

# **Executive Summary of the Report: People's Tribunal on Nandigram**

26-28 May 2007

## **EXECUTIVE SUMMARY**

### **About the Tribunal**

#### **The Context**

#### **The Road to 14 March**

#### **What Happened on 14 March?**

#### **The Toll of Dead, Missing and Injured**

#### **The Medical Response**

#### **Developments after 14 March**

#### **Findings and Recommendations**

### **About the Tribunal**

The People's Tribunal on Nandigram<sup>1</sup> probing the violent events of 14 March 2007 in Nandigram, West Bengal has produced a final report with its findings and recommendations for presentation to concerned authorities as well as the general public.

The Tribunal, organized by the All India Citizens' Initiative, a network of concerned citizens across India, heard depositions from victims, witnesses, social activists, intellectuals, doctors, human rights groups and other concerned organisations. The hearings were held in both Nandigram and Kolkata from 26-28 May and headed by Justice S.N.Bhargava, former Chief Justice of the Sikkim High Court.

Tribunal members, which included Prabhash Joshi (Founder Editor, Jansatta), Lalita Ramdas (Social Activist), John Dayal (Member, National Integration Council) and Jyotirmoy Samajder (Psychiatrist), visited the site of police firing and other places in the Nandigram area relevant to understanding the circumstances and nature of the violence.

The Tribunal received 39 oral and 135 written depositions at the hearings held at primary schools in Gokulnagar and Sonachura and 20 depositions in Kolkata at University Institute Library Hall. In its final report the Tribunal has the following observations to make, based on prima facie evidence as well as a total of 194 depositions made before it:

### **The Context**

**Nandigram** is a rural area in East Midnapur district of West Bengal which has been the centre of peasant resistance against an attempt by the government to acquire agricultural land for setting up a Special Economic Zone. It is located around 150 km from Kolkata, on the south bank of the Haldi River, opposite the industrial city of Haldia. The area falls under the Haldia Development Authority.

There are three Blocks in Nandigram – Block1, Block2, Block3 of which Nandigram Block 1 is the one most affected by the West Bengal government's proposed SEZ.

The population is predominantly a mix of Muslim and lower caste Hindus, who have lived harmoniously together for a long time. The area has been till recently a political stronghold of the CPI and the CPI (M).

More than anything else the area is famous for its historical role in the struggle against British colonial rule and during the Tebagha movement in the mid-forties when peasants in many parts of pre-Partition Bengal captured vast quantities of land demanding it their right as tillers of the soil.

## **The Road to 14 March 2007**

### ***How it all began***

The problems in Nandigram started with the Haldia Development Authority (HDA), headed by Laxman Seth, the CPI (M) MP from Tamluk, issuing a notice on **28 December 2006** identifying 27 *mouzas* of land in Nandigram and 2 *mouzas* of land in Khejuri, comprising 25,000 acres of land for acquisition. The land was to be acquired for setting up a chemical industrial complex, as part of a Special Economic Zone (SEZ), with investment from the Indonesian multinational Salim Group<sup>ii</sup>.

While there were many rumours circulating about the impending land acquisition in Nandigram there was no attempt by the West Bengal government or local administration to organise any consultation with the local people who would be affected by such a move. The local people, who had been following the unsuccessful agitation by farmers against land acquisition in Singur- where the government took over 947 acres of land for a car factory to be set up by the Tata group- were already quite apprehensive about being ousted from their land.

In the weeks preceding the HDA notification there is evidence to show that apart from the local people and opposition parties there were constituents of the ruling Left Front, like the Communist Party of India<sup>iii</sup>, also which were opposed to the proposed SEZ project.

The violence in Nandigram started on **3 January 2007** itself when Anti Land Acquisition Protestors demanded clarifications regarding the SEZ project from the Kalicharanpur *Panchayat Samity* office and the police were called in. Several people were injured in the police lathi charge that followed and a police jeep either caught fire due to either an accident or was set on fire by the mob.

Tensions escalated over the couple of days as the people of Nandigram put up roadblocks and cut off access to their area for the local administration and police. There were clashes between pro-government and anti-land acquisition groups and several supporters of the CPI (M) and their families left the area to take refuge in camps in neighbouring Khejuri which was still a ruling party stronghold.

On **5 January 2007** several opposition groups like the Trinamool Congress, Congress and Socialist Unity Center of India (SUCI) got together to form the Bhumi Uchched Pratirodh

Committee (BUPC).

### ***Violence of 7 January 2007***

In the early hours of the morning of **7 January** at least five persons from Nandigram were killed as armed CPI (M) cadre allegedly hurled bombs and fired bullets. The five dead were Biswajit Maity, Bharat Mondal, Sk. Salim, Badal Mondal and Anukul Patra.

In retaliation the villagers set fire to a CPI (M) camp at Baratole in Khejuri and the house of Shankar Samanta, a local CPI (M) leader, who was burnt to death in the incident. According to the deposition made by the mother of slain Bharat Mandal the bombs and bullets were fired from the house of Shankar Samanta.

The police and the administrative officials were nowhere on the scene when this violence was taking place and confined themselves to the Nandigram Police Station.

Chief Minister of West Bengal, Mr Buddhadeb Bhattacharyya, held Jamait Ulema-i-Hind, a Muslim cultural organisation and one of the constituents of the BUPC responsible by saying “ ..... *Jamait, in particular, started an ugly communal campaign. This is an unfortunate incident, no matter activists of which party perished in the clashes.*”<sup>iv</sup>”

However Mr. Benoy Konar, State Secretariat Member, CPI (M) said: “... *But if they want to make things difficult for us, we are prepared to make life hell for them.*”

Following the incidents of 7 January the local administration held a peace meeting between representatives of both the ruling Left Front and the opposition. In the meeting it was unanimously resolved that all parties must cooperate with the administration to restore peace to the affected areas, damaged roads and bridges should be repaired and police camps set up wherever required.

The Chief Minister, Mr. Buddhadeb Bhattacharyya, conceded that “*It was a mistake*” on the part of HDA to have issued notice for the acquisition of land at Nandigram for the chemical hub project and instructed the District Magistrate to “*tear it up*”.

Mr. Bhattacharyya said that the HDA notice “*created all confusions*” even before land acquisition could start at Nandigram. “*Our first task is to restore normalcy in the area. Villagers have already started cooperating with the administration. .... Nothing will be done in haste. A micro study of land available would be undertaken keeping in mind the interest of all concerned.*”<sup>vi</sup>”

The violence between CPI (M) supporters and the BUPC continued nevertheless on a regular basis, mostly at night when CPI (M) cadre would use the cover of darkness to attack Nandigram residents and the BUPC would strike back in retaliation.

On **7 February 2007** a sub-inspector of police Sri Sadhu Chatterjee was waylaid by an unruly mob, dragged away, assaulted and killed. His dead body was recovered subsequently on 10 February 07 after dredging parts of the adjoining river.

Following this West Bengal Home secretary, Mr. Prasad Ranjan Roy said, “ *Till now the police were instructed not to enter the villages at Nandigram, but in view of the prevailing situation, we have to think of taking different measures.* ”

On **12 February 2007** the Chief Minister, West Bengal, addressed a public meeting at Haldia, a place adjacent to Nandigram, and stated that no land would be taken from those unwilling give it. However the very next day at a Press Conference in Tamluk Mr. Lakshman Seth, CPI (M) M.P., said that the land mentioned in the “notice” issued by the Haldia Development Authority “*would be acquired*”.

On **10 March 2007** the District Magistrate, East Midnapur, convened a meeting of all political parties to take up the issue of repairing roads that had been dug up. The opposition parties boycotted the meeting on the basis that no steps were taken on the previous resolutions.

It was decided in the same meeting that the roads will be repaired and if any individual or any group of people or any organisation created any disturbance steps would be taken against such persons according to law.

On **13 March 2007** Mr. Subhendu Adhikari, MLA, TMC sent a fax message to the Chief Minister of West Bengal that the “*Police authorities have created panic among the common people of Nandigram.*”

People in Nandigram knew police would enter their area on 14 March. According to several depositions before the Tribunal, the BUPC met on the night of 13 March and decided:

- (1) To mobilise people to come for a *Puja* and Koran reading session at the two sites where the police would have to cross the cut in the roads or 'bund' made by protesting villagers;
- (2) To use women and children as a shield, under the assumption that the police would not fire on women and children.

## **What Happened On 14 March?**

### ***How the Police Firing Started***

On 14 March 2007 around 9.30 a.m. hundreds of policemen gathered at two entry points into Nandigram- one from the Tekhali Bridge, Gokulnagar, Adhikaripara and] the other from the side of Bhangabera Bridge, near Sonachura. Apart from policemen local leaders and cadres of Communist Party of India (Marxist) were also present.

The deponents claim that the people were peaceful. Only one deponent said there was stone throwing by boys and girls. There is no evidence of the carriage of any arms by the villagers.

There was an announcement by the police party asking the villagers to allow them to repair the 'bund'. People replied that they would undertake this work themselves. There was very

little dialogue over this issue and very soon the police went into the offensive.

Police fired tear gas and immediately followed with bullets & rubber bullets, chased the people, mostly women & children, hitting out with lathis and iron rods, and firing. They were chased, and many were caught and mercilessly beaten, with sexual assault, including rape.

**The lack of parleying seems to suggest that the carnage caused by police firing on the retreating mass, mainly of women & children, was pre-planned.**

**The depositions before the Tribunal also clearly bring out that police went on firing after the people started to flee and that they were not firing towards the legs.**

The police behaviour was brutal. According to one deposition Uttam Pal, after being shot down, was asking for water. Policemen spat on his face and beat up those trying to give him water.

Several depositions before the Tribunal accused policemen of rape. Apart from rape, many women have deposed about being stripped, molestation (the breasts being frequent targets), indecent exposure, and filthy language.

One deponent accuses policemen of having slashed her breasts. Several accuse policemen of forcing rod/lathi/gunbarrel into sex organs and turning the insert in some cases.

**The evidence definitely points towards serious sexual assault, including rape, by policemen.**

#### ***CPI (M) Cadre Allegedly In Police Uniform***

The deponents before the Tribunal spoke of the presence among policemen of others in police dress but wearing slippers (*chappals*), black masks and red arm/wrist bands. There is also reference to others in white dress (*sari*) and '*ghomta*' (veil) pointing out people. These persons were also firing guns and assaulting people with iron rods. They were even more vicious than the policemen.

A large number of deponents agree that they were cadres of the CPI (M) and some of them identify and name the cadres too.

#### ***Impact On Women***

4 victims allege rape. 3 victims indicate rape. Their injuries are typical of rape. There are at least 5 cases of sadistic sexual assault on the private organs, leading to severe injuries.

A mother & daughter have deposed that they were raped, and have named the culprits as being CPI-M cadre. The mother and elder sister of a minor girl who was raped also deposed before the Tribunal.

The following deposition is typical: *"Three policemen pulled me away, I then fell*

*unconscious. Consciousness returned in Tamluk hospital, saline was running. My sex organ was intensely painful and was bleeding. There was pain in my breasts and scratch marks. There was pain in my abdomen, so much pain that I could not urinate. I heard from a neighbour that I was unconscious in the jungle, village people took me to the hospital."*

Smt Rajashri Dasgupta of the Citizens Solidarity organization who deposed as a witness before the Tribunal observed, "*women were traumatized and unwilling to talk due to shame.*"

Dr Debapriya Mallick of the Nandigram Swasthya Udyog deposed before the Tribunal that in the medical camps in the Nandigram area he found women victims with injuries in the pelvic region, the back, the breasts and the vaginal region.

### ***Impact On Children***

Children were not spared. Doctors have treated fracture cases due to police lathicharge. The rape of a 12-year old girl by a named CPI (M) cadre has the mother & sister as eyewitnesses. There are persistent reports of cruelty on very young children by the policemen. Eyewitness depositions accuse policemen of shooting and killing boys.

While no close relative of such victims deposed before the Tribunal from the eyewitness accounts it is clear that further investigation of these charges must be undertaken by relevant authorities.

Dr Debapriya Mallick encountered many cases of injury among children of 9-12 years age. He found two cases of brutal injury infliction on children in the medical camps attended by him. The youngest was 11 years old.

### ***Role Of CPI (M) Cadre After Violence Of 14 March***

There is a general complaint of open intimidation by CPI (M) cadres on the night of the 14 and on the morning of 15 March. According to deponents before the Tribunal CPI (M) cadres tried to threaten the people into submission and to make them join a CPI (M) organised 'peace' march. Police accompanied them in some cases. There was arson and general looting. One mother and her daughter complained of rape by cadres whom they named.

The intimidation continues outside the zone of influence of the BUPC. One deponent, Nilima Das, complained that her husband, who plies a van-rickshaw, is prevented from going to the market and their livelihood is threatened.

## **The Toll Of Dead, Missing And Injured**

### ***Dead***

1. **Basanti Kar** (F) of Kallicharanpur. Eyewitness saw her being shot.
2. **Panchanan Das**. He was shot in front of a close relative. Another deponent also witnessed his murder.
3. **Imadul Khan** (M) of Garchakraberia shot down in front of eyewitnesses.

4. **Badal Mondal** (M) of No 7, Jalpai, killed by bullets, witnessed by his wife.
5. **Shambhu (Uttam) Pal** (M) of Keshabpur, Sonachura, shot down in front of close relative. She tried to save him but police assaulted her. Shooting witnessed by a neighbour. Shambhu died later.
6. **Gobinda Das**, (M) of No 7 Jalpai, Sonachura. One deponent described his death by bullets. He was her son's friend.

These are the 6 names one can gather from the depositions before the Tribunal.

The Association for Protection of Democratic Rights (APDR), which deposed before the Tribunal on 28.5.07 at Kolkata, had the following 7 names in addition among the list of dead persons:

**Sakila Bibi** (F) of Garchakraberia;  
**Imdadul Khan** (M) of Garchakraberia;  
**Sk Raja** (M) of Garchakraberia;  
**Raja Ram Das** (M) of Garchakraberia;  
**Praloy Giri** (M) of Soudhkhali;  
**Ratan Das** (M) of Gangra; and  
**Supriya Jana** (F) of Sonachura.

The West Bengal Education Network in its deposition on 28.5.07 at Kolkata cites **Krishnendu Mandal**, who informed them of the death of his brother Pushpendu Mandal of Gangrapara.

So, the total toll of dead goes up to 14.

### ***Missing***

Pushparani Mandal (**F**) of Village No.7, Jalpai who deposed before the Tribunal and another person tried to remove Subrato Samanta, who had been shot down in the firing on 14 March. But the police assaulted them and took him away. He is missing. His wife is in dire straits with a one-month old baby.

This is the only clear cut case of a missing person to emerge from the depositions though claims of several persons still missing need to be further investigated.

### ***Injured***

People of Nandigram had a wide variety of injuries following the violence of 14 March. From among the deponents at the Tribunal 17 persons suffered bullet injuries.

From the various types of injuries it is to be concluded that

- There was firing on the upper part of the body either wantonly or with intention to wound and kill, not satisfied with one or two shots but pumping as many as seven bullets in one case;
- There was sexual assault;
- The tear gas had persistent effect well beyond normal limits; and
- There severe trauma and panic among people due to the Nandigram massacre

## **The Medical Response**

The victims of the 14 March violence were taken to Nandigram hospital, Tamluk hospital and SSKM hospital, Kolkata, usually in that order. The medical attention was inadequate and there was a definite tendency of hiding facts and tampering with the records.

Two of the women Dr Subrata Sarkar (one of the deponents before the Tribunal) met at the Nandigram hospital, had told her that they had been raped. But for 72 to 80 hours they were not treated as rape victims, neither of them was examined for rape and nothing was recorded medically following accepted medical protocol.

Scores of dead bodies and injured persons were taken to the hospital, but the attending physicians were not recording the cause and nature of the injuries. It may be mentioned here that according to medico-legal viewpoint, the attending physicians are legally bound to record and to report the cause and nature of the injury to the police. The record keeping was not proper; rather it was illegal according to the law of the land.

The medical people told Dr Subrata Sarkar that they had not received any complaint of rape; hence no question of testing for rape arises. This is going to be their official response.

Dr Debapriya Mallick, who was active in medical camps at Nandigram, says, that, according to the statements of the patients of the hospitals, basic norms were violated everywhere. In Nandigram Hospital, basic facilities were absent. Operations were done under torchlight.

The Government has its own Hospital Establishment Act 2004. None of the clauses of the Act were in force there. No separate facilities for men and women exist. Nurse to doctor ratio is inadequate. Dr Mallick says that at SSKM hospital, too, there was insufficient care and unethical medical response.

For instance, Haimabati Halder was forcibly discharged with two bullets still in her body. The patients were denied adequate food in the hospital. There were 6 patients in a room. The doctors and the administration refused to give any information and, on insistence, advised those who complained to go to court.

Discharge certificates were incomplete. Type of injury (bullet injury, head injury, fracture etc) was not clearly mentioned. Police case number was not given. The aim was to underrate severity of the injury and obstruct legal action.

### ***What is the current medical situation?***

There is only one block level Hospital at Nandigram and there is no other medical service provider in the area. Infrastructure of Nandigram Block Medical Hospital is also inadequate.

Except for the endeavours made by certain NGOs, the government has rendered no medical help to the villagers and the victims of the incident of 14 March 2007 in particular.

Due to lack of medical assistance the victims have been made to suffer serious consequences. Victims injured due to firing of tear gas shells indiscriminately are complaining of permanent irritation in their eyes, occasional blindness and various other visual disorders.

There are cases where the victims of burn injury required advanced medical treatment, but the government has not given/extended any medical assistance to the victims. Due to the situation prevalent in or around Nandigram it is not advisable for the villagers nor do they dare to go to Tamluk or to Kolkata for their treatment.

### **Developments After 14 March**

Following the incidents of 14 March 2007 a statement was issued by His Excellency, the Governor of West Bengal in which he said, among other things, that “*the news of deaths by police firing in Nandigram this morning has filled me with a sense of cold horror.*”<sup>vii</sup>

In response the Hon’ble Calcutta High Court passed an order on its own motion to initiate Public Interest Litigation. The order said “*Prima facie we are satisfied that this action of the police department is wholly unconstitutional and cannot be justified under any provision of law*” and called for a special inquiry into the incident by the Central Bureau of Investigation (CBI)<sup>viii</sup>.

#### ***CBI Enquiry Into March 14 Incidents***

The Central Bureau of Investigation (CBI), started an enquiry into the matter in terms of the order passed by the Hon’ble High Court, Calcutta. On 17 March 2007, the CBI raided the Janani Brick Field under the leadership of Shri D K Thakur, SP, CBI, and their team recovered arms and ammunitions and other documentary evidences from the Office Room of the Janani Brick Field and arrested ten persons.

On the basis of the arrest made by the CBI, the local SI started a criminal case, being Khejuri Police Station Case 20/07, dated 17.3.2007, U/S 25/27/35 of the Arms Act and 120B of the Indian Penal Code against the said ten persons.

However the state police framed no chargesheet within 90 days as a result of which all ten persons were let off on bail.

### **People Who Fled Nandigram**

It is alleged that people who did not take part in the movement against land acquisition was forced to leave their villages in the Nandigram area and are now living in camps in the Khejuri side. None of the people who left their villages appeared before the Tribunal to narrate their plight and the Tribunal jury also could not visit them due to lack of response from the administration or CPI (M) party officials for assistance.

However, Kunal Chattopadhyay, Professor from Jadavpur University, in his written submission titled “*How About the Several Thousand Ousted from Nandigram?*” says the figure of such refugees being given by the CPI (M) and state government officials are contested and not very clear.

However, there was an acknowledgement that some people had left the area. Women in Sonachura remarked that the CPI (M) leader Joydeb Paik, who was once trusted by them, had assured them even on the evening of 6 January that there would be no violence, but had left the area. Such CPI (M) leaders were the ones who left. According to them, only five families of their locality had left.

Samad of Jamait Ulema-i-Hind (also Convenor of the BUPC) asserted that the total number of people who had left would be around 200-250. He challenged the CPI (M) to produce a list of names of those who had taken refuge in Khejuri.

Sri Chattopadhyay raises a question that needs to be clarified is, “*what will be the situation of the people, whatever their exact number, who are in the camps at Khejuri. Given the threats uttered by some people at least, it seems to be a difficult proposition to enable these people to return to Nandigram. ...Accordingly, investigation is needed in Khejuri as well, instead of depending solely on information given in Nandigram*”.

## **Findings and Recommendations**

### **Findings**

**Based on prima facie evidence as well as the numerous depositions made before it in its final report the People’s Tribunal on Nandigram has the following observations to make:**

- There is a general resentment in West Bengal, particularly in Singur and Nandigram, against the government’s policy of setting up Special Economic Zones (SEZ) by forcibly acquiring fertile agricultural land;
- Maintaining secrecy over the details of these SEZs, making contradictory statements about the scale and nature of land acquisition and lack of proper consultation with those likely to be affected by the project has created confusion and resentment about the intentions of the government in the minds of rural people;
- The actions of 14 March 2007 by the West Bengal government, particularly the District Administration, which engaged police forces along with armed ruling party hooligans against a peaceful, religious and lawful gathering of mostly women and children from Nandigram, can be described only as a state-sponsored massacre;
- The motive behind this massacre seems to be the ruling party’s wish to ‘teach a lesson’ to poor villagers in Nandigram by terrorizing them for opposing the

proposed Special Economic Zone (SEZ) project;

- There was unprovoked, indiscriminate firing without sufficient warning and without following the established procedure in accordance with law, thus resulting in a massacre of innocent people;
- There were also a disturbingly large number of incidents of sexual violence by both police and armed ruling party cadre against women, many of them carried out in the most cruel, degrading and inhuman manner;
- Despite the presence of large numbers of women in the religious gathering organized by villagers on the morning of 14 March 2007 there was virtually no presence of women police officers;
- There was further deliberate negligence in not attending to the victims and providing them immediate medical assistance, treatment and relief following standard universal guidelines;
- Only few complaints have been filed by victims against erring policemen and other culprits who resorted to firing, criminal assault and sexual offences and so far there has been no proper and independent investigation of the incident to bring those responsible for grave human rights violations to justice in the courts;
- In the aftermath of the incidents of 14 March 2007 there has been no compensation or assistance provided to the victims by way of rations, cash or medical support, which amounts to negligence in the duties of government officials so as to violate basic human rights and hence deserve punishment under the Human Rights Act (1993), which makes them personally responsible;
- The incidents of 14 March, 2007 could have been avoided provided adequate steps were taken by the Administration after the violent events of 7 January 2007 and the culprits and accused apprehended and taken to task;
- There are members and supporters of the CPI (M) who along with their families have been displaced from Nandigram due to intimidation by villagers opposed to the land acquisition, though their numbers are yet to be verified independently;
- The violence in Nandigram and surrounding areas since January 2007 and the posting of police camps inside school buildings has resulted in a loss of education for young and innocent children;
- As of writing this report in August 2007 regular firing and terrorizing of villagers in Nandigram by CPI (M) cadre based in Khejuri and counter violence by members of the Bhumi Ucched Pratirodh Committee was still continuing on an almost daily basis;

- The social and economic impact of such prolonged conflict on the villagers of Nandigram and adjoining areas, such as Khejuri, is bound to be extremely negative;
- The local administration, the District Magistrate or Superintendent of Police (of East Midnapur) as well as the state government and the ruling party members did not cooperate or put up their case regarding the 14 March 2007 incident before the Tribunal despite advance notice;

## **Recommendations**

**Further to these observations the Tribunal would like to make the following recommendations:**

### **Justice**

- The CBI investigation into the violent events of 14 March 2007, initiated on the request of the Calcutta High Court, should be allowed to continue and present a complete and comprehensive report at the earliest. Among other aspects, the investigation should include enquiry into the specific role played by members of the local and state administration in the unprovoked firing and killing of innocent people as well as other atrocities committed;
- The ten CPI (M) cadre arrested by CBI and let off on bail, due to the apparently deliberate laxity of the West Bengal state police in filing charges against them within the statutory period, should be re-arrested pending investigation of their role in the massacre of 14 March;
- The judiciary should consider setting up a special bench, headed by a woman judge, to hear all cases of rape, molestation and violence against women of Nandigram by both police personnel and armed cadre of the CPI (M);
- The Calcutta High Court should also appoint a “monitoring committee” to ensure there is no repetition of the violence of 14 March as there have been at least 25 incidents of armed “intrusion” by CPI (M) cadre into that Nandigram area and nobody has been arrested for the incidents of firing and bomb throwing even after 14 March;
- There is considerable evidence that wounds of injured villagers from Nandigram were caused not just by police bullets but also from private firearms, including sophisticated long-range rifles like SLRs. This should be thoroughly investigated and those responsible for using illegal firearms should be stringently punished in accordance with the law in such cases;
- A Habeas Corpus petition for missing persons should be filed especially in the case of Subrato Samanta, who is still missing following the police firing and assault of 14 March 2007. According to the deposition before the Tribunal by villagers and

his family members he was last seen being taken away by police personnel after being gravely injured in the shooting;

- All CPI (M) cadres guilty of impersonating police personnel on 14 March 2007 should be identified on the basis of eyewitness accounts as well as photographic/video evidence from media reports and prosecuted.
- It is apparent that FIRS have not been filed by many of those who have been sexually assaulted and wounded or even in the cases of those who were killed by both police and armed CPI (M) cadre due to a lack of confidence in the state administration and police. However civil society organizations as well as leaders of the local organizations leading the struggle against land acquisition in Nandigram should encourage and assist local people to file FIRs to ensure justice through established procedure of law.
- There is considerable evidence of tampering with details on the medical discharge certificates of injured Nandigram villagers admitted to public hospitals with a view to distort incriminating information. After thorough investigation the erring medical superintendents/medical officers of these hospitals should be punished in accordance with law in such cases;
- Human Rights Courts as provided by the Human Rights Act (1993) should be set up in West Bengal at the earliest to provide justice in the cases of human rights violations that arise from conflicts between state and the people or among different political groups as in both Singur and Nandigram.

### **Relief and Compensation**

- The National Human Rights Commission should order immediate distribution of ex-gratia payment to all those killed or injured in the violence of 14 March 2007 relief to people affected by the conflict in the area. It should further undertake independent monitoring of such relief.
- Medical aid and assistance should be provided by the state to victims who are still suffering and who were not suitably treated or attended to so far. In particular, the primary health centres in Nandigram as well as Khejuri, and also the Tamluk Hospital should be upgraded, sufficient doctors and nurses posted and proper facilities and equipment provided in order to deal with the medical needs of those injured;
- The people of Nandigram should also be assisted in obtaining compensation and damages for death, injuries or damaged properties from the government. The payment should be at least equal to the amount declared by the State Government to the family of the deceased police officer in Nandigram.

### **Peace**

- The disarming of both sides engaged in conflict in Nandigram and surrounding areas should proceed through talks, de-escalation and confidence-building measures under some effective independent agency/observers appointed by the Calcutta High Court.
- There should be an immediate end to the economic and physical blockade of the people of Nandigram by armed CPI (M) cadre in the surrounding areas who are preventing flow of essential supplies as well as safe movement of people in and out of the area;
- The supporters of the CPI (M) and their families from the Nandigram area who have been living in camps in Khejuri, as refugees should be provided full protection for return to their homes and to continue their livelihood, excepting those who have been accused of grave crimes against people of Nandigram on, before or after 14 March 2007. An independent body acceptable to the people of Nandigram as well as the refugees themselves can monitor the return.
- The local administration needs to create an atmosphere of trust by attending to day-to-day needs of people, helping victims and their family members;
- All peace efforts should fully involve all political parties at the local level in Nandigram and adjoining areas and not just their state level party leaderships;
- Police reforms need to be undertaken urgently in West Bengal to de-link the police from anti-social elements and interference from ruling party and politicians; the recommendations made by the Administrative Reforms Commission in its Fifth report in this regard should be implemented at the earliest;
- To prevent a repeat of the incidents of 14 March 2007 in any form the West Bengal government should make a solemn declaration that force would not be used against the local people for the so called restoration of law and order and control of administration.

**END NOTES**

## <sup>i</sup> **NOTIFICATION**

WHEREAS on 14 March, 2007, a large section of people/local residents protesting against the entry of the huge armed contingent of police and other categories of armed forces in Nandigram area, East Midnapur, West Bengal, were attacked and killed, injured by the police firing;

AND whereas 14 people including women (according to the government version) were killed by the State violence/state supported violence, many women and men were severely injured by firing, lathi-beating and /or use of toxic materials;

And whereas there were also incidents of arson, carnage, violence, killings and flight from affected villages starting from the months of January, including the incidents of violence on 6 / 7th January;

And whereas there has been continuation of such violence even after 14 March incident, including 30th April;

And whereas there has been considerable public reaction, outcry and commotion over the 14 March incident; and other incidents of violence; and whereas it has been prima-facie established that the police action is violative of article 21 of constitution of India and various provisions of the laws of the land and of human rights.

And whereas the All India Citizens' initiatives are of the firm opinion that it is necessary to constitute a people's tribunal for the purpose of finding truth about the aforesaid matter(s) which is a definite matter of public importance;

And whereas no Judicial Inquiry Commission has been set up by the Government authorities to inquire into the aforesaid matter(s);

Now, in these circumstances, the All India Citizens' Initiatives comprising of eminent citizens from various sections of society of India, decide to set up a people's Tribunal consisting of some judges and juries namely Justice S. N. Bhargava, Retired Chief Justice of Sikkim High Court, Smt Lolitha Ramdas, Social Activist, Mr. John Dayal, Human Rights Activist, Dr. Jyotirmay Samajder, Psychiatrist

### **The terms of reference of the tribunal**

- (i) To inquire into the background, causes, course, nature and motive, if any leading to the incident of 14 March;
- (ii) To consider whether any organized group or groups of people or individual/individuals was/were involved in the incident and /or were behind the incident;
- (iii) To ascertain whether the reported state violence, sexual abuse on women and alleged mass killings were done or purported to be done for restoration of public order and for establishment of rule of law in the affected areas, and to find out responsibility of the state authorities, administrative as well as law enforcing agencies;
- (iv) To inquire into the nature of social, economic and medical consequences upon the victims in particular as well as the people of Nandigram and adjoining areas at large;
- (v) To examine whether there were any cases of disappearances/missing arising out of the police action/or state-supported actions and also to examine truthfulness of allegations of lapse or failure on the part of police and medical practitioners towards injured victims;
- (vi) To consider such other matters relevant or incidental to the aforesaid terms of reference, as the tribunal may deem fit and proper.

With this TERMS OF REFERENCE, the TRIBUNAL is now issuing a public notification [[ref.no](#) PTN-0/05/07 dated 16/05/07] inviting the State Government, District Administration, East Midnapur, including police administration of both State and District level, the Chief Medical Officer of health of the District and other doctors and sisters attached to health and hospitals of the district, political parties, associations /organizations /(mass and /or social)/NGOs, members of the public having knowledge or acquainted with the INCIDENT or other incidents or facts relevant to the above TERMS OF REFERENCE, to furnish to the tribunal Statements of Facts relating to the aforesaid incident or the above terms of reference, in the manner as will be mentioned in the second public notice to be published within a day or two. [B-iii: Find copy of the advt. ] 

<sup>ii</sup> The Salim Group was founded by Sudono Salim, closely associated with Indonesian ex-president Suharto. Suharto has

been accused widely, particularly by communists the world over including the CPI (M), of overseeing the murder of thousands of communists during his reign, helped Salim monopolize the Indonesian cement and flour industries. The group is best known as a producer of noodles.

<sup>iii</sup> According to a confidential message of superintendent of Police (DIB), East Midnapur to Special Superintendent of Police (I) ““On 20.11.06 at 15.00 hrs C.P.I-M held a street corner meeting (3000 people attended) under the leadership of Shri Sunirmal Giri, Zonal Committeē secretary and other local leaders at Nandigram Bus Stand under the banner of *Krishi Bachao O Desh Bachao*. Shri Giri, in his speeches, delivered that agriculture would be given priority but industries would also be set up and that was mainly aimed at all India basis. The meeting continued for near about 2 & half hours. Information revealed that due to adverse comments and protest from local people the speakers remained mum and avoided on Nandigram issue”

<sup>iv</sup> The Telegraph 08/01/07

<sup>v</sup> The Telegraph: 08/01/07

<sup>vi</sup> The Statesman : 10/01/07

<sup>vii</sup> **“The news has filled me with a sense of cold horror”**

*The news of deaths by police firing in Nandigram this morning has filled me with a sense of cold horror. We will soon know more details of the sequence of events that led to this tragedy. But the point uppermost in my mind is not ‘who started it’, who provoked it’ or whether there were agent provocateurs behind it. Investigations will reveal that. The thought in my mind and of all sensitive people now is –was this spilling of human blood not avoidable? What is the public purpose served by the use of force that we have witnessed today?*

*Force against anti-national elements, terrorists, extremists, insurgents, is one thing. The receiving end of the force used today does not belong to that order.*

*What I advised government over the last two days, as I received inputs of rising tension in Nandigram, government knows. It is not my intention to enter into blame fixing. But I cannot be as casual to the oath I have taken as to restrict my reaction to a pious expression of anguish and outrage. I trust the government will not only go into the whys and wherefores of this tragic occurrence but will also ensure that it leaves no room for a repetition of the kind of trauma witnessed today.*

*I leave it to the conscience of the officials responsible to atone for the event in the manner they deem fit. But I also expect the government to do what it thinks is necessary to mitigate the effects of this bitter March 14, and to do it visibly and fast.*

**Gopal Krishna Gandhi, Governor of West Bengal**

(This statement was released from Raj Bhavan on Wednesday, 14<sup>th</sup> March 2007)

<sup>viii</sup> IN THE HIGH COURT AT CALCUTTA

Special Jurisdiction (Contemp)

In the matter of: The Court on its own Motion

The court on its own motion issued an order stating that, -“All the newspapers throughout the Nation have today carried as lead article –description of the action which has been taken by the West Bengal police against agitating farmers and other villagers in Nandigram village. *Prima facie* in a wholly indefensible manner innocent people have been shot down by none other than the uniformed police officers. There are at this stage many conflicting versions as to what actually transpired, but one conclusion is echoed by all those who are present in the Court, the newspapers and the electronic media, that there have been a large number of deaths which are directly attributable to the prolonged gunfire by the police of the State of West Bengal.

It seems that if the Police Department which under the control of the Home Department is not aware of the existence of Article 21 of the Constitution of India; let alone the ambit of freedoms guarantees to the citizens of this country, under this article. This article specifically guarantees that –“No person shall be deprived of his life or personal liberty except according to procedure established by law”. Obvious of the aforesaid guarantee, the police has resorted to gun firing, on a large crowd, protesting against the proposal to acquire their land.

*Prima facie* we are satisfied that this action of the police department is wholly unconstitutional and cannot be justified under any provision of law. There are normal remedies available to the State as also to the owners of the lands for redressal of the grievances with regard to the acquisition of land. Such kind of force cannot be justified except in the cases of armed insurgency or warlike situation. Innocent farmers and villagers can hardly be put into the aforesaid bracket. We take serious

note of the observations made by His Excellency, the Governor of West Bengal as reported in the newspaper –‘Hindustan times’, on the front page under the news item headlines –“Governor Reacts” which is quoted herein below:

*Prima facie* we are of the opinion that that these observations clearly depict the extent of the tragedy which has overtaken the population of Nandigram in particular and the population of West Bengal in general. We, therefore, issue notice to the State of West Bengal through the Ministry of Home Affairs to file detailed affidavit setting out the reasons for the action which has been taken against the population of Nandigram by resorting indiscriminate firing by the police. We have also received a communication by FAX from an institution ‘National Alliance of People’s Movements’. We direct that the aforesaid letter be marked as annexure-‘A’ and also treated as Public Interest Litigation.

We also issue notice to this petiti  
on when it comes up.

The affidavit should clearly indicate the entire history and the steps taken by the Government for maintaining the law and order. The affidavit should also identify the dignitary or any official which actually issued the order to fire upon the population of Nandigram. The affidavit should also disclose the material on the basis of which the order the order for firing was issued. The affidavit should further state as to what proceedings in accordance with the departmental rules and under the general Criminal Law have been initiated against any official who is found to have *prima facie* transgressed the power vested in the official or the other dignitaries. In view of the absolutely volcanic situation created, we are constrained to direct the State of West Bengal to ensure the safety and well being of all the general public in the area. The State is also directed to take adequate measures to provide medical facilities to the injured villagers.

In view of the emergent situation and the possibility of relevant evidence being lost/destroyed, we find it a fit case to direct that the matter be investigated by a Special Team, deputed by the Director of C.B.I. The team shall visit Nandigram area and any other surrounding affected area and collect the entire relevant material to be presented before this Court in the form of a report. Let the C.B.I. team be despatched to the Nandigram forthwith. The learned Standing Counsel for C.B.I., Mr. Ranjan Roy is directed to communicate this direction to the Director of C.B.I. for implementation forthwith.

Let both the matters be heard analogously.

Xerox plain copy of this order duly countersigned by the Assistant Registrar (Court) is given to the learned Counsel for the parties on usual undertaking.

Sd/- S. S. Nijjar, C. J.

Sd/- Pinaki Chandra Ghosh, J.