



**GOVERNMENT OF ASSAM  
DEPARTMENT OF HOME AND POLITICAL**

**Action Taken Report on the  
Report submitted by  
Justice (Retd.) K. N. Saikia Commission of Inquiry**

**Dispur, the 15<sup>th</sup> November, 2007**

*Digitised by Dr Satyakam Phukan*

## Action Taken Report on the Report submitted by Justice(Retd.) K.N.Saikia Commission of Inquiry.

### (A) Notification & Terms of Reference :

Justice ( Retd ) K.N.Saikia Commission of Inquiry was constituted by Government. of Assam vide Notification No.PLA.331/2005/1, dated 22-8-2005 to enquire into killings of 11 (eleven) persons in 6(six) nos. of cases. Again vide Notification No.PLA.331/2005/2, dated 3-9-2005, the Commission was allowed to enquire into any other incidents of killings under similar circumstances which occurred during 1998 to 2001 along with another case of alleged attempted murder of Sri Ananta Kalita of Hajo under the same terms and conditions

The terms of reference of the Commission were as under :-

- (1) Circumstances, in each case, leading to the killing of the victims
- (2) Identity of the killer(s) and accomplice(s), if any.
- (3) To find out whether there was any conspiracy in targeting the victims and the motive behind such killings.
- (4) Pinpoint responsibility on persons who were involved directly or indirectly in the commission of such killings.
- (5) To make recommendations to prevent recurrence of such killings.
- (6) Any other matter related to or relevant to the purpose of this inquiry.

### (B) Number of cases on which Commission has submitted its Reports.

The Government had constituted the Commission to enquire into 7(Seven) numbers of cases directly by mentioning the names of victims. Further, as was allowed vide second notification dtd. 3-9-2005, the Commission had taken up another 28 (Twenty Eight) nos. of cases on petitions filed before it in response to public notice issued by the Commission. The Commission submitted its report in four volumes on different dates as follows :

- (i) On First Group of Seven Cases - Reports submitted to Govt. of Assam on 21-8-2006.
- (ii) First Supplementary Report on - Submitted on 7-12-2006.  
2<sup>nd</sup> Group of Eight Cases.
- (iii) Second Supplementary Report on- Submitted on 15-3-2007.  
Third Group of Ten Cases.
- (iv) Last Supplementary Report on - Submitted on 7-8-2007.  
Last group of Ten Cases.



**Details of the cases :**

**(i) First Group of Cases :**

Sl. No. of the cases as per Commission's report	Name of the cases	No. of Police station cases
1.	Shri Dimba Rajkonwar killing case	Dibrugarh PS Case No.387/98
2.	Phuleswari Das, Dr. Dharani -dhar Das, Rupjyoti Jyoti Das & Latika Das killing case	Barama PS Case No.76/1998
3.	Kidnapping and attempted murder case of Shri Ananta Kalita of Hajo	Basistha PS Case No. 224/99 & Hajo PS Case No.155/99
4.	Rajesh Mishra & Rajib Koch Kidnapping / killing case	Tezpur PS Case No. 541/1999
5.	Dipak Choudhury killing case	Belsor PS Case No. 132/2000
6.	Jyotish Sharma killing case	Geeta Nagar PS Case No.1/2001
7.	Dwijen Haloi & Pulen Haloi killing case	Nalbari PS Case No. 5/2001

N.B. : These cases were referred to the Commission of Inquiry by the State Govt.

**(ii) First Supplementary Report On Second Group of Cases :**

Sl. No. of Cases as Per Commissions's report	Name of the cases	No. of Police Station Cases
8.	Shri Subarna Rabha killing Case	Dhoopdhara PS Case No. 46/98
9.	Shri Tapan Das killing Case	Goalpara PS Case No. 287/99
10.	Shri Mahesh Nath killing Case	Goalpara PS case No.1/99
11.	Shri Dhaneswar & Smti. Sushila Rabha Killing case	Rangjuli PS case No3/99
12.	Shri Mahendra Rai killing Case	Rangjuli PS Case No41/99
13.	Shri Swapan Patgiri killing Case	Goalpara PS Case No79/99
14.	Shri Dinesh Chandra Rai killing Case	Goalpara PS case No. 231/99
15.	Shri Lakhan Rabha killing Case	Goalpara PS case No. 76/2000

(iii) Second Supplementary Report On the Third Group of Ten Cases :

Sl No.of Cases as Per commi-ssion's Report	Name of the cases	No. of Police Station Cases
16.	Shri Nripen Dowarah & Shri Deep Borah Killing Case	Simaluguri PS Casr No. 107 & 108/98
17.	Sarbashri Bijit Dutta, Hemanta Gogoi, Jogeswar Gogoi & Umesh Das killing Case	Haluating PS Case No. 51/98
18.	Shri Diganta Das killing Case	Demow PS Case No. 121/98
19.	Shri Parameswar Das killing Case	Hajo PS Case No.107/99, Palasbari PS Case No. 93/99
20.	Shri Hiran Deka kidnapping & disappearance Case	Sarupathar PS Case No. 230/99
21.	Shri Jatin Phukan & Shri Nirmal Konwar Killing Case	Kakotibari PS Case No. 25/99
22.	Shri Keshob Konwar killing Case	Golaghat PS Case No. 230/99
23.	Shri Jugal Phukan killing Case	Kakotibari PS Case No. 26/99
24.	Shri Uma Kanta Gogoi & Family killing & Blasting case	Kakotibari PS Case No. 27/99
25.	Shri Khagen Barman killing Case	Hajo PS Case No.40/2000

(iv) Last Supplementary Report on Last group of Ten Cases.

26.	Shri Haren Teron, Barhani Teron & Bipul Teron killing Case	Basistha PS Case No. 58/99
27.	Smti. Sukuri Boro & Shri Kanta Ram Boro Killing Case	Sonapur PS Case No. 45/99
28.	Shri Bimalendu Ehakat killing Case	Dhudhnoi PS Case No. 42/99
29.	Shri Khagen Das kidnapping Case	Nalbari PS Case No. 175/99
30.	Shri Lakheswar Rabha killing case	Dispur PS UD Case No. 31/99 & Dispur PS Case No. 675/99.
31.	Shri Amrit Bhuyan killing Case	Namti PS Case No.16 & 17/99 : GR Case No. 646/99
32.	Shri Hemen Ch. Kalita killing Case	Paltan Bazar PS Case No. 307/99
33.	Sayed Abdul Murin & Md. Abdul Rahman Kidnapping case	Teok PS Case No30/2000
34.	Shri Manik Ch. Kalita kidnapping Case	Nalbari PS Case No.355/99
35.	Shri Pratap Kalita killing Case	Rangia PS Case No.273/2000.

### C) The Findings of the Commission of Inquiry :-

The first four terms of references viz.,

- (1) Circumstances, in each case, leading to the killing of the victims
- (2) Identity of the killer(s) and accomplice(s), if any.
- (3) To find out whether there was any conspiracy in targeting the Victims and the motive behind such killings.
- (4) Pinpoint responsibility on persons who were involved directly or indirectly in the commission of such killings.

These have been discussed in detail in each case & findings are given in the reports.

#### C.1. The Commission in its report has observed the following common characteristics/features in all the cases ( extract given below ) :

- “
1. That each killing involved an ULFA family or an ULFA related family ; and investigations mostly fizzling out or ending in Final Reports (F.R.) or investigation pending but no clue. No charge sheet is submitted in any of the cases.
  2. That all the killings, except a few were committed at dead of night, and the assailants invariably spoke in Assamese to awaken the inmates for killing victims.
  3. The assailants were invariably armed with sophisticated firearms of prohibited bores, and masked with black wrappers or caps, to avoid being identified.
  4. That the weapons used in killing were invariably firearms of different sizes, bores and calibers, mostly of prohibited bores normally found in police-military situations.
  5. That as firearms of prohibited bores were mostly used ; forensic/ballistic examinations of exhibits were mostly avoided or unduly delayed and investigation ultimately fizzling out.
  6. That the vehicles used were mostly Maruti Gypsies & vans and always without Registration Numbers.
  7. That there were police patrolling in the crime areas prior and posterior to, but not during the killings
  8. That the army was ubiquitous. By army we mean the armed forces of the Union deployed in Assam in aid of civil power. There was lurking evidence of Police-SULFA nexus in the killings, some of the latter being constituted into an extra-constitutional authority and used as the executioners, the modus operandi being to visit the family, ask members to persuade its ULFA members to surrender, failing which, to send an advance team to survey the location and structure of the house, then to send armed and masked men to the family house at dead of night, knock at the door to wake up the inmates and then drag him/them out and shoot him/them dead, or take him/ them away and secretly kill and throw the bodies somewhere.
  9. That there was general resentment and decry against the Unified Command Structure/Chief Minister.

10. That there has been connivance of SULFAs ; and in no killing case, any SULFA has been made accused or arrested.
11. That the investigation did not commensurate with the seriousness of the crime perpetrated.
12. That modern scientific methods of investigation, finger/foot prints, dog-squads were never used.
13. That no condolence message was sent from the Govt. of Assam to any of the victim families.
14. That no ex-gratia/compensatory payment was made by the Govt. of Assam in any such case.
15. That in all the cases, except that of Shri Ananta Kalita, there is remote orchestrated ULFOCIDE, death penalty having been imposed on the victims for "status offences", of being members of ULFA or ULFA related families.
16. From some cases "remote orchestration" and principle of "kill and get killed" are deducible.

*These common characteristics prove remote orchestration from an apex source of conspiracy committing ULFOCIDE through its instrumentalities including SULFAs as executioners."*

**C.2 The Commission has also found the following three additional characteristics in the Third Group of Ten Cases (extract given below) :**

*"1. The parties boldly naming of some individual Sulfas as perpetrators in some of these cases ; 2. The then Police authorities openly constituting some of the Sulfas an extra-Constitutional authorities for killings, in the process of Ulfocide, that is, deliberate killing of Ulfas and their families and relatives, thus executing them for their "status offences" of belonging to ULFA and ULFA-related families, without their committing any crime or offence, and pursuant to remote-orchestration from State Home Minister and using the concerned Sulfas as political policemen; and returning some of the cases in F.R.(Final Report) without finding any clues, and 3. Fake Encounters, partly because there was no encounter at all, or because the Police SULFA nexus could not have exercised Police powers. It may also be noted that this Third Group of ten cases also reveal some individual Sulfas being boldly named by respective parties in course of evidence, thereby fully confirming the unholy nexus between the then concerned Police authorities and concerned Sulfas, in secrecy, by the Home Minister, in flagrant violation of their Constitutional, Legal and Human Rights. There is enough evidence to show that the then Home Minister was at the helm of these extra-Constitutional killings."*

**C.3 The Commission has further observed** " considering the facts of the cases in light of definition of conspiracy, it can surely be held that there was a long drawn course of action amounting to conspiracy."

**C.4 Findings on which specific actions are required are given below :**

**The Commission has recommended that the following cases be revived and re-investigated.**

Sl. No.	SL. No. of the cases as per commission's report	Name of the cases	No. of Police Station cases
1	12	Mahendra Rai killing case	Rangjuli P.S.Case No.41/99
2	16	Nripen Dowarah & Deep Borah killing case	Simaluguri PS Case No.107 & 108/98
3	17	Bijit Dutta, Hemanta Gogoi, Jogeswar Gogoi & Umesh Das	Haluating PS case No. 51/98.
4	18	Diganta Das killing case	Demow PS Case No. 121/98.
5	19	Parameswar Das killing case	Hajo PS CaseNo. 107/99& Palasbari Case No. 93/99
6	20	Hiran Deka kidnapping & Disappearance case	Sarupathar PS case No.230/99
7	21	Jatin Phukan & Nirmal Konwar Killing Case	Kakotibari PS Case No.25/99
8	22	Keshob Konwar killing case	Golaghat PS Case No. 230/99
9	23	Jugal Phukan killing case	Kakotibari PS Case No. 26/99
10	24	Umakanta Gogoi & Family killing & Blasting case	Kakotibari PS Case No. 27/99
11	26	Haren Teron, Barhani Teron & Bipul Teron killing case	Basistha PS case No 58/99
12	27	Smt.Sukuri Boro & Shri Kanta Ram Boro killing case	Sonapur PS Case No. 45/99
13	28	Bimalendu Bhakat killing case	Dudhnoi PS Case No. 42/99
14	29	Khagen Das kidnapping case	Nalbari PS Case No.175/99
15	30	Lakheswar Rabha killing case	Dispur PS UD Case No.31/99 & Dispur PScase No. 67/99.
16	31	Amrit Bhuyan killing case	Namti PS case No. 16 & 17/99 : GR Case No.646/99



Sl. No.	SL. No. of the cases as per commission's report	Name of the cases	No. of Police Station cases
17	32	Hemen Ch. Kalita, killing case	Paltan Bazar PS Case No. 307/99.
18	33	Sayed Abdul Munin & Md. Abidur Rahman kidnapping case	Teok PS Case No. 30/2000.
19	34	Manik Ch. Kalita Kidnapping case	Nalbari PS Case No. 355/99.
20	35	Pratap Kalita killing case,	Rangia PS Case No. 273/2000

**State Government decision :**

**The state Government accepts the above recommendation and has decided to revive the cases for re-investigation as per law.**

**D. Terms of reference No. 5** regarding recommendations to prevent recurrence of such killings, the Commission has made twofold recommendations namely (i) Immediate and (ii) Long Term. The gist of the recommendations are as follows :-

(i) The **Immediate** measure is, first to try to keep in abeyance, and then gradually dismantle the existing Unified Command Structure. Which is neither a statute nor a statutory order, but only an arrangement agreed to by the Centre and the State Government regarding deployment and operation of the armed forces and other forces of the Union deployed by the Central Government "in aid of civil power" of the State of Assam, on request/requisition by the State Government. The structure itself envisages its review after every three months, and there is no limit to the review and may even envisage its dismantling.

The Commission has observed "this may be the appropriate time for effective talks with the local outfits to observe ceasefire first for a short period, say six months, and for gradually longer and longer periods and for restoration of normalcy and confinement of armed forces and other forces of the Union to the barracks, and on continuation and assurance of normalcy, ultimately withdraw, on an assurance of peace on the part of the banned outfits and ultimately lifting of their bans themselves."



### State Government decision :

The Unified Command Structure at present is notified for a period of three months at a time only and review is made every three months. The recommendations of the Commission will be duly considered in conjunction with the prevailing situation in the state at the time of review. The State Government is always in favour of talks to settle the demands and accordingly, appeal has been made on number of occasions requesting United Liberation Front of Assam (ULFA) and other militant outfits to come forward for talks with the Government. The State Government is already having ceasefire agreement with National Democratic Front of Bodoland (NDFB), Dima Halom Daogah (DHD), United Peoples Democratic Solidarity (UPDS), Birsa Commando Force (BCF), Adivasi Cobra Militant Force (ACMF) and steps are being taken for formal talks.

The State and the Central Government also took the initiative to hold talks with ULFA through their representative, the Peoples Consultative Group (PCG). Three rounds of talks were held with PCG which was followed by a unilateral suspension of operations. Subsequently, this was withdrawn because instead of responding positively, ULFA utilized the opportunity to regroup, revitalize and menacingly step up their militant activities.

(ii) The Long Term measures are meticulous observation of the provisions of the Constitution of India and the laws in carrying out each and every function of the government. The Long Term measures may include, in the long run, the faithful obedience to and implementation of the constitution and laws of the country. The Centre-State relationship must also be in accordance with the mandates of the Constitution.

### State Government decision :

The State Government reiterates its commitment to the upholding of the Constitution of India and rule of law as mandated by the Constitution and other statutes.

(iii) Police personnel may be sent for advanced training in detection and decision in modern crimes and criminal practices. Such trained police personnel may be put in the police training college. They should undergo a training course in human right and cyber and other present day crimes and crime prevention.

### State Government decision:

The State Government accepts this recommendation. Necessary steps in this regard will be taken depending on the availability of resources.

(iv) The Commission observed "Regarding the SULFAs suspected, it may be appropriate to observe that because of the position in which the SULFAs found themselves, between the devil and the deep sea, their erstwhile colleagues having been deserted by their act of surrender, they deserved adequate protection. But using their services as "guides, "spotters" trouble-shooters and collaborators in police functions could never be viewed as proper treatment meted out to the SULFAs , ....."

**State Government decision:**

The State Government has provided security to some of the SULFAs in the past on the basis of their threat perception. Strict instructions will be issued not to utilize the services of the SULFAs for any irregular or illegal activities.

(v) So far as the Government wings, agencies and authorities, both official and political, the principle of "respondent superior" will surely apply; and for all the lapses and misdeeds at the lower levels, higher levels authorities shall be held liable and be subjected to proper punishments. So far as political and minister level authorities are concerned, the principle of collective responsibility may apply to all those who were forming the Govt. in the State at the relevant period.

**State Government decision:**

The State Government will take action against any authority found to be indulging in unlawful activities or violating human rights.

**E. Terms of reference No. 6** - Regarding any other matter related to or relevant to the purpose of this inquiry, the Commission has directed the State Government to pay compensation to the next of kins of the family of the victims and also to the victims in case of kidnapping etc. @ Rs. 5 lakh(Five lakhs) for each killed/kidnapped person except in the case of Uma Gogoi and family killing and blasting case where the Commission has directed to form a *corpus* fund of Rs. Thirty lakhs to be utilized for development of Uma Gogoi's family and the Mahmora Area.

**State Government decision :**

The State Government has decided to pay Rs.3.00 lakhs ( Rupees three lakhs ) to the next of kin of the victims of these 34 cases and to the victim in one case of the kidnapping in line with the existing quantum of compensation paid to the next of kin of victims of the extremist/terrorist violence.



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