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Faking An Encounter: Killing the Peace Process

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Report of the All India Fact Finding Team on the Killing of Azad and H. C Pandey

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Campaign for peace and

Democracy in Manipur

CDRO put together a team of concerned citizens consisting of Prof. Emeritus Amit Bahaduri, J.N.U., Delhi, Senior Counsel of Supreme Court Mr. Prashant Bhushan, Kavita Srivatsava, Human Rights worker from Rajasthan, Gautam Navlakha writer & from PUDR, Delhi, Kranthi Chaitanya, Advocate and General Secretary of APCLC, D. Suresh Kumar, Advocate, APCLC, Ch. Sudhakar Rao, President of OPDR, D. Venkateswarlu, OPDR. The team visited Wankadi Mandal, Adilabad District on 20th & 21st of August, 2010 where the alleged encounter of Mr. Azad @ Cherukuri Rajkumar who was spokesperson of CPI Maoist Central Committee Member and Journalist Hemachandra Pandey took place on the intervening night of 1st and 2nd July, 2010. Three fact findings had earlier already carried out spot investigations. The team met the local villagers, local police, and local media personal and perused FIR, inquest and postmortem reports. The FIR No.(Crime) 40/2010 registered at the Wankadi P.S. of Adilabad District by the Station House Officer, Mr. Mansoor Ahmed at 9.30 am of 2nd July, 2010 in the English Language mentions the deceased as **unidentified Maoists** and gives the following account:-

“This is to inform you that on the Information provided by Special Intelligence Police that a squad of CPI (Maoist) terrorists numbering about 20-25 had crossed into the forest of Wankedi area of Adilabad Distrcit from the neighbouring Maharashtra and moving into the forest as per the information of the SP Adilabad. I along with Sub Inspector of (SI), Thandur PS, RSI (Reserve Sub Inspector) Mohan. Civil an AR (Armed Reserve) special party men came ot the forest area located near Velgi and Sarkepally villages on 1-7-10 at about 9 pm. While we were conducting a search of the area on the hill at about 11 pm we noticed some commotion in the area close to us. Then we observed the place through night vision device and noticed a group of 20 persons in the forest. Immediately, we questioned their identity, they opened fire with Arms on us. Then we took Safety position and warned them to stop firing at us and to reveal their identity. However, they didnt stop firing at us and we noticed them advancing towards us by firing indiscriminately with a view to kill us. Then with a view to save myself, I opened fire towards them in self defence.

Likewise, our party members also opened fire in self defense. The exchange of fire continued for 30 minutes. When the firing stopped from the other side, we advanced towards the hill top side and halted. Early in the morning we searched the area and found two persons dead with bullet injuries at the place of exchange of fire”

This story raises several questions.

- a. How were the police able to pin point the location of the Maoists in a forest several hundred square kms along with the boarder of A.P. and Maharastra? This is all the more surprising, as the villagers repeatedly told us that there has been no Maoist activity in that region in recent years.
- b. Despite 30 minutes of firing from 11 pm to 11.30 pm, not a single police personal suffered any injury, whereas only Azad and Hemachandra Pandey were killed.
- c. If there were twenty Maoists as stated in the FIR, why did the police find only 2 kit bags and two weapons? In any escapade there would be more belongings left behind.
- d. If Azad was traveling with a dhalam of 20 Maoists then surely he too would have been in Olive Green dress rather than in civilian dress?
- e. If the police were unaware of the identities of the two deceased upto 9.30am at the time of filing the FIR, then how did the inquest report claim that at 6.00am on 2nd July Azad was the person who had been killed in the encounter. The inquest report says: *“On 02-07-2010 at about 06-00 A.M at Sarkepally Village Forest area above the hills, the Azad dead body found with Bullet injuries mentioned in Column No.1(B) with witness No.1 and his Police Party Identified the deceased.”*. Several electronic media channels had also announced his death. This shows clearly that the police knew who they had killed.
- f. Overwhelming doubt about the police version is raised by the postmortem reports of Azad and Hem Chandra Pandey. The Post Mortem report of Azad says that the fatal bullet entry wound from the chest “at the left 2nd intercestral space” had “darkening burnt edges”. The burnt mark at the entry wound are a clear indication of the flame from the gun which indicates that the bullet was fired from a very close range (no more than a foot). The corresponding exit wound is at the 9th & 10th inter vertebral space and depth is 9 inches. That means the bullet entered from upper chest and traveled downwards. This questions the police version that Maoist were on the top of the hill and they were below.
- g. The Post Mortem report of Hem Pandey shows that all the 3 bullet wounds had blackening present around the entry wounds, which is also a clear sign of shooting from very close range. The clear sharp round or oval shaped entry wounds in the cases of both Azad and Pandey, and the route of travel of the bullets indicates that the bullets were fired at almost 90 degrees to the body, indicating firing at close range.

It was widely known and reported that the Union Ministry of Home Affairs, through Swami Agnivesh was engaged in exploring the possibility of a dialogue with C.P.I. Maoist and the person with whom Swami Agnivesh was talking with CPI Maoists was Cherukuri Rajkumar @ Azad.

The alleged encounter in these circumstances and such a time raises several important questions.

- a) How could the Spl. Branch of A.P. Police dedicated to combating Maoists, murder Azad in this manner without the knowledge of the Union Home Minister as well as the State Government, particularly when the Union Home Ministry is said to be leading the joint offensive against the Maoists.
- b) Why has the Union Home Ministry not shown any interest in seeking an independent investigation/enquiry into the encounter, despite so many demands for it from different quarters, the disruption it caused to the peace process initiated by the Home Minister himself?
- c) If the Union Government was sincere in seeking a peace dialogue, it would have been natural for the Home Minister Mr. Chidambaram to express concern about the execution of the key actor from the Maoist side with whom he was supposed to be exploring the peace dialogue. His explanation on the floor of the Parliament was that the enquiry is a State subject. This is untenable because the A.P. State Government is run by Congress Party and had the Union Home Minister requested an enquiry they could not have refused. And if they did, at least the position of the Home Minister would have been more understandable. This is particularly important because the Central Government is empowered in any case to constitute an enquiry under the Commission of Enquiries Act, 1952.

DEMANDS:

1. In the light of the significance of the assassination, which has scuttled the peace process, it is imperative that the Government institute a high level independent enquiry headed by a Sitting/Retired Judge of the Supreme Court of India, nominated by the Chief Justice of India.
2. Register an FIR against the police personnel who killed Mr. Azad and Hem Chandra Pandey and the case needs to be investigated independently in accordance with the NHRC guidelines.

1. Amit Bahaduri, Prof. Emeritus, JNU
2. Mr. Prashant Bhushan, Advocate, Campaign for Judicial Accountability.
3. Kavita Srivatsava, General Secretary of PUCL Rajasthan,
4. Gautam Navlakha, writer & PUDR, Delhi,
5. Kranthi Chaitanya, Advocate, General Secretary of APCLC,
6. Ch. Sudhakar Rao, President of OPDR,
7. D. Venkateswarlu, OPDR
8. D. Suresh Kumar, Advocate, APCLC,

Enclosures:

1. Post Mortem reports of Azad and Hem Chandra Pandey