar Pradesh police in 1996.

(D) The case transferred to Delhi on the request of the victims in 2002.

(E) Delhi court framed the charges against the accused in july 2006

(F) Court acquits 16 surviving accused giving them benefit of doubt in March 21 2015

(G) In May 18, 2015 Trial court decision challenged by the victims.

(H) The Delhi High court allowed the National Human Rights commission to intervene the matter for further more investigation in Dec 11, 2015.

(I) Ultimately Delhi High court convicted 16 former PAC personnel. Most important turning point of the case was the intervention of the National Human Right Commission in the cases for further investigation. As the Delhi high court, said: "In this case, the NHRC had

intervened and it had asked for various documents. It was all along our case that the state was shielding the PAC, so many of the crucial documents, which are incriminating, have not been placed before the court. The trial court had acquitted them on the ground that there is nothing to say that these particular PAC people had killed the victims". As the Virnda Grover senior advocate, who represented the National Human Right Commission in the cases. She said that most important piece of document was the General Diary *"There was one particular document, which was a general diary in the case – which recorded the movement of personnel going in and out of a police station – and this daily diary entry the state had suppressed in the case."* There was clearly nexus between the accused and the state. Grover said *"through its application before the high court, the NHRC had started asking for various documents and finally through the orders of the court the CB-CID, which was the investigating agency of Uttar Pradesh, was forced to place before the court the original general diary documents which named the 19 PAC policemen who had got into the truck and gone on riot duty"* Once the diary surfaced formed the basic of the conviction in the High Court. Most important statement by the Vibhuti Narain Rai (Former IPS officer and Posted as the Superintendent of police during Hashimpura massacre) that's why PAC personnel killed the innocent men. He said that *"Fully convinced that the only way to quell riots in a civilised society was by teaching the Muslims a lesson, one section of the PAC picked up more than two dozen Muslims from Hashimpura. They were transported in police trucks and killed at two places in Ghaziabad. I was SP Ghaziabad at the time and after receiving the information registered two cases against the PAC. The cases were handed over to the Uttar Pradesh CID and after eight years of investigations a charge sheet was reportedly filed against the erring personnel of the PAC. Why should the PAC have committed such a detestable act? I talked to a number of policemen deployed in Meerut in this period during my tenure as sp Ghaziabad (1985-88) as well as during the course of my study. An understanding of the psychology of*

these men may help us better appreciate the relationship between the police and members of the minority communities. Most of the policemen posted in Meerut thought that the riots were a result of Muslim mischief. They also believed that Meerut had become a mini-Pakistan because of Muslim intransigence; that it was necessary to teach the community a lesson in order to establish permanent peace in the city. They were deeply affected by rumours which suggested that Hindus in Meerut were totally vulnerable to Muslim attacks" By and Large similar statement was given by the High court "A Disturbing aspect of the present case is targeted killings of persons belonging to one minority community. This was a case of targeted killing revealing an institutional bias within the law enforcement agents in this cases".

Part II- Perception of the Case Writer

One of the most important question before us is that Why did the Hashimpura massacre happen at all? how can you cold -bloodedly kill someone ,without any personal enmity. There needs to be a very strong motive to kill someone in such a manner. In Hashimpura , the killers and the victims did not even know each other, neither as friend nor as enemies . There is the clear indication that Communal mind setup was working there in the minds of the 41 Provincial Armed Constabulary to teach a lesson to the minority communities. As the One of the Research Conducted by the Former IPS officer Vibhubti Narain Rai "*Neutrality of the Police during Communal Rights*" This research is very important to know the basic Psychology of the police Personal during riot against the minority community. During research he finds that "*The conduct of an average policeman is guided by the same predetermined beliefs and misconception which influence the mind of an average Hindu. Not unlike his average co-religionist, an average Hindu Policemen too believes that Muslims by nature are generally Cruel and violent. Further most policemen believed that riots are initiated by the Muslims.*" Such Psychology is not good for the law enforcement agency because that leads to destruction of the Public order in the long run. That needs to be addressed .One point to be noted here that only young and strong men were taken to kill by 41 Provincial Armed Constabulary to just teach a lesson. So that needs Holistic overview of the event. Hashimpura was not an incidence but Phenomena that keep working in our society. Therefore following steps must be taken by the Government (Rule of law have to ensure that Hashimpura never happens again).

(A)- To increase the representation of minorities in the law enforcement agency by reservation or by the some in houses methodologies which could prevent biased attitudes against the minorities.

(B) Special recruitment drives should be done in minorities concentrated areas. Recruitment should be done at the local level.

(C) Only physical training is not sufficient but psychological training is also required. Special workshop should be conducted on the topic related to the communal Harmony.

At last but not least, one of the school of thought that the police is only accountable to the law of the land alone, this argument is based on Lord Denning's historical judgement of 1968 Britain. Brief Judgement is as following:

"I have no hesitation in holding that, like every constable in the land, he [the Police Commissioner] should be, and is, independent of the executive. He is not subject to the orders of the Secretary of State, save that under the Police Act, 1964, the Secretary of State can call upon him to give a report, or to retire in the interests of efficiency. I hold it to be the duty of the Commissioner of Police of the Metropolis, as it is of every chief constable, to enforce the law of the land. He must take steps so to post his men that crimes may be detected; and that honest citizens may go about their affairs in peace. He must decide whether or not suspected persons are to be prosecuted; and, if need be, bring the prosecution or see that it is brought. But in all these things he is not the servant of anyone, save the law itself. No Minister of the Crown can tell him that he must, or must not, keep observation on this place or that; or that he must, or must not, prosecute this man or that one. Nor can any police authority tell him so. The responsibility for law enforcement lies on him. He is answerable to the law and the law alone.

An Executive Summary

On May 22, 1987, the Uttar Pradesh city of Meerut was in communal violence over the Babri Masjid dispute in Ayodhya. The Provincial Armed Constabulary (PAC) and the Army launched a search operation. The Provincial Armed Constabulary rounded up 40-42 men, mostly young and strong and packed them into a truck belonging to 41st Battalion and drove them away. But instead of taking them to the police station, they were taken to canal near Ghaziabad. The PAC personnel then shot dead the men and dumped some of the bodies into the Gang Nahar (canal) and the rest into Hindon River. Most of bodies were never found. Only 11 bodies were recovered but five survived and FIR was registered on the basis of the survivors. In 2015 all PAC men were acquitted by the trial court but on October 31, 2018 more than 31 years overturned the trial court judgement and convicted the PAC men.

References-

- **Second Administrative Reform Commission Report (Fifth report on Public order 2005.**
- **" Neutrality of Police during Communal Riot " (Research Conducted by the former IPS Vibhuti Narian Rai)**
- **Justice BN Srikrishna Commission Report (Bombay Riot 1992-93).**
- **Book – Hashimpura 22 May – The forgotten story of India ' s Biggest Custodial Killing – (Vibhuti Narain Rai).Published by Penguin books**
- **Justice P jaganmohan Reddy Commission (Ahmedabad riots,1969)**
- **Justice Ranganath Mishra Commission (Delhi riots 1984)**
- **Hon'ble – High Court Judgement in Hashimpura (Custodial killing).**
- **Amnesty International Report Nov 21 1987 Hashimpura masscare**
- **New york Times By Steven R. Weisman , Special to the New York Times – Nov 22,1987- (Meerut riots of May 1987).**
- **The Hindu – 23 July 2006- "Maliana a never ending betrayal"**
- **Handling communal riots Blog wrote by the Former IPS Vibhuti Narian Rai.**