

**Note on Visit of NCM Delegation**  
**V. Bhajanpur, PS Forbesganj, District Araria, Bihar-Incidents**  
**of June 3, 2011**

On 4<sup>th</sup> June, 2011, the Commission received an email from Shri Zahidul Haque of Araria, Bihar together with a petition complaining against the killing and gross violation of the human rights of the minority community in village Bhajanpur under Forbesganj PS of Dist. Araria. The petitioner reported that several persons of the minority community have been killed in police firing, including a ten month old baby boy named Noshad. The petitioner submitted as follows:

1. "the incident took place at village Bhajanpur under Forbesganj PS in Araria, District of the Bihar State.
2. the mob was armless (*sic*) and without provocation the police opened firing indiscriminately by the order of the SP, Araria. It is pertinent to mention that the Police did not use lathi, teargas shell, water canon or rubber bullet.
3. As per the media reports the number of victims is four and their names are Mustafa, Mukhtar, a lady named Sharmina and the nine month old baby boy Noshad. But as a matter of fact the number of casualty is nine.
4. The number of injured persons is more than three dozens(*sic*) and the most important thing to note that the injured got bullets on mouth, head, stomach, thigh and ankles. This is enough proof that the Police fired indiscriminately and barbarically.
5. The police claims that there were anti-social elements among the mob and first they opened firing on the Police and the Police in self defence retaliated with firing. But as a matter of fact there is no casualty or even serious injury on the Police or administration side.
6. The print media like The Times of India, the Hindustan Times, Hindustan (Hindi), Dainik Jagran (Hindi) may be seen for other details. In electronic media E TV Bihar & Jharkhand and Zee News may be contacted for video clippings. The electronic media have also telecasted the incident and the inhuman face of a police man beating and jumping over the dead body of a victim."

**Quest for explanation**

Consequently, the Commission wrote to Principal Secretary (Home), Shri Amir Subhani and SP, District, Araria, Ms. Garima Malik on 7.6.2011 seeking a report. A report of 9.6.2011 was received from SP, Mrs. Garima Malik; a copy of the report is appended as **Annexure -1**. In summarizing her report, SP Ms. Malik has submitted as follows:

1. "फारविसगंजथानाकांडसं0-268/11 दि0-03.06.2011 धारा- 147, 148,149,379,436, 452,427,307,120(बी0) भा0द0वि0- यहकांडवादी अशोक कुमार चौधरी पिता शंभुनाथ चौधरी ग्राम रायपुर इंडस्ट्रीयल एरिया गागल हेरी रोड, थाना भगवानपु रजिला हरिद्वार(उत्तरांचल) वर्तमान निदेशक, ऑरो सुंदरम इंटरनेशनल प्राइवेट लिमिटेड, विया डाइंडस्ट्रीयल एरिया फारविसगंज के लिखित आवेदन के आधार पर तीन हजार अज्ञात व्यक्तियों के विरुद्ध दर्ज कराया गया है। इसकांड का प्रतिवेदन -01 (प्राथमिकी) अवलोकनार्थ संलग्नहैं।
2. फारविसगंजथानाकांडसं0-269/11 दिनांक -03.06.11 धारा-147,148,149,341,342, 323,324,325,307,337,353,332,33,427,379,436,504,120 (बी0) भा0द0वि0-यह कांडवादी सुनीलकुमारगुप्ता (प्रखंड सांख्यिकीपर्यवेक्षक, फारविसगंज) पिता दामोदर प्रसाद गुप्ता, सा0-महकार, थाना डोभी, जिला गया के आवेदन के आधार पर एक हजार पुरुष के विरुद्ध दर्ज किया गया है। इस कांड का प्रतिवेदन-01(प्राथमिकी) अवलोकनार्थ संलग्नहै।
3. फारविसगंजथानाकांडसं0-273/11 दिनांक- 04.06.11 धारा-302 भा0द0वि0 वादीप्रशांत कुमार कनीय पु0अ0नि0, अररिया थाना सा0 मैथिलटोला, कोरटवाडी, पूर्णियाँ थाना के0 हाट जिला यादव सा0-टोला सिमराही थाना नरपतगंज जिला अररिया के विरुद्ध दर्ज किया गया है।इस कांड में प्राथमिकी अभियुक्त सुनील कुमार यादव पिता भरत लाल यादव सा0 टोला का प्रतिवेदन-01 (प्राथमिकी) अवलोकनार्थ संलग्न है।
4. फारविसगंजथानाकांडसं0-274/11 दिनांक-04.06.11 धारा-147,148,149,323,307,353,427 भा0द0वि0-यहकांडगृ0र0-401975 सुनील कुमार यादव पिता भरतलाल यादव सा0 सिमराही थाना नरपतगंज जिला अररिया के लिखित आवेदन के आधार पर अज्ञात उपद्रवी के विरुद्ध दर्ज किया गया है। इस कांड का प्रतिवेदन-01 (प्राथमिकी) अवलोकनार्थ संलग्न है।"

In his letter of 10.6.2011, Home Secretary, Shri Amir Subhani submitted that the Govt. of Bihar has taken a decision to constitute a Commission under the Commissions of Enquiry Act to be headed by a serving or retired Judge of the High Court. He therefore, concludes as follows:-

"It will be proper for the State Government to send any report to the National Commission for Minorities regarding details of the incident, reasons for the provocation and police firing etc. only after the Commission appointed by the State Government submits its report to the State Government."

In the meanwhile we also received petitions from NGOs ANHAD, Committee for Justice for Forbesganj Police Firing Victims, Jamia Teachers Solidarity Association, Indian Social Action Forum (INSAF), National Alliance of Peoples' Movement (NAPM),

All India Student Association (AISA), and a Memorandum from National President, Lok Janashakti Party Shri Ram Vilas Paswan, MP who called personally at the office of the Commission to submit the memorandum which concludes as follows:-

“The lack of sensitivity and true intention of Bihar Govt. can be seen from the fact that despite the occurrence of these serious human rights violations no Cabinet Minister or Chief Minister of Bihar visited the site. Chief Minister of Bihar instead went to China.”

A copy of the memorandum together with its enclosures, which also contains photographs of the victims of police firing, is attached at **Annexure-2**. We have also received a copy of a report on ‘Fact Finding in Farbisganj (*sic*) Police Firing’ by CPI (ML). The summary of incidents recounted in the petition of ANHAD, which is supported by other NGOs is as follows:

“The news of the company blocking the village road by building a brick wall spread like wildfire and on 3rd June 2011, the villagers felt betrayed and helpless, residents of Rampur and Bhajanpur villages under Forbesganj block in Araria district came out, after Juma Prayer, to protest against blockade of the connecting road between the two villages by the Auro Sundaram International Company. The Villagers demolished the portion blocking the road and put on fire a jeep of the company.

The police opened fire on the protestors and chased them to their homes. According to many eye witnesses present on the scene the order to fire was given by the SP Garima Mallik. SDO, Ashok Agarwal, MLC, BJP, Saurabh Agarwal, Ashok Agarwal’s son and Managing Director of the Auro Sundaram International Company were present on the scene when firing was ordered.

The fact-finding team was informed by several villagers that on May 29, 2011 Sushil Modi, Deputy CM and BJP, MLA had come to Forbesganj and had pressurized the administration to take immediate action regarding the village road and block it. The villagers also told us in the past few months the activities of right wing organizations had increased in and around Forbesganj. Ashok Aggarwal was heard saying, “*inko pinjre main band kar denge. Jail Banadenge salon ke gaon ko.*”

Many eye witnesses told us that apart from the Police, Ashok Agarwal himself fired at people. The police chasing the people entered the village and killed the women and an infant point blank.”

In light of this, the undersigned addressed a letter dated 14.6.2011 to Chief Minister, Shri Nitish Kumar. A copy of the letter is attached at Annexure **-3**. In this letter, the Commission emphasized as follows:

“The Commission is entirely dissatisfied with the report received from Araria District SP Ms. Garima Malik, which fails to explain why it should have become necessary for the police to open fire so indiscriminately as to target women and babies, and disappointed by the communication received from Shri Amir Subhani, Home Secretary, Bihar, whom I have met and hold in regard. It has been stated that the Bihar Government has approached the Chief Justice of Patna High Court to nominate a judge to head a single Member Commission to enquire into the incident. This is indeed commendable, but what of the immediate relief to these poor, deprived persons? And simply because a judicial enquiry is contemplated are organizations like the National Commission for Minorities that are statutorily mandated to look after the interests of minorities, to be denied information in this age of information being treated as a right? “

Consequently, a delegation of the National Minorities Commission consisting of Ms. Syeda Bilgrami Imam and myself visited Forbesganj on 21<sup>st</sup>-22<sup>nd</sup> June, 2011 after having been assured by the Bihar Govt. that the Chief Minister would have returned from China on 19.6.2011, and having moved a request for appointment with the Hon'ble Chief Minister for the afternoon of 22<sup>nd</sup> June, 2011 with his office.

### **Visit to Bhajanpur**

Bhajanpur is a village located in Forbesganj block, a 40 minute drive from Araria, District HQ, with a population of 4,000, comprised entirely of Muslims of the Ansari community. This suggests that at some stage it was a settlement of weavers, but current residents have no memory of any such industry, although some were told by their elders of looms that had once been installed in their homes. Some villagers had awhile been small and marginal farmers, but most, and now all, with the acquisition of all their agricultural land, have been manual laborers, except for those running small businesses like paan and small grocery kiosks in the village, which have also been servicing the factory laborers.

37 acres of the 120 acres of land acquired by the Bihar Industrial Area Development Authority (BIADA) in 1988 for industrial development and lying fallow awhile thereafter, was recently awarded for establishment of industries including to M/s Auro Sundaram International of which Shri Ashok K Chowdhury, referred to in SP Ms Malik's report as one of the complainants, is CEO, a man of technical knowledge and

experience acquired in Germany - who was expected to have the factory ready through June, to be commissioned before the rains set in. He hails from Bihar and having worked in Roorkee running a factory now wished to return to his State, for manufacture of starch and liquid glucose from maize, the principal agricultural product of the area. The villagers had acquiesced to their land being acquired/leased by BIADA for the Auro Sundaram factory on the understanding that their pathway, which was a government road, which was the access to their work and their meagre wherewithal. But then, in developing the area so leased, of which BIADA continues to be owner, M/s Auro Sundaram International blocked the access routes both to the Block Office to the north and to v. Bhajanpur to its West. This despite the fact that the residents had approached the SDO on 8.2. 2011 to plead that the latter road through the property be kept accessible, since it gave the villagers their only direct access to the main road, to their workplaces and also to the market, the hospital the Jama Masjid and to their Karbala, and had been their lifeline since as long as they could remember. It appears that no action was taken on this request, for on 29.5.2011 Deputy CM Shri Modi was reported to have visited the village, and on 1.6.2011 a Panchayat was called in which the SDO promised an alternative route, but without awaiting any consensus on the proposed alternative, the existing route was blocked by a wall overnight on the very day.

After Friday prayers the villagers gathered and proceeded to demolish the wall blocking the road. This event by all accounts took place immediately following the Juma prayers at 2.15 pm, but at 4.30 pm the police arrived in force and opened fire killing four persons, including an infant, a pregnant mother whose husband is a laborer in the factory, and two young men, both of whom were sole breadwinners for their families.

On our arrival in Araria, we were briefed by SP Ms. Garima Malik, an IPS officer of the 2006 batch, and Deputy Development Commissioner. DM Shri Sravanan, an IAS officer of 2002, was away attending his Phase III training. SP Ms. Malik, from whom we had received the report quoted above, and who had made mention in that report to the supposed crimes of the public with little mention of the lives lost, informed us that the villagers had been offered two alternative routes located at what she stated was only

100 m from the present route. She had deployed the police on the demand of the SDM received on 29.5.2011, who had informed her that he was under orders to ensure that the wall was built at the place appointed, across the access road. Nevertheless, the SP had arrived at the spot to negotiate and made repeated appeals to the public to desist from violence (a fact corroborated by the villagers), but the police were forced to open fire in self defence when they were attacked, their vehicles were damaged and the policemen injured. She herself had been hit on the head requiring stitches, and on her arm. Places within the factory were torched. The firing was therefore purely in self-defence.

The SP admitted, however that Sunil Kumar Yadav of the Home Guards deployed with the Fire Brigade, had indeed assaulted the injured youth who subsequently died, an image telecast across the country and of which she submitted a DVD to the Commission. She reported that Yadav has been suspended and has been charged u/s 302 of the IPC, for murder. Nonetheless, postmortem reports of all four deceased, copies of which are on our file, clearly indicate that they were shot in the chest, in the back or as in the case of Smt Bibi Sajmeen, wife of the factory laborer, in the head. And although the CD provided by the SP shows glass panes of government vehicles being smashed by wooden rods, the only videos of the crowd, which nowhere appears to comprise of as many as 3000 persons, show groups of women confronting the police, brandishing-but not using to strike at policemen-wooden rods, or groups of at most ten or twenty men scattered about the factory premises torching equipment as they ran. While the policemen can be seen talking to the public, the sound of sporadic firing resonates in the background. There is no video of a large, supposedly uncontrollable, mob.

And although the order to fire was alleged by the SP to have been given on the basis that shots were heard, but their source not seen, it was swiftly assumed that the mob opened fire and the police had to be ordered to retaliate. No evidence however was produced or found of arms/guns that the crowd may have carried. The villagers themselves claimed in our subsequent meeting, that none of them owned a gun/rifle.

The NCM Chairman and Member then proceeded to the site of M/s Auro Sundaram, factory and after examining the location of the demolished wall and its immediate surroundings, proceeded to the village accompanied only by the Deputy Development Commissioner. The residents of Bhajanpur had gathered at the madrasa, where the Commission met them and discussed the events of 3.6.2011.

The following persons were shot and killed in the police firing of 3<sup>rd</sup> June, 2011:

1. Mohammed Mukhtar- 22 years, S/o Shri Farooq Ansari
2. Mohammed Mustafa, 25 years, S/o Mohammed Faruoq
3. Bibi Shazmeen ,35 years, W/o Faroukh Ansari
4. Baby Noshad, 9 months S/o Siddiq Ansari

Copies of post-mortem reports are attached at **Annexure-4**. The post-mortem reports clearly show that the young men were shot in chest and the lady in the head which has also been substantiated by the photographs received.

The persons who spoke at the gathering were as follows:-

1. Mohammed Kafeel B/o Mustafa- stated that his brother was going to his shop after prayers. He was also carrying money to buy goods for his shop and he was walking alone along the road. He was shot at from behind, at 3.30 pm after which he was kicked and jumped upon resulting in his death (This is the case that has been referred to earlier with reference to Home Guard, Shri Sunil Kumar Yadav).
2. Shri Shamim Ansari, Grandfather of Mohammed Mukhtar stated that his grandson was standing in the courtyard of his house at 4.30 p.m. having heard firing and boy was shot and killed within that compound. He ran a Paan shop on the Hospital road. In response to a question from us Shri Ansari stated that he could show us the damage that had taken place on the roof of his house in the village by bullets. The alleged bullet marks were seen by us on spot. The brick is indeed chipped, but there was no way that we

might substantiate that the damage was through bullets. The House is indeed within the firing range from the culvert on the main road, from where the full courtyard is in clear view.

3. Mohammed Farooq Ansari, H/o Bibi Sajmeen stated that his wife was 7 months pregnant. The road blocked by the factory is the single route connecting four villages to the main road. His wife was returning having given her husband food at his work, since he is an employee of the factory, and was returning over the disputed pathway.
4. Mohammed Farooq Ansari, F/o Mohammed Mukhtar stated that his son was a laborer and had got off a bus in the main road. He did not know of the demonstration in the factory premises and was returning home. He died of four bullet wounds. He bemoaned the fact that the boy was the only earning member of the family.

The others who spoke were, as follows:

1. Mohammed Islam who stated that the SDO had ordered the firing.
2. Mohammed Wahid Ansari submitted that on 1.6. 2011 the whole village was placed under police siege so that the Panchayat could be held that supposedly approved the handing over of the road for construction of a wall.
3. Ghulam Mohammed Ansari submitted that this road was a traditional road to the village. But SDO Shri Dayal Singh was prepared for no compromise and therefore, no action was taken from 8<sup>th</sup> February to 1<sup>st</sup> June, 2011, despite complaints from the villagers and demands that some assurance of an acceptable road should be given to them in writing. The meeting of the terrorized Panchayat lasted only 10 minutes and included no member of the public. He submitted that on 3<sup>rd</sup> June, 2011 the factory owner was also present and participated in the firing. He however, did hear the SP calling for restraint on arrival, but this was only after the firing had occurred.
4. Mohammed Iftikhar Alam was present in the Panchayat meeting of 1<sup>st</sup> June with the SDO. He submitted that the meeting was held in the presence of a large police force together with administrative officials. Only three to four

- representatives from the public were allowed to be present. They were asked for no suggestion but were only told of the administrative decision and hustled out of the meeting summarily. He denied having put his signature on any paper, although the SDO has subsequently shown us a document agreeing on the alternative signed by several people. However, Shri Iftikhar Alam stated that the alternative offered was not acceptable as it was a route deviating from the village and infested with criminals. And this was route perilous because it was used by little girls to step out to sell vegetables or collect wood.
5. Shri Ashfaq Alam, Advocate submitted that S.P. Malik arrived at 4.30 P.M. at the time when the SDM was not present. He further submitted that this was not the first time that local residents were killed in police firing and that there has been no compensation for loss of life in 1992 when there was firing in Araria's Chandni Chowk.
  6. Shri Abdul Ghaffar Ansari stated that 90% of the villagers were laborers. Some women who ventured on the alternative route on 7.6.2011 were in fact assaulted by goons and were saved only by the chance of a villager happening to pass by.
  7. Jiana Lal Mahto Tola of the adjoining village of Sheetalpur is a Dalit from the same Panchayat. He submitted that land for the traditional road had been donated by the villagers without payment when acquired by the Govt. from land which included that belonging to the Dalits. He further submitted that the 120 Acre of land that had been acquired in 1988 was acquired by BIADA for only Rs. 15,000, a paltry amount, which had been accepted under protest. This was attested to by others in the gathering who explained that they had been advised by the then SDO to accept payment under protest and sue for enhancement. Consequently, cases have indeed been filed with regard to these properties, but a decision remains pending. Expenditure on pursuit of these cases, which have not been decided till now, has exceeded the compensation received. Shri Mahto submitted that the opinion of residents of Sheetalpur was not sought by the SDM in his Panchayat meeting of June 1.

The Commission then proceeded to inspect the premises of the traditional route, the alternative route offered and other alternatives. A suggestion was offered by the residents led by Mohammed Wahid Ansari that the establishment of the factory in the premises could bring prosperity to the village. If the traditional route could not be spared then an alternative route along the northern boundary of the factory premises could be considered.

In the factory premises we met Shri Niranjana Agarwal, a strapping young employee of Auro Sundaram International, who stated that the factory have been a source of employment for a number of people but the unwarranted attack on the premises had cast uncertainty over their future. He guided the Commission around the premises to show the damage done by arson. This included remains of some-although not all-vehicles, tractors and a scattering of machines. Also burnt was what appeared to be a plastic covered canteen shed.

Back at Araria we met Shri Ashok K Chowdhury of Auro Sundram International. He presented us with a memorandum dated 21.6.2011 a copy of which is annexed at **Annexure-5**. Attention is invited to the following:

“दिनांक 03.06.2011 को अचानक 03.00 बजे कुछ असामाजिक तत्वों जिसमें अपराधी प्रवृत्ति के लोग भी थे, अपने स्वार्थ सिद्ध के लिए वहां पहुंचे तथा नव-निर्मित चाहरदिवारी को तोड़ दिये एवं वहां तैनात दंडाधिकारी एवं पुलिस बल पर हमला बोल कर भगा दिये। मजिस्ट्रेट एवं पुलिस के भाग जाने के बाद मेरी ओरो इंटरनेशनल प्राइवेट लिमिटेड कम्पनी द्वारा मक्का से स्टॉर्च एवं लिक्विड ग्लूकोज बनाने की फैक्ट्री निर्माण हेतु वहां लगाए गये लगभग दो करोड़ से ज्यादा कीमत की लगायी गयी मशीनों में आग लगा दी गई एवं सामानों को लूट लिया गया। घटना से हुई क्षति से संबंधित विडियो एवं फोटो की प्रति अनुलग्नक-ग के रूप में संलग्न है।

इस घटना की त्वरित सूचना जिला प्रशासन को दी गयी। सूचना मिलते ही जिला के वरीय पदाधिकारी एवं पुलिस प्रशासन के पदाधिकारी घटनास्थल पर पहुँचे। उनके वहां पहुँचते ही असामाजिक तत्वों द्वारा उन पर पथराव शुरू कर दिया गया। जिला प्रशासन के द्वारा ध्वनि विस्तारक यंत्र से वहां एकत्रित उपद्रवी तत्वों को काफी समझाने का प्रयास किया गया परंतु उपद्रवी रोड़ाबाजी एवं गाली गलौच करते रहे। धीरे-धीरे वहां उपद्रवियों की संख्या एकत्रित होने लगी एवं पदाधिकारियों को चारों तरफ से घेर लिया। प्रशासन द्वारा अपने को घिरा देखकर भीड़

को भगाने के लिए पानी का फब्बारा, आश्रुगैस का प्रयोग किया गया परन्तु भीड़ ओर उग्र हो गयी तब लाठी चार्ज कर भीड़ हटाने का अथक प्रयास किया परंतु भीड़ डटी रही। उसी दौरान भीड़ की तरफ से प्रशासन के ऊपर फायरिंग प्रारंभ कर दिया गया। चारो तरफ से भीड़ से घिरे रहने एवं लगातार पथराव एवं फायरिंग के कारण पुलिस की तरफ से भी गोली चली।

Chowdhury also presented a copy of the site plan for the factory, a copy of which is annexed at **Annexure-6**. Along the northern end of this, I have marked in pencil with arrows a possible alternative route which could be contributed by the block office and partly along with corners by M/s Auro Sundram. I explained that the villagers led by Shri Abdul Wahid Ansari, had suggested that this could be a compromise alternative, since at the western end it exits adjoining the culvert which links the traditional route and therefore, provides a direct link to Bhajanpur. Shri Chowdhury assured the Commission that he would wish to continue with his proposed plans, and was willing to make any adjustments to facilitate this, although the incident has no doubt been a setback, and he will be unable to adhere to agreed time frames. In this context, we discussed with him the possibilities of existing opportunities for employment for residents of Bhajanpur, a village directly adjacent to the factory to its west and Sheetalpur, the Dalit village adjacent to its east. Shri Chowdhury submitted that he has set up this factory in this backward area in order to generate employment prospects for the locals, and provide a market for their agricultural produce, since the principal crop is maize. We therefore, suggested to him that he engage the villagers not only in manual labour, but also initiate training programmes for the educated youth who can seek training initially in his factory and then go on to employment prospects in other parts of the country by offering their skills to business and industry.

A delegation of the industrialists also met the Commission and expressed apprehensions regarding security in the area. It was explained to them that the incident of 3<sup>rd</sup> June, 2011 was a direct result of a specific dispute, which was the blocking of the transit route of the villagers to the main road. There was therefore, no breakdown of law and order, which could be a cause for apprehension.

On our return to Patna we visited the Patna Medical College Hospital (PMCH). We were received by Superintendent Dr. O.P. Chowdhary accompanied by Shri Vijay Kumar, Orthopedist. Here we met the following:

1. Shri Manzoor Ansari who was shot in the neck, rendering him paraplegic. However, Dr. Vijay Kumar assured us that with the treatment being given, he was recovering the use of his left side, and indeed, as we watched he was able to move his fingers and toes. The good doctor held out the promise of a complete recovery.
2. Ms. Rehana Hussain, whose elbow had been shattered in the police firing, Recovery was partial, since the elbow bone had been affected. While she was would recover the use of her arm as assured by Dr. Vijay Kumar, the recovery could never be complete.
3. Mohammed Raees' jaw had been shattered in the police firing. He had a Paan shop which serviced the factory and located just outside factory premises. In his case too full recovery was expected.

In each of these cases, relatives of the injured who were present expressed complete satisfaction with the treatment that they were receiving. They were much better off here than with the earlier arrangement at a Purnea Hospital where they were taken initially where they were totally lost. Dr. Chaudhary assured us that all medical expenses for the injured will be borne by the hospital. Free food was also being served to attendants.

### **Meeting with State Government**

We then proceeded to a meeting with the Chief Secretary, Bihar Shri Anup Mukerji together with Shri Amir Subhani, Secretary Home and Minority Affairs and DGP Shri Neelmani. CM Shri Nitish Kumar was reportedly away campaigning for a Lok Sabha by-election. The Commission related our account of our visit to Distt. Araria, and thanked CS Shri Mukerji for the arrangements.

While we commended the state government for its efforts to bring industry to a backward area, we explained how, in our view industrialisation could have negative impact if not purposeful, which had, in our view, contributed in the present case, to the tragic incidents of 3.6.2011. In this case we had a community in Bhajanpur who had once been in the remote past, a thriving weaving community, at a time when India dominated the world's textile trade. The death of this heritage in face of possibly a colonial onslaught had reduced the villagers to marginal farmers. This subsistence was also taken from them for a pittance. Of this, all they were allowed to retain was this access route. Finally, without any tangible benefit having been seen by the residents of Bhajanpur, even this was blocked without any effort at building public opinion. The good intentions of factory planner Chowdhury or his employers would have found no resonance in Bhajanpur, because not one of them could see the benefits of development/training/employment, which is not something that had come with the earlier plants and factories and none were promised with the new one. Nothing of this had been communicated to them.

Since all Bhajanpur residents had been reduced to landless labour they could not look forward to a market for their maize either, since they produced none. Clearly, then, the incidents of June 3 amount to a failure of governance. We were informed by Shri Subhani that the appointment of a judicial Commission to enquire into the incident has been finalized and a time frame of six months decided. That Commission will no doubt determine the direct cause of action and its consequences with regard to the incident. While therefore the Commission will express no view on how we consider the incident was handled and who can be held responsible for the tragic loss of life, we only observe at this point that, as quoted above, both the SP in her report and Shri Choudhary in his memo show scant regard for the loss of human life and are focussed entirely on damage to property.

In the meantime, we have received a letter dated 12.7.2011 from Shri Anup Mukerji, Chief Secretary, Bihar, in which he has reiterated that it was never the intention of the State Govt. to deny information about facts relating to the incident to the NCM. A

copy of this letter is annexed as **Annexure-7**. In this letter he has outlined the terms of reference of the Judicial Commission, as follows:

- I. "To inquire into the background and the circumstances which led to occurrence of the incident.
- II. To inquire into the sequence of events on 03.6.2011, role of the persons concerned and fix the responsibility thereon.
- III. To inquire into the justification of firing by police.
- IV. The Commission has been asked to complete its inquiry within a period of six months."

He has further gone on to state:

"The State Government, at the same time, would like to assure the NCM that it is totally committed to take all necessary steps including measures to provide proper relief to the affected families. Government of Bihar would also like to inform the NCM that appropriate action will surely be taken against any persons held responsible for dereliction of duty, misconduct or any act of indiscipline in view of the findings of the Judicial Commission."

### **Recommendations:**

1. The government of Bihar has announced a grant of Rs. 3 lakh to the parents of Baby Noshad, an amount expeditiously paid. Chief Secretary explained his difficulty in granting any cash compensation at this stage to any of the others in light of rules governing such compensation, until such time as the government has received the report of the judicial enquiry. However, we cannot agree that the relief to be given to the infant and pregnant mother's family need await any such development. We would therefore recommend that the relief to the families of these two victims be suitably enhanced, but disbursed in a manner that would not encourage wasteful expenditure. It has been noted by us that the expenses of the injured have been taken care of. Nevertheless, we would urge the State government to consider urgent steps for the rehabilitation of the families of those affected by engaging the survivors and those injured in occupations that will give them a sustainable livelihood, taking advantage of the many

MSD schemes to benefit the minorities, discussed in further detail under the heading 'Long Term Measures' below. The rectification of this imbalance with the rehabilitation of the affected in Bhajanpur could go hand in hand.

2. An alternative access road may be offered to the villagers possibly along the lines suggested in the appended map referred to above, in consultation with the villagers and the entrepreneur.
3. Necessary changes be made in the local administration to ensure that in mediating the compromise suggested under Point 2 above the administrator assigned this duty commands the trust and confidence of both sides. Although penalties, if any, can indeed be considered after the judicial enquiry, administrative adjustment through transfers and posting will surely help restore public confidence of the villagers of Bhajanpur, so visibly absent at present
4. The possibility of training and employing local labour from Bhajanpur for the manual and construction needs of the plant and the offices, and later training them for the factory jobs must be seriously planned and discussion initiated. It might be remembered that without that light at the end of the tunnel, their daily journey out of the Bhajanpur village and through that disputed road is an absolute necessity. Without it they have no access to wherewithal of any kind. And having a steadily poorer village as a neighbor can only cast a grim shadow on a thriving industry.

### **Long term measures**

As mentioned above, Bhajanpur under Forbesganj PS to Dist. Araria is a village populated entirely by the minority community subsisting on manual labour. This is despite the host of schemes under Multi-Sectoral Development Programmes through which Govt. of India has invested in the development of minorities. In this context the facts inasmuch as they pertain to Araria are as follows:

1. That on the launch of MSDP in the 90 MCDS areas, as reported to us, was Rs. 4070.85 lacks during 2009-10 and Rs. 40 Crores during the financial year 2010-

11. Nevertheless, construction of additional rooms in high schools, which is part of the programme, was undertaken in those schools which have scant attendance of Muslim students; examples are the following schools:

1. Moti High School, Madanpur
2. Vidhya Niketan High School, Bhojpur
3. High School, Kursakanta
4. High School, Ulraha
5. P.N. High School, Sohandar Hat
6. High School Kuwari
7. High School Bardaha
8. Sarwajanik High School, Belsara-almost 0% Muslim students.
9. Darbari Rai High School, Mathawa- almost 0% Muslim students
10. Ramlal High School, Haripar Dak- almost 0% Muslim students

2. A sum of Rs. 1041.00 lakhs has been released for the construction of 694 Anganwari centres in the district but most of them are located in areas with a negligible Muslim population. A detailed complaint in this regard received during our visit has, as mentioned been separately addressed in a letter of 13.7.2011 addressed by us to the Ministry of Minority Affairs and Chief Minister, Bihar on the failure of these benefits to reach the intended beneficiaries, even though Araria is among the 90 MC districts in the country. An obvious indicator for future measures, therefore, is that Bhajanpur village should be singled out for special effort, investing in the MSDP schemes to help integrate its population into the processes of development and progress of the State.
3. In addition to the above, the local industries including Auro Sundram may be encouraged to invest substantially in training of local youth. This would bring to fruition the discussions on the job needs of Auro Sundaram and others which have happened in the immediate term. It would clearly help in strengthening the human resource base of the factory and also help these young men and women to seek productive careers as part of the burgeoning Indian economy.
4. Upon receipt of the report of the Judicial Commission we suggest that relief be disbursed to the deceased in line with the relief suggested in the

Prevention of Communal Violence Bill, 2011, whether or not the bill has by then become an Act.

5. In the meantime however, it is recommended that the issue of payment of compensation for the land acquired in 1988 be reviewed by the State Government and DM be authorised to recommend payment at an appropriate enhanced percentage of the then existing circle rate. The cases under litigation are, it is learnt, still in court. The revised rates could be a sound basis for compromise.

-Wajahat Habibullah  
-Syeda Bilgrami Imam  
14.7.2011