

**This report is presented by People's Union for Civil Liberties (PUCL) Gujarat to National Human Rights Commission, New Delhi and is released by Ms. Manjula Pradeep, Executive Director of Navsarjan Trust, Gujarat(Chairperson of the fact-finding team) and Shri Gautam Thaker, General Secretary of PUCL, Gujarat.**

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## **Report to NHRC by PUCL-Gujarat team**

### **Fact finding visit : 25<sup>th</sup> July 2016 and 25<sup>th</sup> July 2016**

The team visited Civil Hospital Rajkot, the place of incident, met the families of the victimized Dalit youth and also had meeting with I.G. C.I.D. crime at Una.

### **Members in the team:**

1. Ms. Manjula Pradeep – Executive Director, Navsarjan Trust

Ms. Manjula Pradeep is a Dalit and Women Rights activist working for past 24 years. She is also playing active role in raising issues related to caste based discrimination in the United Nations and European Parliament.

2. Ms. Nitaben Mahadev – Secretary, Gujarat Lok Samiti

Ms. Nitaben was an active member of J.P. movement and is playing active role in Gujarat Lok Samiti for past 40 years. She is advocating on the issues of land rights for marginalized communities in Gujarat.

3. Ms. Meenakshiben Joshi – Movement for Secular Democracy

Ms. Meenakshiben is actively working for the rights of women in Gujarat for past 30 years.

4. Mr. Govind Parmar – Advocate and activist

Mr. Govind Parmar is a senior lawyer, practicing for past 15 years, in the session's court of Gujarat and is helping affected Dalit communities by defending serious cases of atrocities against them in the courts.

5. Mr. Kantilal Parmar – Program Director, Navsarjan Trust

Kantilal is an active Dalit rights activist for past 18 years. He has represented several cases of human rights violations against Dalits, women and tribal to National Human Rights Institutions.

6. Mr. T.P.Babaria – Retired R.B.I. officer / writer

Mr. T.P. Babaria is a well known local activist from Una town in Gujarat. He is a freelance journalist, actively writing on issues of marginalized communities in local news papers.

7. Ms. Deena Vankar – Senior worker, Navsarjan Trust

Ms. Deena Vankar is a grass root Dalit rights activist and actively working on the issues of Dalits and women rights for past 20 years.

8. Ms. Madhu Koradiya – Senior worker, Navsarjan Trust

Ms. Madhu Koradiya is a grass root Dalit rights activist and actively working on the issues of Dalits and women rights for past 20 years.

**1. Brief background of the village:**

Mota Samdhiyala village is 23 kms away from Una head quarters in Gir Somnath district. Gir Somnath was earlier part of Junagadh district, which is declared as atrocity prone area by the Government of Gujarat. It consists of around 2400 population. The main communities living in the village are Ahirs, Patels, Dalits and Barber. Patels and Ahirs are the dominant communities in this village. 27 Dalit families belonging to Chamar caste are residing in this village and they are landless agricultural labourers. Few Dalits own a small piece of land. Some of the Dalit families are engaged in removal of carcasses and leather tanning. They do this caste based occupation in not only in their village, but also in nearby villages. Each family engaged in this occupation gets their turn every Friday. The village panchayat does not have a reserved seat for a Dalit member and the chair person in the social justice committee, which is part of the village panchayat as co-opted. No development work has been done for Dalits by the village panchayat. Only one Dalit household has a toilet. The Dalit locality, does not have proper roads or path ways and there are no street lights. The village panchayat has not allocated a place for leather tanning and has also not provided any facility for disposal of the carcasses. Hence the Dalits decides themselves about where to do leather tanning and dispose of the dead bodies of the animals. Majority of the Dalits are illiterate and few of them have finished high school. Only one youth at present is pursuing study in engineering.

**2. Details about the incident:**

Complainant's father Shri. Balubhai Sarvaiya hails from leather tanning caste called as Rohit caste in Gujarat. He has been doing caste based

occupation for a long period of time. He not only gets dead animals from his village, but also from the nearby villages.

Sarpanch (Village head) of Mota Samadhiyala, Shri Prafulbhai Korat who comes from dominant caste (Patel community) had been harassing Balubhai for quite some time. He also had issued written notices to Balubhai, to demolish his small room constructed in the agricultural land. 6 months back, there were some heated arguments between the village head and Balubhai and the village head challenged him” तू अभी जो धंधा कर रहा है वह बंध कर दे, तेरी मरी हुई गाये कभी भी जिन्दा हो सकती है और यह तुझे बहुत भारी पड़ेगा” . But Balubhai did not took this threat seriously.

On 11<sup>th</sup> July 2016, Balubhai got a phone call from Naajabhai Danabhai Ahir from Bediya village that his cow was attacked by a lion and has been killed and he asked him to take the dead cow. So he went to bring the dead cow and brought it to Samadhiyala village. Again he got a call from Jivabhai Koli from Motisara village that his cow has died and also asked him to take the dead body of the cow. Hence Balubhai asked his son to get the dead cows. All the cows were brought on the waste land bordering two village panchayats of Mota Samadhiyala and Bediya at around 10 am on 11<sup>th</sup> July 2016, by Dalit youth Vashram Sarvaiya, Ramesh Sarvaiya, Bechar Sarvaiya and Ashok Sarvaiya and they started skinning the dead cows.

Meanwhile a four wheeler came and saw them and went away. Little later, several youth on 25-30 bikes came with sticks and iron pipes. They started shouting “ सालो, जिन्दा गायोको काट रहे हो” They also started abusing the Dalit youth with caste based derogatory words and then started hitting the four dalit youth with sticks and rods. The victims kept on saying that these are all dead cows, but the accused kept on beating them.

A man from Devipujak (OBC) caste witnessed this incident and informed Balubhai Sarvaiya on the phone that his son and other Dalit youth are

being beaten up by a big mob. Hence Balubhai and his wife rushed to the place of incident. They requested the mob not to beat the Dalit youth.

But the attackers did not listened to the plea and they kept on beating the four dalit youth for one and half hours. After this the accused removed the shirts of the four Dalit youth and forced them to sit in their vehicle. Balubhai also tried to sit in the vehicle, but he was hit on the head with iron pipe by the attackers and he fall down there. His wife, who tried to save him, was also beaten up by the attackers. The attackers took the four Dalit youth towards Una town. On the way they met a police vehicle, which asked them to stop and there was conversation between the police and the attackers that they are taking the four Dalit youth to Una town. The police told the attackers that they are going to the place of the incident. This shows that the police were involved in this atrocity.

After reaching Una town, all the four Dalit youth were tied to the back side of the four wheeler no. DD.03.F.1294. On the back side of the car was written" President- Shiv Sena, District- Gir Somnath. After tying the four Dalit youth, the attackers started hitting them with sticks and Iron pipes and took the four victims from Una Bus stand to Una police station and were put in police lock up. The entire incident was also videotaped by the attackers.

Meanwhile, 108 ambulance was sent to take the complainant Babubhai and his wife to be treated in the hospital. The police told the ambulance driver to take Balubhai and his wife to Gir Gadhda town instead of Una town. But Balubhai and wife said that they want to go to Una town for medical treatment. The police threatened them and also misbehaved with them.

Meanwhile, people of Una town also came to know that four Dalit youth are been beaten and they started gathering at the place of incident, where

the Dalit youth were being beaten. Seeing the Dalits coming around, the attackers escaped from the place of incident.

After due pressure from Dalits, late in the evening F.I.R. was lodged against the attackers and their names are:

1. Pramodgiri Rameshgiri hailing from Simar village in Una block.
2. Balvant Dhirubhai from Una town
3. Ramesh Bhagwanbhai hailing from Samter village, Una block
4. Rakesh hailing from Bhimpara, Una town
5. Rasik hailing from Bhimpara, Una town
6. Naagji Dahyabhai Aahir hailing from Bediya village in Gir Gadhdha block.

### **3. Important facts related to the First Information Reported:**

1. Name of the Complainant: Vasharambhai Balubhai Sarvaiya, Scheduled caste, 23 year old, resident of Mota Samadhiyala village, Una block, Gir Somnath district.
2. FIR was written by the Police at the referral Hospital in Una town.
3. Date of Incident: 11/06/2016, time: 10:30 am in the morning
4. FIR lodged on 11/6/2016 Station, time:19:30 pm, Station diary no. 16, 19:30 pm
5. Police Station: Una Police Station.
6. District: Gir Somnath
7. Sections invoked in the F.I.R.: Crime reg. no. 127/2016 , IPC sections no. 307, 395, 324, 323, 504, B.P.A. 135 and 3(2) 5 of Sc/St (PoA) act.
8. Name of the other accused arrested until the fact finding report was prepared are:
  1. Nagjibhai Dayabhai Ahir, Bediya village, Una block,(Pancholi Ahir-OBC)
  2. Nileshbhai Manbhai Gohil, (Khant Darbar, OBC)
  3. Satishbhai Narotambhai Parmar, (Mistri-OBC)
  4. Mahmadsafi Mustakbhai Naya,(Sipai, Muslim, OBC)
  5. Bharatbhai Zalambhai Gohil, (Khant Darbar, OBC)
  6. Jaydevsinh Pratapsinh Gohil, (Khant Darbar-OBC)
  7. Goyal – Khatu Hamirbhai Gohil,(Khant Darbar-OBC)
  8. Pratap Pathubhai Gohil, (Khant Darbar-OBC)

9. Vikramsinh Malabha Darbar, (Khant Darbar-OBC)
10. Sumit Merubhai Gohil, (Khant Darbar-OBC)
11. Ajitsinh Karnsinh Gohil, (Khant Darbar-OBC)
12. Dipakbhai Viththalbhai Shiyal
13. Vipul Gohil
14. Vinu Gohil
15. Babu Gohil
16. Bhavesh Godhani
17. Information not received

- Total 23 accused have been arrested by the C.I.D. crime until now.

**4. Details of Victims:** The names of the victims are as below:

1. Vasharambhai Balubhai Sarvaiya (Complainant), aged 23, resident of Mota Samadhiyala, Una, Gir Somnath
  2. Balubhai Virabhai Sarvaiya, resident of Mota Samadhiyala, Una, Gir Somnath (age – 46 years)
  3. Kuvarben Balubhai Sarvaiya, resident of Mota Samadhiyala, Una, Gir Somnath (age – 45 years)
  4. Devashibhai Kalabhai Babariya, resident of Bediya village, Una, Gir Somnath
  5. Ashokbhai Bijalbhai Sarvaiya (age -17 years)
  6. Becharbhai Ugabhai (age – 26 years)
  7. Rameshbhai Balubhai Sarvaiya (age 21 years)
- F.I. R. was written by: K.B. Chudasama, Head constable, Buckle no. 610
  - Una Police Sub Inspector: N.U. Zala, Police station no. 02875-224766
  - Investigation officer: Kiritkumar Joshi, Dy.S.P.(SC/ST Cell), Gir Somnath district
  - S.S.P. Gir Somnath: H.R. Chaudhary
  - Brijeshkumar Jha, IGP, Junagadh range, Junagadh

- **Present Investigation team:**

Investigation has been handed over to CID (Crime), Gandhinagar, on 19/07/2016

1. Shashikant S. Trivedi, IGP,
2. Sujata Majmudar- SSP
3. Mr. Sarvada-Dy.S.P.
4. PI- Junagadh and Rajkot- CID(Crime) state

**5. Medical treatment given to the victims:**

- Three victims named 1. Balubhai Virabhai Sarvaiya, 2. Ramesh Balubhai Sarvaiya 3. Kuarben Balubhai Sarvaiya were first in Gir – Gadhda referral hospital and then were sent for further medical treatment at Junagadh Civil Hospital.
- Two victims named Balubhai Sarvaiya and Kuarben Sarvaiya were discharged on 19/7/2016, One victim named Rameshbhai was sent for further medical treatment at Rajkot civil hospital.
- Four victims 1.Vasrambhai Balubhai Sarvaiya 2. Ashokbhai Bijalbhai and 3. Becharbhai Ugabhai and 4. Rameshbhai Balubhai Sarvaiya were first admitted at Una referral hospital and then sent for further medical treatment at Rajkot civil hospital on 16/7/2016 and were discharged on 26/7/2016. The PUCL team tried to explain to the doctors and the superintendent on the 25<sup>th</sup> evening that the victims have not only undergone physical injuries, but they have also undergone psychological trauma and hence they need more time to heal, but both the doctors and the superintendent did not heard our pleas and accused us of having political intentions behind the same. When the four victims reached their village on the 26<sup>th</sup> July, two of them started having medical complications and they were immediately sent to civil hospital in Ahmedabad for further medical treatment on 27/7/2016. At present, all four of them are under medical treatment in Ahmedabad Civil hospital.
- One of the victims, named Devshibhai Kalabhai Babariya was admitted in Una referral hospital, and was released after giving first aid treatment.

## **6. Names of the Suspended Police officers of Una Police station:**

1. N.U. Chavda – Police Inspector
2. Kanchanben Parmar – Police Constable
3. Kanji Chudasama – Head constable
4. Hardevsinh Parmar – Police Constable

### **Compensation provided by the State government as per as prevention of atrocities act, 2015 is:**

1. Rs. 1 Lakh as compensation needs to been given to each affected victim.

### **Other relief:**

1. Rs. 5 lakh was given by Congress Party. – Gujarat.
2. Rs. 2 lakh was given by Nationalist Congress Party- Praful Patel- Mumbai.
3. Rs. 59000 is given as contribution by the Dalit community of Gujarat.
4. Grocery items are given by Dalit communities of Gujarat.

## **7. Recommendations for this incident:**

1. Arrest of the remaining accused involved in the attack and in conspiring the atrocity, which includes Police, Village head and other attackers)
2. I.P.C. Sections- 34, 364, 355, 120 (B), 506 (2). 141, 142, 143, 144, 146, 147, 149 and atrocity act sec. 3 (1) d, 3 (1) e, 3 (1) i, 3 (1) r, 3 (1) s. 3 (1) w (i) (ii) needs to be invoked in the F.I.R.
3. Government should establish an investigation panel with two sitting judges of High Court of Gujarat, to inquire in this incident.
4. Investigation should be finished within sixty days and charge sheet should be filed in the court.
5. State government should constitute an exclusive special court for the speedy trial of the case.
6. Interim relief of Rs. 10 Lakh should be imparted to each victim, as it's a case of atrocity and human rights violations in the public place, stripping and naked parading and then beating with sticks, iron rods, etc
7. Appointment of at least two credible and genuine Special public prosecutors in this case is utmost necessary.

8. Ensure that adequate police protection is provided to the victims and their families, until the trial is not over and ensure their due security, during and after delivery of justice.
9. State government should allocate five acres land to each affected family as rehabilitation measure to liberate them from caste-based occupation.
10. NHRC should set up Special Investigation team to investigate and collect authentic facts related to this incident.

#### **8. Special Recommendations to NHRC:**

1. May set up task force for monitoring of serious atrocity cases against Dalits , which were reported in last 10 years in Gujarat.
2. May hold public tribunal on atrocities on Dalits in Gujarat.
3. Direct the State government of Gujarat, for a status report on situation of Dalits in Gujarat.
4. Direct the State Government of Gujarat, to report on the status of implementation of laws for the protection of rights of Dalits in Gujarat.
5. May ensure that Cow vigilante groups (Gau Rakshak Dal) should be declared illegal and banned across the state of Gujarat and in the county.
6. May direct the State Government to submit action plan undertaken after the atrocity on Dalits in Mota Samadhiyala village and measures laid out in 11 atrocity prone districts declared by the government of Gujarat.

#### **9. List of VIP – Visitors, who visited Mota Samdhiyala & Civil hospital, Rajkot**

1. Anandiben Patel-Chief Minister of Gujarat, Gandhinagar
2. Ramanlal Vora, Minister, Social Justice, Gandhinagar, Gujarat

3. Jethabhai Solanki, Parliament Secretary, Government of Gujarat, Gandhinagar
4. Rahul Gandhi- Vice President of Congress Party, New Delhi
5. Paresh Dhanani, MLA, Congress, Gujarat
6. Shailesh Parmar, MLA, Congress, Gujarat
7. Arvind Kejriwal, Chief Minister of Delhi, New Delhi
8. Prakashrao Yasvantrao Ambedkar, Mumbai
9. Brinda Karat, CPI, Member of Parliament, New Delhi
10. D. Raja, CPI, Member of Parliament, New Delhi
11. Sharad Yadav, JDU, Member of Rajya Sabha, New Delhi
12. Chhotubhai Vasava, JDU, MLA, Gujarat
13. Derek Obrien, TMC, Member of Parliament, New Delhi
14. Purushottam Rupala, Central Minister, New Delhi.