

Now, Modi govt opposes fake killing probe by CBI or SIT

Our Political Bureau NEW DELHI

THE Gujarat government on Wednesday objected to the apex court's suggestion of handing over the Sohrabuddin fake encounter case to the Central Bureau of Investigation (CBI) or the Special Investigating Team (SIT). The SIT is currently probing the post-Godhra communal riots of 2002.

The objection came when the court said there was a need for going to the bottom of the case. "The state has to go to the bottom of the case. The investigation has to be beyond all doubts," said a bench comprising justices Tarun Chatterjee and Aftab Alam.

The court said that the question of referring the case to the SIT has arisen because of the alleged attempt by the Gujarat police to cover up the conspiracy leading to the killing of Sohrabuddin and his wife Kauser Bi. "This is no less disturbing when you admit that this is a fake encounter," the bench said, when senior advocate Mukul Rohatgi, appearing for the state government, opposed the suggestion to hand over the investigations of the case to SIT.

Mr Rohatgi's submission was, however, countered by senior advocate Dushyant Dave, who, appearing for the victim's family, alleged that the investigating officer in the case Geeta Johri, a senior IPS officer, also betrayed the trust reposed in her by the apex court. Mr Dave said the victim's family has no trust in the Gujarat police, which filed a chargesheet that will only help the acquittal of the accused police officers.

The state has already admitted that Sohrabuddin was killed in a fake encounter and that a chargesheet has been filed in the case. Then the role of the apex court in monitoring the probe comes to an end, Mr Rohatgi said. However, the bench said, it was examining the possibility of referring the case to the SIT as objectivity and integrity of the investigation has been questioned. "To date, you did not explain how Sohrabuddin's wife Kauser Bi died. Where is her body? What happened to her?" the Bench asked, to which Mr Rohatgi said she was also killed and her body burnt.

Undeterred by the strong remarks of the bench, Mr Rohatgi said it cannot be assumed that each time the Gujarat police were prejudiced. He opposed the option of handing over the case to CBI against the wishes of the state government.

Mr Rohatgi further said, the issue relating to the jurisdiction of the court to refer a case to the CBI or any independent agency out of the state is a matter pending before a Constitution Bench of the apex court. This fact cannot be overlooked in Soharabuddin case. However, the bench wanted to know why the state government was reluctant to refer the case to the SIT as it had not expressed any reservation when around 10 cases of post-Godhra riots were looked into by the SIT.

Kin of 'fake encounter' victims seek justice

Jafri Zaffer Hussain's widow claims her husband was killed while he was on a pilgrimage to Hussain Tekri

AHMEDABAD MIRROR BUREAU

Even as Gujarat High Court stayed magistrate SP Tamang inquiry report that concluded the encounter of Ishrat Jahan and four others were fake, family members of two alleged victims of fake encounters demanded a judicial inquiry into the deaths on Wednesday.

Mariam Jafri Zaffer Hussain, the widow of Kasim Jaffer Hussain, alleged that her husband, who was on a pilgrimage to Hussain Tekri, Mehsana, on April 13, 2006, was killed during his stay at Ahmedabad.

Talking to mediapersons on Wednesday at Prashant, a centre for human rights, justice and peace, Mariam said, others travelling with her husband had told her that he was defiant when cops confronted him at Hotel Royal at Sarkhej.

He asked for the identity of the policeman, JM Bharwad.

Hussain was roughed up and taken away by the police in a van to Shahibaug, Mariam claimed.

He was also beaten up along the way to Shahibaug and later isolated from his companions. His aides were later told that he had escaped.

When Mariam was informed about what had happened to Hussain, she rushed to Ahmedabad to enquire about her husband. She was also told that he had escaped.

Mariam claimed that only when she threatened to kill herself, the police asked her to return the next day for information.

On April 18, a report of a vehicle accident was carried in a daily.

Its victim was later identified as Hussain. Mariam claimed she was allowed to see Hussain's body after repeated pleas.

There was a welt like that of a bullet wound on his head and trace of blood on his lips.

But when she collected the body there were fresh bruises and wounds.

"I have been left with five children to tend to and there has been no compensation. I have filed a petition in the Supreme Court seeking a judicial inquiry into the incident after similar applications for inquiries to police commissioner, DGP and others failed," she said.

In another development, Sumitra Chandrakant Jadhav, the mother of Mahendra Jadhav, claimed that her son, a murder accused, was released from jail following the efforts of Fatima Bibi, a POTA detainee. But he was later killed in a fake encounter.

"My son had informed me that he was going to Gujarat for a job. It was not possible for us to release him from jail.

Fatima Bibi, however, had managed to get him released and he was later killed in a "fake" encounter by the Gujarat police," Sumitra claimed.

Mahendra's brother said: "My brother may be a criminal but he was no international terrorist as claimed by the Gujarat police."

'Encounters meant to please Modi, probe all'

Criminal proceedings should be initiated against (erring) officers T E E S T A S E T A L V A D , activist

AHMEDABAD:

A day after the Gujarat government rejected Metropolitan Magistrate S.P. Tamang's report that the encounters of Mumbai college student Ishrat Jahan and three others were fake, social activist **Teesta Setalvad** demanded probe into all encounters in the state since 2002.

However, BJP state president Pursottam Rupala rubbished the demand, claiming that the state's actions were justified.

Jahan, along with Pranesh Pillai alias Javed Shaikh, Amjad Ali Rana and Jeeshan Johar, were killed in an encounter by the city crime branch here on June 15, 2004.

As the case came back into public glare, following the revelation by Magistrate Tamang, Setalvad's non-government organisation, Citizens for Justice and Peace, on Wednesday presented kin of two other victims of alleged police atrocities.

"Criminal proceedings should be initiated, besides disciplinary actions, against the officers," said Setalvad, giving details of 11 cases where at least 20 persons had lost their lives. She alleged that a group of senior police officials engineered the shootouts to make chief minister Narendra Modi happy.

Setalvad presented the kin of Mahendra Jadhav and Qasim (known only by his first name), who were allegedly killed after being taken into police custody in June 2003 and December 2006, respectively.

The encounters drew strong criticism from former additional director general of police (intelligence) Sri Kumar, who alleged that the series of encounters were part of a "planned political strategy to propel Modi as a strict chief minister".

But BJP leader Rupala said the encounters were genuine and those killed were terrorists.

<http://epaper.dnaindia.com/dnaahmedabad/epapermain.aspx?queryed=5&userame=&useremailid=&parenteditioncode=5&eddate=9%2f10%2f2009>

Gujarat EDN

'More encounters in Guj than in Naxal-hit states'

Retd DGP RB Sreekumar says the killings in the state were staged

DNA Correspondent

Throwing open the floodgates of angst and frustration, retired director general of police RB Sreekumar spoke his mind on the fake encounters issue. Highlighting that Gujarat has witnessed more encounters in five years than the Naxal-infested 120 districts of the country or the terrorist-hit northern states, the veteran cop emphatically stated that the government had no locus standi to appeal or disregard the findings of Justice SP Tamang in the Ishrat Jahan encounter.

"Questioning Justice Tamang's report is contempt of court and questioning the freedom of the judicial system," he said.

Sreekumar further said, "Jaynarayan Vyas' comment that the judge has shown his unnecessary interest is insubordination, highly objectionable and contempt of court. Even the chief minister or the governor have no powers to comment on judicial magistrate's inquiry process, only the sessions judge and the high court can comment on it, he said. "The government is not the party in this case; Magistrate Tamang has not given any opinion against the government, then why is the government saying suo moto that it does not agree with the report," he asked, adding why they (govt) should, when they are not party in the case.

Sreekumar was additional DGP (Intelligence) from April 9, 2002 to Sept 18, 2002. Talking about motive of such encounters he said, "What was the motive of the encounters? Had Gujarat police followed the procedures according the regulation, after the encounters? Encounters started on September 24, 2002, after my transfer as addl DGP and completed in April 2007, when Vanzara and other officers were arrested. Some one should try to trace the Gangotri (the root) of all these incidents. Gujarat government, through Gujarat police, had adopted the encounters as a part of a policy and a political strategy." Referring to a semi-official diary, which he prepared in 2002, the retired cop said, "I have an entry of May 2002 in my diary that Subbarao, who was the then chief secretary, had also been given six months extension and six years of special appointment in state government. He had asked me to kill people in encounters and I had told him that if I even agree with him, I will be convicted under IPC 120 (B) for conspiracy for murder and I denied."

Sreekumar also alleged that the Gujarat police had not followed the procedures mentioned in rule 217 of Gujarat Police Manual Volume-3, which says what the police are supposed to do after the encounters. If there is case of death in police custody, immediate inquiry should be done by the District Magistrate. But in any of the encounter cases, these procedures have not been followed."

http://epaper.indianexpress.com/IE/IEH/2009/09/10/ArticleHtmls/10_09_2009_601_010.shtml?Mode=1

Families of other victims speak up, demand judicial inquiry

EXPRESS NEWS SERVICE
AHMEDABAD

Allege killings aimed to promote image of Chief Minister Narendra Modi

AMID the din created by Judicial Magistrate S P Tamang's report holding 21 police personnel responsible for the extra-judicial killing of Ishrat Jahan and three others, relatives of two others -- Mahendra Jadav and Jaffer Qasim -- came here from Mumbai on Wednesday and demanded a judicial inquiry into their killing by the Gujarat Police.

Sumitra Jadhav, Mahendra's mother and Mariam, widow of Jaffer, both residents of Mumbai, have already moved the Supreme Court through Mumbai-based NGO Citizens for Justice and Peace (CJP), with the same request.

The two have also asked the apex court for direct action, including initiation of criminal proceedings against officers of the state for unconstitutional act and ask the state to pay compensation for what they say were extra judicial killings.

They also demanded that the Gujarat Police personnel, some of whom are involved in illegal action, should not be involved in any inquiry ordered by the apex court.

Speaking to mediapersons in the presence of **Teesta Setalvad of CJP** and former Director General of Police R B Sreekumar, they said Mahendra and Jaffer were brutally murdered by the state police just to promote the image of Chief Minister Narendra Modi and get some personal benefits for themselves. The duo added they will not accept a probe by the state police, as they themselves were the killers and a probe by them would not be fair.

Denying that Mahendra had any links with terrorists or underworld, Sumitra said her son had come to Gujarat in search of a job offered to him through one Fatima in Mumbai.

She said her son was held by the crime branch sleuths at Ahmedabad railway station, was kept in custody for three days and then shot dead on June 22, 2004, near Panchkuwa in the Kalupur area.

The police had claimed that Mahendra was on a mission to kill Modi, the then Law Minister Ashok Bhatt and Dariapur MLA Bharat Barot. She claimed that even the postmortem report had not confirmed death in police encounter. Mariam said her husband Jaffer was among 18 people on a religious visit to Hussain Tekra in Mehsana district. Jaffer and others had stayed in Hotel Royal in Sarkhej on the outskirts of Ahmedabad on April 13, 2006. She said a police team comprising 17 persons descended on the hotel and took away Jaffer forcibly after a scuffle. "We were not informed about Jaffer's whereabouts for three days," she said.

Mariam added she was initially told that Jaffer had escaped from police custody. But on April 17, she was told that he had died in a road accident and the body was kept in the Civil Hospital.

She further said there was no accidental injury anywhere on Jaffer's body, except a bullet wound on the head and blood flowing from one side of the mouth, along with beating marks on the chest and shoulders.

However, crime branch official Ashish Bhatia HARSH SHAH wrote on December 14, 2006, to her that her husband was killed in a road accident and it was not a murder case.

Quoting information culled through an RTI application in April 2007, she said that Bhatia had written to the Mumbai police seeking to know if some Irani gang was operating in Mumbai ostensibly to cover up their misdeeds. Jaffer belongs to a small group of Irani Mulsims living in Mumbai.

Regarding the post-mortem report, she said she was given the report seven months after the incident and it did not mention the cause of death.

Sreekumar who was present along with the kin of the victims said the state government spokesperson Jay Narayan Vyas's remarks about the judicial magistrate S P Tamang's report "amounted to contempt of court". Sreekumar said that "encounters were done by the state as a matter of policy."

<http://epaper.timesofindia.com/Default/Scripting/ArticleWin.asp?From=Archive&Source=Page&Skin=TOINew&BaseHref=TOIA/2009/09/10&PageLabel=2&EntityId=Ar0203&ViewMode=HTML&GZ=T>

Gujarat EDN

WOMEN who haunt GUJARAT

They became victims of police excesses, either by omission or commission in the post-Godhra riots and fake encounters. TOI profiles the ...

KAUSAR BANO

Kausar was pregnant when she was killed in the Naroda Patia massacre on February 28, 2002 where 95 died. Her story told by eyewitnesses about rioters raping and tearing open her womb with a sword and swinging the foetus on its tip, was dismissed as a myth till the crime branch arrested a city bus driver, Ratilal Rathod alias Jai Bhavani, for the murder. He committed suicide, but her story was established in a sting where a rioter described the entire incident in graphic detail. The SIT is probing this case

KAUSERBI

Nobody knew of her existence, till brother of Sohrabuddin Sheikh, Rubabuddin filed a habeas corpus on the missing Kausarbi in Supreme Court which opened a can of worms. The probe found that the Ahmedabad crime branch had kidnapped Sohrabuddin and his wife Kausarbi from Karnataka. After killing Sohrabuddin on November 26, 2005 to fake an encounter, the cops decided to eliminate Kausarbi. IPS officer DG Vanzara and his men killed Kausarbi and destroyed her remains. Fourteen policemen, including Vanzara and three IPS officers, are in jail in this case

ISHRAT JAHAN

The 19-year-old Guru Nanak Khalsa College girl, Mumbai was killed in an encounter by Ahmedabad crime branch on June 15, 2004 and branded a terrorist with three others. Her mother Shamima Kausar appealed in Gujarat High Court against the killing and the slur on her daughter. Meanwhile, a magisterial inquiry has revealed that the encounter was fake and accused more police officers, including retired DGP KR Kaushik, for being party to the conspiracy

BILKIS BANO

This 27-year-old wife of a cattle trader from Dahod district was six months pregnant when she was gang raped by a mob after the Godhra carnage when they were leaving their village on February 28, 2002. Her three-year-old child was killed with 13 other members of her family and she was left to die. Bilkis was the sole witness in this case which was handed over to CBI and tried in Mumbai. Last year, a special court sentenced 12 of the accused to life imprisonment

ZAKIA JAFRI

The widow of former Congress MP Ahsan Jafri who was killed in the Gulbarg society massacre on February 28, 2002 with 68 persons, has filed a petition demanding investigation against Chief Minister Narendra Modi and 62 others which include ministers, IAS and IPS officers, for failing to protect citizens and being mute spectators during the riots. Supreme Court has directed the special investigation team (SIT) headed by RK Raghavan to probe these people

ZAHIRA SHEIKH

The prime witness of the Best Bakery case where 14 persons were killed, Zahira's testimony had led Supreme Court to call the acquittal of accused as "miscarriage of

justice” and move the trial to Mumbai. This case also focussed attention on other riot trials. But the woman turned hostile and denied everything. The accused were convicted and Zahira was jailed for perjury

<http://epaper.mailtoday.in/epaperhome.aspx?issue=1092009>

WHY POLICE TURN INTO MURDERERS

by Manoj Joshi

ONCE again the country has to suffer the humiliation of learning about the criminal acts of its custodians of the law. For long there has been suspicion that the 19-year old Ishrat Jehan, her fiancé, Javed Shaikh and two others were killed in 2004 by the Gujarat police, rather than being gunned down in an encounter. Now a magisterial inquiry has confirmed the fact that the four were killed in cold blood.

One of the key attributes of a state – in contrast to institutions like corporations, foundations or, say, universities – is that it holds a monopoly of violence. But this is exercised through due process defined by the state’s constitution and law. Nowhere does Indian law and constitution give the police any authority to execute anyone, even terrorists. Even the prime minister cannot order such an execution and the army and police fighting insurgents can do so only by the authority of special legislation.

The right to take a life – of a terrorist or criminal – is the exclusive preserve of the judiciary. As the record shows, it exercises this right through a fairly detailed legal process and even then applies the death sentence in the “rarest of the rare” cases. Any killing outside these parameters is murder and should be treated as such.

Fake

Fake encounters belong to a special category: People are killed in “ cold blood” – executed illegally usually after they have been taken into custody. There are two kinds of fake encounters. In the first, the police kill known terrorists and criminals because they believe that they dispense better justice.

The more monstrous kind of an execution, is when completely innocent people are killed and passed off as terrorists and criminals.

This is nothing but murder and, since it has been carried out by the custodians of the law, it should attract a much harsher penalty, than an act of murder by an ordinary citizen.

One of the key markers of a fake encounter in India is when all the allegedly bad people are gunned down and the police party takes no casualties, despite dozens of bullets

flying around. Almost every genuine encounter, especially one involving the highly trained Lashkar- Tayyeba, results in the death of one or more security personnel.

And so it was in this case.

The terrorists had an AK- 56 and they sprayed the police party with it. The police fired back with Sten guns and service revolvers.

But the Forensic Science Laboratory found only AK- 56 empties at the site, not a single Sten or revolver empty. The FSL also failed to find any trace of gunpowder or ammunition on the dead.

Further, the FSL found that contrary to the police claim that they fired at the group who were in a car from some 60- 70 feet away, the four had been shot at close range.

There were other tell- tale signs which the incompetent policemen could not avoid – each of those killed seemed to have some identification on them. The alleged Pakistani Amjad Ali aka Salim, conveniently had a photo of himself in his pocket; Zeeshan Zohar had his identity card and nothing else, no money or other trivia; likewise Javed had his driving licence and nothing else and Ishrat had her college identity card taped around her neck.

How convenient.

The key impulse for fake executions come from politicians. They first mess up a situation and then they want the police to use strong- arm methods to resolve the problem. This was the background for the shameful illegal executions that marred the counterterrorist effort of the police in Punjab in the 1990s, the anti- Maoist operations in Andhra Pradesh and elsewhere.

The same has happened in the case of fighting Islamist terrorism.

Having created an enormous pool of angry Muslims in the wake of the 2002 pogroms in Gujarat, the Narendra Modi government depended on a bunch of killers in uniform for protection from vengeance.

These policemen played on the fears of Modi and Co and took to gunning down innocent Muslims, claiming that they were involved in plots to kill the Gujarat chief minister.

On March 2006, four Kashmiri youth, allegedly Lashkar- e- Tayyeba men, were gunned down on the outskirts of Ahmedabad; in November 2005 Sohrabuddin Sheikh, his wife Kausar Bi and one other person were killed; in June 2004, Ishrat Jehan, Javed Shaikh and two others were gunned down; in January 2003, Sadiq Jamal was shot dead, allegedly while plotting to kill L. K. Advani; in October 2002, Samir Khan Pathan was killed while trying to escape, again after his arrest for an alleged plot to kill Modi.

The BJP may be right in claiming that Modi could not be held responsible for everything that happened in Gujarat, but Modi bears more than mere moral responsibility; he actively promoted and encouraged such police personnel and protected them when they were exposed.

IB

During the last state assembly election campaign, Mr Modi used Sohrabuddin's killing to gather votes. According to the reports, Modi asked the people gathered in a rally, "What should be done to a man who stored illegal arms and ammunition? You tell me what should have been done to Sohrabuddin?" The people answered, "Kill him, kill him". Even if by this twisted logic Modi justified Sohrabuddin's killing, he did not explain why Kausar Bi, his innocent wife, was also murdered by his police.

Modi, of course, is not the only political leader who has feasted of the death of innocent people. The moral compass has been found wanting in many Congress politicians as well.

Lives are cheap in India, especially if they belong to the poor or "the other" — minorities and people of other faiths. There are also serious questions about the role of the Union government, especially the Intelligence Bureau in these killings.

In many instances the executions have been sanctioned by the IB which is an intelligence organisation and operates outside the boundaries of the law, and unfortunately, the supervision of the union government and parliament as well.

Whirlwind

India is perhaps the only democracy where no oversight is exercised on our allpowerful intelligence services by parliament and even the government. Our politicians' main interest is in the IB providing them political intelligence on their adversaries.

The IB's goals are twofold.

First, they want to short-circuit the process of dealing with terrorists. But to allow an instrument of state to illegally arrogate such a key function of the state is to invite trouble.

Second, the IB uses fake encounters to send messages to Pakistan. The executioners of the mainly Pakistani terrorists are the special cells of state police forces. But over time these executioners, glorified as "encounter specialists", end up becoming criminals and resort to killing innocents for personal gain.

One of the major causes of violent extremism aka terrorism, is a sense of injustice.

Fake encounters and extra-judicial killings only help terrorist recruiting agents. Upholding the law, and insisting that the police do so most rigorously, should not be a matter of morality and legalism, but the pragmatic means of combating terrorism.

Extra-judicial executions look attractive in the short term, but they are a recipe for long-term disaster. If you sow the wind, the saying goes, you will reap the whirlwind.

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http://www.telegraphindia.com/1090910/jsp/opinion/story_11471260.jsp

ISHRAT JAHAN'S DEATH

Popular apathy lets the State practise extra-judicial killings

Mukul Kesavan

One of the objections raised by the Gujarat government to the report of the metropolitan magistrate, S.P. Tamang, on the killing of Ishrat Jahan Raza and three others in June 2004, is that Section 176 of the criminal procedure code, under which the inquiry was held, was specifically meant for custodial deaths, whereas Ishrat and the others were killed on the road. In matters of life and death, a good rule of thumb for judging whether a government is arguing in good faith is to see if it makes substantive arguments or technical ones. A government that argues that an inquiry into extra-judicial execution is out of line because the killings happened in the open air and not indoors doesn't pass that test.

The other arguments made by the Gujarat government against the Tamang inquiry report were of the same genre. The spokesman for the Gujarat government, Jaynarayan Vyas, claimed that the inquiry report should not have been released because the matter was being examined by a higher court, that a copy of the report had not been supplied to the state government and that the magistrate's inquiry was suspect because it had been completed too quickly, in a mere 25 days. This last was said without irony: five years after the killings, the Gujarat government was complaining about the unnatural speed of judicial proceedings.

It's another matter that these objections were bogus: Section 176 allows all unnatural deaths to be investigated at the discretion of the magistrate, the magistrate's inquiry can proceed in parallel with the high court's deliberations and the report was released to the press not by a 'leaking' magistrate but by a defence lawyer, Mukul Sinha, who formally applied for a certified copy and made it public.

These four deaths can be read as a chapter in more than one narrative. They can, for example, be read as an instance of the summary way in which the Gujarat government deals with Muslims. From the state-sanctioned pogroms of 2001, to the killing of

Sohrabuddin Sheikh and his wife Kausar Bi, to the 'encounter' killing of Ishrat and the three men found dead with her, the Gujarat government has allowed Muslims to be murdered with impunity, justifying its position by invoking the spectre of terror. So to see this as one more story in the saga of the mistreatment of minorities in Gujarat is understandable but it isn't the main reason we should be angry or concerned.

What should worry us about these 2004 killings on the outskirts of Ahmedabad is that they are one more example of the impunity with which the State in India gets away with extra-judicial execution and the degree to which public indifference licenses this impunity. The most substantial part of the magistrate's report is the section where he shows that the ballistic evidence does not bear out the police story of an 'encounter' and argues that the four were first killed in cold blood and then had weapons planted on them to simulate a shoot-out.

The implication of this is hideous: policemen first murdered four people without due process and then perjured themselves on an epic scale by fabricating a 'set'. Tamang demonstrated that the Gujarat police behaved like a murderous repertory company, not as guardians of law and order, and yet the Gujarat government made no attempt to rebut his charges.

Instead, it devoted itself to proving that the four people killed were terrorists connected to Pakistan and the Lashkar-e-Toiba. It produced an affidavit filed by the Central government a month ago certifying that Ishrat and the others were terrorists seeking to assassinate Gujarati politicians. This supplied non-partisan endorsement of the Gujarat police's claim that the four people killed were terrorists. And there the Gujarat government rested its case. Apart from a *pro forma* assertion that the 'encounter' was genuine and not staged, it made no attempt to prove that the magistrate's reading of the evidence was wrong because it was confident that extra-judicial murder in a 'good cause' had public sanction.

In a news programme, Vyas made this strategy explicit: he asked why civil rights activists were so concerned about the civil rights of terrorists and so indifferent to the civil rights of ordinary citizens who were victims of terror. Colin Gonsalves, a lawyer, pointed out that this was the reddest of red herrings because no civil rights group had remotely made the case that the perpetrators of terror ought to go unpunished, but Vyas, ironically Gujarat's minister for health, wasn't debating Gonsalves, he was trying to tap into a public appetite for summary justice, an appetite that would absolve vigilante policemen of any blame; that would, in fact, make them heroes.

Unless we learn to monitor and protest the impunity with which the State and the police resort to extra-judicial murder and custodial killing, outrage at specific instances of these becomes ineffective, even counter-productive. So if you rage and grieve when a middle-class Muslim girl who could have been your daughter is killed but ignore the recent and mysterious death of a murderous hoodlum called R. Rajan in police custody in Chennai, you aren't protesting the violation of due process or taking a stand against extra-judicial murder: you are merely riding a private hobby horse: the welfare of minorities or the wickedness of the Gujarat government.

The Congress spokesperson and member of parliament, Manish Tiwari, made the point that the Central government's affidavit asserting that Ishrat and her companions were terrorists made no difference to the material facts of the case against the Gujarat police, namely their complicity in cold-blooded executions carried out without warrant or due process. The Congress, he said, wanted a probe into all custodial deaths and encounters that had been reported during the tenure of Narendra Modi's government.

The problem with this otherwise unexceptionable position is that Tiwari speaks for a party that has helped make State-sponsored murder and extra-judicial killing a form of State policy in states like Chhattisgarh. It was in 2005 that Mahender Karma, Congress member of the legislative assembly and leader of the Opposition in Chhattisgarh, pioneered the idea of training civilians as special police officers, paying them a monthly wage, and then arming them to liquidate anyone tarred with the brush of another form of terror, Naxalism. We have seen State-sponsored vigilante killing by these 'special police officers' formally adopted as policy by state governments in Manipur, Jharkhand, Karnataka and Andhra Pradesh to deal with Naxalite/Maoist insurgency. Why should Manish Tiwari expect the Gujarat police and the Bharatiya Janata Party government there to submit themselves to the rule of law when his own party, the Congress, sees due process as a luxury that India can't afford?

The moral of Ishrat's tragic story has little to do with her antecedents and everything to do with the impunity with which governments in India kill their own citizens in the name of summary 'justice'. Given the incompetence, politicization and corruption of the police in India, there isn't even the consolation that the people policemen lynch are villains. The recent history of India shows us that extra-judicial murder isn't just immoral and illegal, it doesn't even succeed on its own terms in protecting us from terror.

Three days ago, the British police successfully obtained convictions against three men of Pakistani origin in an English court for plotting to blow up three airliners over the Atlantic in 2006. They saved hundreds, possibly thousands, of lives by gathering water-tight, actionable evidence through surveillance. The surveillance was scrupulously legal: whenever required by law, the British police got warrants from the relevant courts. By putting terrorists away legally, the British State kept Britons secure while heading off any suspicion that it was biased against Muslims.

There's something for all of us to learn from this example. First, India's police forces should return to police work, to catching killers and terrorists legally, instead of joining them in murder. Second, civil rights groups and concerned citizens should make the effort to hold the police accountable for every custodial death that comes to their notice, not just the ones we are ideologically invested in. If the principle we're defending is the rule of law, the death of R. Rajan, very likely a murderer and a thief, in police custody, is as evil and tragic as Ishrat's killing. In the matter of extra-judicial killing, Indians should shorten Donne's great line with a full stop and use it as a motto:

Send not to know for whom the bell tolls.

mukulkesavan@hotmail.com

<http://www.hindu.com/2009/09/10/stories/2009091055600800.htm>

Damning indictment

The report of the Ahmedabad Metropolitan Magistrate is a scathing indictment of the Gujarat government, no stranger to ugly controversies about summary executions dressed to look like police encounters. The 243-page report of S.P. Tamang on the killing of 19-year-old Mumbai student Ishrat Jehan and three others in 2004 contains a disturbing body of detail about how their lives were snuffed out. Relying mainly on evidence from a forensic laboratory and post-mortem reports, Mr. Tamang exposes the gaping holes in the State police version of events – namely, that the four, said to be involved in a plot to assassinate Chief Minister Narendra Modi, were killed on a highway near Ahmedabad following an exchange of gunfire. According to him, the forensic evidence establishes the victims were shot at very close range and had not fired a single shot; moreover, their post-mortem reports suggest they were killed the night before the police said the encounter took place. The Gujarat government's response to the report has been far from satisfactory. Rather than take serious note of its contents, it has chosen to flatly deny that the encounter was fake and raise technical issues about whether Mr. Tamang had overstepped his jurisdiction. An honest and reassuring response would have been to register an FIR against the police officials involved. It is a chilling coincidence that the report implicates the so-called 'encounter specialist' of the Gujarat police, D.G. Vanzara – now in jail for the killing of the alleged gangster Sohrabuddin Sheikh and his wife in 2005 in a fake encounter.

The issue of killing people in cold blood should not be clouded or sidetracked by debates about whether Ishrat Jehan was a Lashkar-e-Taiba operative or not. Her family and many others have strongly affirmed her innocence – something that the Tamang report reflects. On the other hand, it is not only the Narendra Modi government but also the Centre – the latter in an affidavit in the Gujarat High Court – that has described her as belonging to the terrorist group. What is germane here is that extra-judicial killing is a brutal subversion of the rule of law, reflecting a total contempt for the basic principles on which the criminal justice system is founded. Alarming, the Tamang report suggests that such fake encounters in Gujarat are staged not merely to get rid of inconvenient people, but also to win appreciation and rewards from those who control political power. Rather than adopt a posture of hurt innocence, the Modi government should act on the findings of the probe and proceed against those who have been accused of murder.

<http://epaper.timesofindia.com/Default/Scripting/ArticleWin.asp?From=Archive&Source=Page&Skin=MIRRORNEW&BaseHref=AMIR/2009/09/10&PageLabel=6&EntityId=Ar00600&ViewMode=HTML&GZ=T>

Gujarat EDN

Gujarat police's one more lie

High Court stays Tamang's report on Ishrat encounter

Justice Kalpesh Jhaveri observed that Tamang went beyond his jurisdiction when he said encounters were staged for rewards

AHMEDABAD: Gujarat High Court on Wednesday stayed magistrate S P Tamang's report which concluded that the encounter in which Ishrat Jahan and three others were killed in 2004 was fake and ordered a probe how the finding was made public without its permission.

Justice Kalpesh Jhaveri while staying the report said the observations made in the report in which Tamang said among other things that some top police officers had staged the encounter for rewards were beyond his jurisdiction. Tamang also said that the four were killed in cold blood.

The order was given on a petition by the state government which challenged the report and sought a stay.

Justice Jhaveri said the observations were beyond Tamang's jurisdiction and also that of the CrPC Section 176 under which the judicial inquiry was conducted.

The court further observed that prima facie the magistrate should have sought permission to publish or furnish report to anybody.

The court ordered appropriate authorities of the High Court to look into how Tamang was given directions on August 12, 2009, by the Chief Metropolitan Magistrate to inquire into the encounter, when on the same day the High Court had reserved its order on constituting the committee.

It has directed appropriate authorities to look into the matter and take necessary actions.

However, the court gave liberty to Ishrat's mother to produce the report before the three-member committee constituted by the High Court last month to investigate the encounter. It further said report could be considered as evidence by the committee.

PTI

http://epaper.hindustantimes.com/ArticleText.aspx?article=10_09_2009_005_005&word=&mode=1

Legal experts: Guj govt trying to protect culprits

MUMBAI: Condemning the Gujarat government's reaction to the magisterial report classifying the Ishrat Jahan police encounter as 'fake', city legal experts said the reaction indicated an unwillingness to act on the report.

On Wednesday, legal experts came together at a press conference organised by the Association for Protection of Civil Rights at the Press Club.

They said the Gujarat government was trying to protect the culprits by rejecting the report.

A Gujarat government spokesperson said the probe report was bad in law and hence the government rejected it. The government said it will challenge the report in a higher court as the magistrate had overstepped his brief.

Senior advocate Yusuf Machalla said: "The Gujarat government should have said that they will study the report and decide the further course of action". Instead the government is openly protecting the people who are involved with killing Ishrat, he added.

Bombay High Court judge (retd) B.G. Kolse-Patil said: "It is not a Hindu-Muslim fight. Even non-Muslims should protest the injustice meted out to them."

Encountered on Saffron Agenda?, a documentary by Subhradeep Chakravorty, was shown at the conference.

The docu included interviews of family members and defence lawyers, whose reasons for claiming that the encounter was staged are similar to those in the magisterial report.

http://epaper.hindustantimes.com/ArticleText.aspx?article=10_09_2009_001_008&keyword=&mode=1

Govt looks for Ishrat face-saver

EMBARRASSMENT Centre sacks law officer for affidavit backing Gujarat on encounter

Nagendar Sharma and Alope Tikku nagendar.sharma@hindustantimes.com
NEW DELHI: The law ministry on Wednesday sacked the lawyer responsible for filing the affidavit in the Gujarat High Court that supported the Narendra Modi government's position in the 2004 alleged fake encounter killing of Ishrat Jahan and three others.

Sources said the name of the Ahmedabad-based law officer -- which was not revealed - had been removed from the ministry's panel of lawyers appointed to represent the Centre in the state high court.

The sources said more heads could roll since top ministry officials were not kept informed about the developments relating to the case in the Gujarat High Court.

The law ministry will soon re-examine the affidavit, which was filed on August 6. If need be, it will advise the home ministry to either amend the affidavit or file a fresh one to remove the impression that the Centre endorsed the Modi government's action, the sources said.

The home ministry, however, stood by the affidavit's contents to the extent that Ishrat Jahan and her three accomplices were suspected Lashkar-e-Tayyeba operatives. But it distanced itself from the alleged fake encounter.

"We aren't backtracking from the affidavit," Home Secretary G.K. Pillai said.

But he made it clear the doubtful credentials of Ishrat Jahan and others did not give anyone the right to kill them.

"Even terrorists cannot be killed in cold blood," Pillai said, emphasising that central agencies were not involved in the "so-called encounter".

The law ministry is said to be upset about certain references in the affidavit, particularly the one opposing a CBI probe into the encounter.

It has also objected to the endorsement given by the affidavit to the Gujarat police probe into the encounter .

I: Over two years after a Special Investigative Team (SIT) headed by senior Gujarat Police officer Geeta Johri completed probe into the Sohrabuddin Sheikh fake encounter case, the Supreme Court is seriously considering handing it over to another SIT headed by former CBI Director R.K. Raghvan for a fresh probe.

Raghvan's SIT is probing the role of Chief Minister Narendra Modi and other politicians into the 2002 post-Godhra riots.

A bench of Justice Tarun Chatterjee and Justice Aftab Alam said the question has arisen due to allegations that the investigations by the Gujarat police SIT was just an "eyewash" and an attempt to cover up the conspiracy leading to the murder of Sohrabuddin and his wife Kausar Bi.

"The state has to go to the bottom of the case. The investigation has to be beyond all doubts," the bench said while hearing a petition filed by Sohrabuddin's brother Rubabuddin for an impartial probe into the killings.

The court will further hear it on September 16.

Sohrabuddin, an alleged gangster, was killed by the Gujarat police in a fake encounter on November 26, 2006 and after couple of days his wife Kausar Bi too was allegedly shot dead and her body burnt.

The SC had on May 18, 2007 declined to hand over the probe to the CBI and instead formed an SIT headed by senior Gujarat Police officer Geeta Johri to investigate the case.

The SIT completed the probe and filed its first chargesheet on July 16, 2007 and a supplementary one on December 10, 2007 naming 13 police officials including three senior IPS officers -D.G. Vanzara (DIG), R.K. Pandian (both Gujarat cadre) and Dinesh MN of Rajasthan cadre.

The SC stayed the trial on September 30, 2008 and ordered Gujarat HC Registrar to seal all records following allegations of mishandling of the case.

Senior counsel Dushyant Dave (for Rubabuddin) and Solicitor General Gopal Subramaniam, who is assisting the court as amicus curiae (court's friend) have demanded a fresh investigation by the CBI or the SIT headed by Raghvan accusing Johri of scuttling the probe to save the accused police officials.

Citing the latest reports about Ishrat Jahan encounter being fake, Dave said Gujarat was a failed state where the police, prosecution and even the judiciary was pliable.

On behalf of Gujarat Government, senior counsel Mukul Rohtagi vehemently opposed the plea on the ground that the issue of court's power to order CBI probe without state's consent was pending before a Constitution bench and the SIT probe was already over

<http://www.dailypioneer.com/EditorsMail.html>

Ishrat report not convincing

Sir – This refers to the report, “Gujarat picks holes in Tamang report on fake encounter” (September 9). The Gujarat Metropolitan Magistrate’s probe report has concluded that the encounter killing of Mumbai-college girl Ishrat Jahan was fake. But I take these findings with a pinch of salt because circumstantial evidence are not always conclusive, and that they can also be fabricated.

As regards fake encounters, the fact is that policemen often resort to such methods because the prevailing archaic laws are not designed to help them meet the challenges of terrorism. They need to be empowered with stringent laws like the one suggested by the Gujarat Government – Gujarat Control of Organised Crime. The UPA Government must give its nod to the proposed Bill.

AP Keshari

Mumbai

<http://www.dailypioneer.com/201605/Gujarat-HC-stays-%E2%80%98fake-encounter%E2%80%99-report.html>

Gujarat HC stays ‘fake encounter’ report

Rathin Das | Ahmedabad

Tamang to face inquiry; Centre axes its standing counsel

The Gujarat High Court on Wednesday stayed metropolitan magistrate SP Tamang’s report that found the 2004 encounter was ‘stage-managed’.

The two-Judge Bench of the Gujarat High Court also ordered the Registrar General to initiate a departmental inquiry into the metropolitan magistrate's conduct in continuing with the investigation when the HC had already formed a panel to probe the encounter.

The court also asked the Registrar General to investigate how Tamang submitted the report without the permission of the higher court in the State.

Meanwhile, the Centre on Wednesday axed its legal officer who failed to point this fact out to the Home Ministry, which had filed an affidavit in the Gujarat High Court.

According to highly-placed sources in the Law Ministry, a decision was taken on Wednesday to remove the Standing Counsel of the Centre in the Gujarat High Court, who vetted the affidavit, dated August 6, 2004 filed in response to a petition filed by Ishrat's mother in the High Court.

Although a formal order in this regard was yet to be issued, the Law Ministry is understood to have taken a decision to proceed against the law officer. Following the magisterial inquiry report, the Narendra Modi Government had taken cover under the Central Government's affidavit which termed Ishrat and three other persons killed with her, to be Lashkar-e-Tayyeba (LeT) terrorists.

This bolstered the State Government's attempts to doubt the Tamang report and punch holes in the magisterial version, claiming that the State police's action had the backing of the Union Home Ministry. According to the affidavit, there were intelligence inputs to suggest that the killed persons had travelled to Oman under fake passports and returned to hatch terror plots, including a conspiracy to assassinate the Gujarat CM.

Speaking to The Pioneer, Union Law Minister M Veerappa Moily said, "I have no comments to make on this subject." However, it has been learnt through reliable sources in the Ministry that the law officer to face the axe was Additional Solicitor General (ASG) Pankaj Champanehri, who oversaw the filing of the affidavit.

The Gujarat Police had claimed that the four persons – Ishrat, Javed Ghulam Sheikh alias Pranesh Kumar Pillai, Amjad Ali alias Rajkumar Akbar Ali Rana and Jisan Johar Abdul Gani – were LeT operatives planning to carry out terror strikes in the State.

The Gujarat Government had on Tuesday rubbished Tamang's report which said that the June 15, 2004 encounter was stage-managed by the Crime Branch police in order to gain appreciation of the Chief Minister and also to gain promotions.

The State Government had also announced its intention to challenge the report in an appropriate court which it did on Wednesday.

The stay on the report was granted by a Division Bench comprising Justice Kalpesh Jhaveri and Justice ZK Sayed.

Justice Kalpesh Jhaveri, responding to a petition filed by Ishrat Jahan's mother Shamima Kausar, had last month appointed a three-member committee comprising IPS officers to investigate the encounter in which the college girl and three others were killed.

The High Court granted the stay on a petition filed by the Gujarat Government demanding that it should be scrapped as it is "illegal and doubtful".

The Government petition said that Tamang had no authority to make "critical remarks" on the encounter and under Section 176 of the CrPC. Even while granting the stay, the High Court allowed the report to be submitted to the three-member committee of IPS officers. The panel would, however, to act on the report 'on merit', the court ruled.

The Gujarat Government in its petition questioned the speed with which Tamang had conducted the probe and prepared a 243-page report in a matter of 25 days and submitted it without the permission of the High Court. The Government also had raised doubts about the accuracy of the report.

IPS officer GL Singhal, who too was named in the report as he was in the city Crime Branch then, has also filed a petition seeking a stay on the report, but withdrew it after the State Government filed its petition.

The High Court Bench took exception to Tamang starting his probe on the same day (August 13) on which the High Court had ordered the formation of the investigation committee. The chief metropolitan magistrate had asked Tamang to inquire into the encounter on the previous day, August 12.

The court also faulted Tamang for making the report public without the permission of the High Court.

<http://epaper.dnaindia.com/dnaahmedabad/epapermain.aspx?queryed=5&username=&useremailid=&parenteditioncode=5&eddate=9%2f10%2f2009>

Gujarat EDN

'Tamang acted beyond the scope of his probe'

Says the Gujarat High Court after it stayed the metropolitan magistrate's report on the Ishrat encounter

Nikunj Soni. Ahmedabad

Justice Kalpesh Jhaveri of the Gujarat high court on Wednesday stayed metropolitan magistrate SP Tamang's report which said that the police encounter in which Ishrat Jahan and three others were killed, was fake.

Tamang's report had concluded that the police officers involved in the encounter had organised it get "name, fame and promotion". When the contents of the Tamang report became public on Monday (September 7), the state government went on the defensive

and hastily filed a petition in the high court in an attempt to get a stay order on the report.

The government's contention was that it was beyond the scope of the metropolitan magistrate to conduct a probe and that it was not conducted according to law. GL Singhal, currently a DCP in the anti-terrorist squad, had filed two applications – one as a party to the petition moved by Ishrat's mother, and the other seeking a stay on the Tamang report. Singhal, however, later withdrew both his petitions.

After hearing both the sides, the court stayed Tamang's order on the ground that the magistrate had acted 'beyond the scope' of his investigation. He had made remarks beyond the limited scope of his probe to find out the cause of death, the high court observed.

The court also took objection to the fact that the magistrate had conducted his enquiry from August 13, the date on which the Gujarat high court had ordered the setting up a 3-member SIT to probe the encounter. The court also took serious note of how the report had leaked into other hands when it was to be submitted only to the chief metropolitan magistrate.

Advocate general Kamal Trivedi challenged the validity of the Tamang report over its 'propriety' and 'legality'. "The magistrate has breached the propriety of the Gujarat high court's order by continuing with his enquiry," Trivedi said. "It amounts to overreach of the judicial process." He also challenged the jurisdiction and legality of the judicial inquiry.

"Under section 176 of the CrPC, the magistrate is empowered to hold an enquiry only if a person dies or disappears while in police custody or a rape is committed on a woman while she is in police custody. The encounter had happened on an open road and not in police custody," Trivedi said.

He further said that under section 176 of the CrPC, the magistrate only has to find the cause of death. "On what grounds did the magistrate conclude that the four were killed by the police to get name, fame and promotion?" Trivedi said. The AG also read out excerpts from the report in support of his argument.

Shamima Kausar's counsel, Mukul Sinha, protested against the arguments of the state government. "The magistrate can hold an enquiry under section 176 of the CrPC," Sinha said. "He did not overreach the order of the high court as he had started the enquiry on the orders of his senior, the chief metropolitan magistrate. The report should be allowed to be submitted before the high court SIT which is probing the Ishrat case."

<http://www.thestatesman.net/page.news.php?clid=1&theme=&usrsess=1&id=267956>

Guj HC stays Tamang report

Ahmedabad/NEW Delhi, 9 SEPT: Battlelines were drawn between the Centre and the Narendra Modi government over the Ishrat Jahan encounter case as the Centre stuck to its guns over the terror affidavit, while the Gujarat High Court stayed magistrate Mr SP Tamang's report which concluded that the encounter was fake.

Justice Kalpesh Jhaveri, while staying the report, said the observations made in the report in which Mr Tamang said among other things that some top police officers had staged the encounter for rewards were beyond his jurisdiction. Mr Tamang also said that the four were killed in "cold blood".

The order was given on a petition by the state government which challenged the report and sought a stay.

The already murky investigation got clouded further as a senior official in the law ministry was removed from his post in the wake of a row over the Centre's affidavit in the Gujarat High Court, even as the home ministry maintained that Ishrat Jahan and the other three killed by Gujarat police were suspects. Union home secretary Mr GK Pillai, however, said that "terrorists cannot be killed in cold blood." Highly-placed sources in the law ministry said that the law officer, who had failed to bring the affidavit to the notice of the ministry, has been removed. The sources, however, did not explain the nature of the action against the official. The sources also said that the home ministry did not get the affidavit vetted by the law ministry before it was filed in the High Court in the case arising out of a petition filed by Ishrat's mother. PTI & SNS

<http://epaper.dnaindia.com/dnaahmedabad/epapermain.aspx?queryed=5&username=&useremailid=&parenteditioncode=5&eddate=9%2f10%2f2009>

Gujarat EDN

Politics over encounter irks Gujarat high court

DNA Correspondent

Gujarat high court is apparently not happy with the 'blame game' the political parties have resorted to following metropolitan magistrate SP Tamang's report over the 'encounter' of Ishrat Jahan and three others. During the hearing of a petition filed by the state government on Wednesday, Justice Kalpesh Jhaveri cautioned the counsel for the Central government over applying 'double standard' over the encounter. The state government defended itself over affidavit filed by the Central government during an earlier hearing in the high court. The affidavit supported the government version that Ishrat Jahan, Javed Shaikh and two others were operatives of Lashkar-e-Toiba and that a central intelligence agency had provided the tip-off to the crime branch. Now after Tamang report, the Central government is on back foot and initiating action against the officers concerned. As the hearing began, and assistant solicitor general Pankaj Champaneri was about to start argument, Justice Jhaveri said, "Union government had filed affidavit supporting the Gujarat government. Stop playing with judiciary in the political field. Answer me whether you supported the state government or not?" The court asked the question thrice. "You are the affected party over the report," the court also said. Champaneri had to sit back as he saw an angry court. However, later on, he supported the Tamang report. Mentioning provisions of the law, Champaneri said, "The magistrate can conduct inquiry in such cases." The court also had a word of caution for Mukul Sinha. "You are playing with fire. Today, you may find yourself in a convenient situation, but five years on you may be in a soup following the political game between the centre and state government."

<http://epaper.dnaindia.com/dnaahmedabad/epapermain.aspx?queryed=5&username=&useremailid=&parenteditioncode=5&eddate=9%2f10%2f2009>

Gujarat EDN

Embarrassed by affidavit, Centre to sack law officer

Law ministry distances itself from affidavit, says home ministry did not seek advice

Javed M Ansari

Red faced over Union Home Ministry's affidavit supporting the Gujarat police contention in the case relating to the killing of Ishrat Jahan and three others in a police encounter in May 2004, the Centre has decided to take action against some of the officials involved. The law ministry has decided to fire the Ahmedabad based law officer for his failure to inform his higher ups in Delhi about the affidavit being filed by a under secretary in the home ministry.

Embarrassed by the faux pas, senior law ministry functionaries have been trying to emphasise that the magisterial inquiry report will take precedence over the affidavit filed on August 6 by the home ministry. The magisterial inquiry report makes it clear that not only was the encounter in which Ishrat Jahan and three others were killed fake, but also that the four were not terrorists. "The magistrate's report is factual and it is the one that will carry weight," say law ministry sources.

The move of the law ministry suggested action against Pankaj Champanery, who was appointed additional solicitor general a month back. Champanery was present at the hearing of the Ishrat case in Gujarat high court and also submitted the affidavit on behalf of the Central government. Champanery also represented the Centre on Wednesday as the Gujarat government filed petition challenging Tamang report. DNA tried to contact Champanery on Wednesday, but he was not available. A close aide of his, however, said he had not received any order removing him from his post.

The home ministry, on its part, defended the affidavit but not the encounter. Union home secretary GK Pillai said the ministry had provided the state government with whatever inputs it had, but that did not mean, "We supported the encounter." He said Ishrat Jahan and her associates should have been interrogated, not killed. The law ministry, however, sought to distance itself from the affidavit, maintaining that it had been submitted without being whetted by the ministry. "The home minister did not seek our legal advice," said law ministry officials. What has upset the government functionaries more is the fact that not only the law ministry's advice in the matter was not taken, the ministry in its report said it did not consider the case to be fit to be investigated by the CBI.

The affidavit has severely embarrassed the ruling combine and allowed the Gujarat government to cite the affidavit to support its charge that Ishrat Jahan and those killed along with her were indeed terrorists. "What is worse for us is that the home ministry has gone and filed an affidavit even though the Modi government had not done so," said a senior Congress functionary.

(Nikunj Soni contributed to this report)

<http://epaper.dnaindia.com/dnaahmedabad/epapermain.aspx?queryed=5&username=&useremailid=&parenteditioncode=5&eddate=9/10/2009>

Gujarat EDN

Tamang report encountered

Now, the Gujarat government will not have to take action against police officers named in the report

Nikunj Soni. Ahmedabad

Justice Kalpesh Jhaveri of the Gujarat high court on Wednesday stayed metropolitan magistrate SP Tamang's report which said that the police encounter in which Ishrat Jahan and three others were killed, was fake. Tamang's report had concluded that the police officers involved in the encounter had organised it get "name, fame and promotion". The court also asked the appropriate authorities of the high court to look into the action of the magistrate and take necessary action.

The high court stay on the Tamang report means that the state government will not have to take action on the basis of the report against the police officers named in it. The court, however, said that the Tamang report can be used by the three-member special investigation team (SIT) set up by it last month to investigate the encounter.

The court also gave the lawyers of Ishrat's mother, Shamima Kausar, the liberty to

submit the magistrate's report before the SIT set up by the high court to assist in its investigation. Further hearing in the case has been posted to November 13.

Justice Jhaveri directed the high court authorities to take action against Tamang for 'breach of propriety' in conducting a probe even after the high court had constituted the SIT to investigate the encounter.

The order came in the wake of different petitions filed by the state government and IPS officer GL Singhal who is named in the Tamang report.

A special session of the court was held at 4:30 pm on Wednesday to hear the petitions. Arguments in the case continued till 7 pm in a jam-packed court. •

<http://www.deccanherald.com/content/24331/law-ministry-official-removed-ishrat.html>

Law ministry official removed in Ishrat affidavit row

New Delhi, Sep 10, PTI: *Highly-placed sources in the Law Ministry said that the Law Officer, who had failed to bring the affidavit to the notice of the ministry, has been removed. The sources, however, did not explain the nature of the action against the official.*

The Ishrat Jahan killing in an alleged fake encounter took a new turn with a senior official in the Law Ministry removed from his post in the wake of controversy over the Centre's affidavit in the Gujarat High Court while the Home Ministry stuck to its guns that the four were suspects.

As a controversy raged over the killing of the four suspected terrorists by the Gujarat police in 2004, the Union Home Secretary G K Pillai, however, said that "terrorists cannot be killed in cold blood."

Highly-placed sources in the Law Ministry said that the Law Officer, who had failed to bring the affidavit to the notice of the ministry, has been removed. The sources, however, did not explain the nature of the action against the official.

The sources also said that the Home Ministry did not get the affidavit vetted by the Law Ministry before it was filed in the High Court in case arising out of a petition filed by Ishrat's mother against the police.

A magisterial probe into the killing of the four people in June, 2004 on the outskirts of Ahmedabad had on Monday concluded that the encounter was fake. The Gujarat government had yesterday claimed that the encounter against the four alleged operatives of Lashkar-e- Toiba (LeT) was carried out on the basis of information given by central intelligence agencies.

"Whatever we have given in the affidavit is a fact available with the Home Ministry...we are not backtracking from the affidavit," Pillai told reporters here.

However, he went on to add that "terrorists cannot be killed in cold blood", indicating that due process of law had to be followed. Pillai made it clear that nobody from the Central agencies was involved in the "so-called encounter".

The Gujarat government had rejected the report insisting that those killed were LeT operatives and dragged the Centre into the row claiming even it knew of their alleged terror links. The Gujarat police had claimed that the four persons – Ishrat, Javed Ghulam Sheikh alias Pranesh Kumar Pillai, Amjad Ali alias Rajkumar Akbar Ali Rana and Jisan Johar Abdul Gani were LeT operatives planning to carry out terror strikes in the state. They also claimed that the four persons were on a mission to kill Chief Minister Narendra Modi.

“These people had stayed in hotels as man and wife. If an unmarried Muslim girl stays in a hotel at night with a married man with three children, you have to draw your own conclusions,” he said.

<http://www.hindu.com/2009/09/10/stories/2009091054670500.htm>

I stand vindicated on Gujarat ‘fake killings’, says film-maker

Special Correspondent

JAIPUR: The magisterial inquiry report declaring the killing of 19-year-old Ishrat Jahan and three others on the outskirts of Ahmedabad in June 2004 as cold-blooded murder by the police has turned the spotlight on a documentary film trying to expose the politics of fake encounters in Gujarat, which was prevented from being screened here in Jaipur last year.

The Pink City Press Club, acting under pressure from the then BJP regime in Rajasthan, turned away the Delhi-based film-maker Shubhradeep Chakravorty while the police chased him and did not allow him to show his movie anywhere in the city. He was then hounded out of Jaipur on the pretext of a threat to public order.

The documentary, *Encountered on Saffron Agenda?*, covers the encounters of Ishrat Jahan and Javed Sheikh (June 2004), Sohrabuddin Sheikh (November 2005), Sameer Khan Pathan (October 2002) and Sadiq Jamal (January 2003) – all in Gujarat, with the police claiming that those killed were out to assassinate Chief Minister Narendra Modi.

The freelance film-maker interviewed the families of victims, independent investigators, lawyers and eyewitnesses to conclude that these fake encounters not only violated the victims’ fundamental right to life and liberty but were used to “demonise minorities and strengthen the politics of hatred” in Gujarat.

Mr. Chakravorty, speaking to *The Hindu* over phone from Delhi on Wednesday, said the Pink City Press Club – which should have protected his freedom of speech – turned him away on March 13 last year and did not allow him to organise the film show for the invited audience. Press Club president Virendra Singh Rathore and general secretary Pankaj Soni flatly told Mr. Chakravorty that his documentary was “too controversial” and gave excuses like the Press Club building standing on land leased out by the State

Government. Civil rights groups here later slammed the nexus among the police, BJP leaders and a section of the media throttling the voice of dissent.

Mr. Chakravorty said his investigative documentation of Ishrat Jahan's fake encounter had been vindicated now by the report of Metropolitan Magistrate S. P. Tamang. "Police officers in Gujarat have colluded with the Sangh Parivar to give the latter a political tool to show that Muslims are targeting Narendra Modi who alone can fight against Islamic terrorism," he added.

The documentary shows Ishrat Jahan's mother Shamima Raza and younger sister Musarrat, Javed Sheikh's wife Sajida and father Gopinathan Pillai, lawyers Mukul Sinha and Asim Sarode and journalist Harinder Baweja arguing that the theory forwarded by the police was full of discrepancies. All of them charged the Gujarat police officers with gunning down the innocent victims in cold blood.

The film shows Musarrat saying her family believes Ishrat Jahan was raped before being killed. Gopinathan Pillai also says that his son Javed, who converted to Islam, was brutally tortured before the encounter.

Mr. Chakravorty said the poor families of Ishrat Jahan and Javed Sheikh were shattered after the encounter. "The five siblings of Ishrat Jahan are out of school and facing extreme poverty and disgrace for belonging to an alleged terrorist," he said, adding that the background of the two other youngsters picked up and killed after being branded Pakistanis is yet to be confirmed.

The film-maker said only exemplary punishment like death for the guilty police officers identified in the magisterial report would meet the ends of justice. Besides, the Gujarat Government should be told to pay a hefty compensation to the next of kin of the deceased, as was done in the case of Sohrabuddin Sheikh's fake encounter.

Mr. Chakravorty said though he had not screened the documentary anywhere in the country since his unpleasant experience in Jaipur, he would take it to "Film South Asia '09" - the biennial festival of South Asian documentaries - being held in Kathmandu this September 17 to 20. Later he will screen it in Kolkata and Mumbai.

<http://www.hindu.com/2009/09/10/stories/2009091055630800.htm>

Ishrat is why encounters need judicial probing

Siddharth Varadarajan

It's time we stopped rotten elements in the police and security forces from literally getting away with murder.

When the police kill an individual in the course of an "encounter" or operation, the law is quite clear about what must happen next. "The police do not have a right to take away the life of a person", former Chief Justice A.S. Anand wrote in a 2003 letter to all Chief

Ministers in his capacity as head of the National Human Rights Commission. "If, by his act, a policeman kills a person, he commits an offence of culpable homicide ... unless it is established that such killing was not an offence under the law." After citing the two extenuating circumstances available to the police – the right of private self-defence and the use of "reasonable force" if found necessary to arrest the person accused of an offence punishable with death or imprisonment for life – Justice Anand noted: "Thus, it is evident that death caused in an encounter, if not justified, would amount to an offence of culpable homicide."

In reminding state governments about the law, the NHRC was not indulging in some abstract civics lesson. The context was, and remains, the long-standing concern that the police and other security forces tend to abuse their power to shoot and kill, staging "fake encounters" in which individuals accused of being terrorists or criminals are eliminated. Often, the identity of these individuals is never convincingly established, as happened, for example, in the infamous encounter staged by the Delhi Police at the Ansal Plaza shopping mall in 2002.

While the police used to enjoy a certain degree of social sanction for these extra-judicial executions, the frequency and brazenness of recent encounters and the targeting of individuals completely unconnected to terrorism such as Sohrabuddin, Kausar Bi and the five innocent Kashmiris picked up from around Anantnag and killed at Panchalthan in 2000 have led to the growing public and judicial demand for accountability.

At the heart of the matter is the question: who should decide whether the death caused in an encounter is justified or not. No civilised society can entrust this decision to the same force which caused the death in the first place. Indeed, the NHRC's guidelines on this are very clear. "A Magisterial Inquiry must invariably be held in all cases of death which occur in the course of police action. The next of kin of the deceased must invariably be associated in such inquiry."

In February 2009, the Andhra Pradesh High Court went one step further in ruling that every encounter resulting in death must lead to the filing of a First Information Report against the concerned police officials that is then acted upon or disposed of depending on the results of an independent investigation. The High Court order has since been stayed by the Supreme Court pending a final hearing in October.

Though an improvement over the pre-existing state of affairs, the NHRC guidelines suffer from two defects. First, most states do not follow them and the commission is powerless to do anything about it. And second, the guidelines do not make it clear that the magisterial inquiry should be conducted by a judicial rather than an executive magistrate like an SDM. Perhaps the NHRC thought it unnecessary to clarify the matter since the principles of natural justice imply the inquiry should be conducted by an authority truly independent of the police, which a member of the executive branch of the state clearly is not. But this is India, where those in authority tend to use every possible means to subvert the rule of law. That is why it is rare for a police encounter to be probed by a judicial magistrate, least of all one who, like Ahmedabad Metropolitan Magistrate S.P. Tamang, is seized with a sense of urgency.

Mr. Tamang's inquiry into the June 2004 encounter killing of Ishrat Jehan, Javed Sheikh and two as yet unidentified men, 'Amjad Ali Rana' and 'Zeeshan Jauhar', by the Gujarat police was completed within three weeks of the matter being referred to him. The results of his exertions provide a chilling reminder of the modus operandi of a certain kind of police officer. Unfortunately, they also tell us why it is that state governments are so averse to subjecting the operations of their police forces to independent judicial review.

The Tamang report blows gaping holes in the police version of how the four individuals ended up dead. Though the State government is not obliged to act upon the findings of a magisterial review, and has now obtained a stay from the High Court, it is obvious that a case of murder is indicated. But the Tamang report also questions the claim made by both the Gujarat and the Central governments that Ishrat Jehan and the three other men were Lashkar-e-Taiba terrorists. The question is irrelevant from a legal standpoint because their killing was clearly in cold blood; but the 'terrorist' tag is important for the authorities in order to try and save face in the wider court of public opinion.

The only bit of "evidence" linking Ishrat to the LeT is a claim put out by an LeT publication in 2004 describing her as a member of the terrorist group. The affidavit filed by the Union Ministry of Home Affairs duly cites this as proof of her involvement. But it could also be that the LeT's claim was an opportunistic, dishonest attempt to harvest some glory from the unfortunate death of a young Muslim woman — not unlike Baitullah Mehsud claiming responsibility for the Binghamton shooting in upstate New York this April. The MHA affidavit also cites Ishrat's association — presumably romantic — with Javed Sheikh, a man with a criminal past. But the fact remains that he was not wanted by the police at the time of his death for any specific terrorist offence.

Every fake encounter hides a story but some are more sensational and sordid than others. The murder of Sohrabuddin and his wife by the Gujarat police is one such example but even their tale appears tame compared to what might be at stake in the Ishrat Jehan case.

According to an investigation conducted by my colleague, Praveen Swami, in 2004 and published in *Frontline*, the Intelligence Bureau (IB) used an Ahmedabad lawyer sympathetic to the LeT to run the Modi assassination plot (which Ishrat and Javed were alleged to be part of by the Gujarat police) as a sting operation. "The lawyer was instructed to tell Javed Sheikh, a Pune resident who was amongst those killed on June 16 [2004], that the infrastructure was in place to execute an attack on Modi." How an IB-run sting operation ended up in what the Gujarat police claimed was an encounter but which Mr. Tamang has now established was nothing more than a kidnap-cum-murder is not at all clear. At the very least, it suggests a degree of unhealthy complicity between the Gujarat and Maharashtra police forces, as well as the IB, that only a criminal investigation directly supervised by the Supreme Court will be able to unravel.

While it remains to be seen whether the forces which conspired to murder four young people on the outskirts of Ahmedabad in June 2004 are powerful enough to hush up the case, the lesson to be learned is that every encounter death must be compulsorily reviewed by a judicial magistrate in a time-bound probe. A police force which follows

the law should have nothing to fear from such a process. If the magisterial inquiry establishes the veracity of the police version, that is the end of the story. But if it turns out that the killing of an individual by the police (or, by extension, other security forces personnel) was unjustified, the full force of law must be brought to bear on those involved. Apologists for extra-judicial murder claim that such action would demoralise law enforcement. In fact, nothing could be more demoralising to the majority of upright police officers than the sight of some of their colleagues getting away with murder.

<http://www.hindu.com/2009/09/10/stories/2009091055620801.htm>

Tamang's findings

The findings of Ahmedabad Metropolitan Magistrate S.P. Tamang are indeed disturbing. Apart from being a blot to the khaki-clad men, they have dealt a big blow on the secular fabric of our polity. The unfortunate deed cannot be undone now, but Ishrat's mother and her family must be assured that the entire country is firmly with them.

Lokeshkumar Jangid,

New Delhi

The politics of blame game between the Gujarat government and the Central intelligence agencies does not improve matters. The magisterial verdict that the killings of Ishrat Jehan and three others had been a "fake encounter" must be taken seriously. Rights violation by police is a blot and reflects badly on the country's image.

K.S.Thampi,

Chennai

Encounter killing cocks a snook at the judiciary. In fact, the contagion has caught on and thrives because there appears to be a tacit approval by the higher-ups in the police to this form of dealing summary justice. Some even secretly admire such killings for they help to get rid of known criminals. In the instant case, however, investigation points the finger of suspicion to the political establishment. A multi-dimensional approach is required if the scourge of encounter killings is to be eliminated.

H.R. Babu Satyanarayana,

Mysore

Almost every encounter in the country is fake and the difference in this case is that someone believed to be innocent fell victim to police bullets, along with LeT operatives. It is strange that nobody has explained how Ishrat Jehan and Javed Sheikh were found in the company of Amjad Ali Rana, and Zeeshan Jauhar, vouched as bona fide Pakistani citizens and known LeT operatives. There is more to the encounter than meets the eye.

Till all the facts are out and clarity emerges, blaming the police and the Gujarat government is unfair.

A. Thirugnanasambantham,

Coimbatore

The Centre's contention "we shared inputs about the suspicious movements of some Lashkar operatives" and everything else is of the doing of the State police simply cannot be bought. The latter can ill-afford to ignore a warning about impending attacks, as maintenance of law and order is its prerogative.

Seshagiri Row Karry,

Hyderabad

The Gujarat government is justified in questioning Mr. Tamang's probe report. While inquiring into the incident, the Magistrate has not given a chance to the State government to explain its stand. Besides, he has completely ignored the affidavit filed in 2004 by the Ministry of Home Affairs in which the Union government had endorsed the State government's contention that Ishrat had links with terrorist outfits in Pakistan and the intelligence reports had confirmed their plans to strike in Gujarat. This report will not stand the scrutiny of a higher court when the case comes up for trial.

Vijay Mohan,

Chennai

<http://epaper.dnaindia.com/>

Gujarat HC stays report on Ishrat encounter

Ahmedabad: The Gujarat high court on Wednesday stayed metropolitan magistrate SP Tamang's report which says the police had killed 19-year-old Ishrat Jahan and three others in a fake encounter.

While ordering the stay, justice Kalpesh Javheri said observations made in the report were beyond the jurisdiction of the judicial magistrate. Justice Javheri ordered an appropriate authority of the high court to look into the actions of Tamang and take necessary action.

The court, however, allowed Ishrat's mother to produce the report before the three-member committee constituted by the high court last month to investigate the encounter. The court said the report can be considered as evidence by the committee. The case will come up for hearing on Sept 30.

State advocate general Kamal Trivedi, appearing on behalf of the government, argued that Tamang should have sought the permission of the high court before releasing the report to anybody.

The state government had rejected magistrate Tamang's findings on Wednesday, saying it would challenge it in higher fora. – PTI

Clear doubts in Sohrabuddin case: SC to Guj

The Supreme Court has asked Gujarat to "go to the bottom" of the fake encounter of Sohrabuddin Sheikh and the subsequent killing of his wife Kauserbi. "The investigation has to be beyond all doubts," the court said after the state opposed the plea to hand over the case to the CBI.

<http://epaper.dnaindia.com/>

Law ministry to remove official over affidavit

Javed M Ansari. New Delhi

The law ministry has decided to remove its officer in Ahmedabad for failing to inform it about an affidavit filed by the ministry of home affairs (MHA) in the Supreme Court supporting the Gujarat police's contention that Ishrat Jahan and three others killed in an encounter in 2004 had links with the Lashkar-e-Taiba (LeT).

The Centre is embarrassed that the Gujarat government cited its affidavit to justify the encounter and reject judicial magistrate SP Tamang's report, which has concluded that Ishrat and other three had no links with the LeT and were killed in cold blood.

But the MHA has defended the affidavit filed on August 5. Union home secretary GK Pillai said the ministry had provided the Gujarat government with whatever inputs it had, but that did not mean that "we supported the encounter". Ishrat and her associates should have been interrogated rather than killed, he said.

The law ministry officials distanced themselves from the affidavit maintaining that the "MHA did not seek our legal advice".

They said judicial magistrate Tamang's report will take precedence over the MHA's affidavit because it is "factual".

Government functionaries are also upset that the MHA affidavit did not consider the encounter fit to be investigated by the Central Bureau of Investigation.

<http://www.hindu.com/2009/09/10/stories/2009091061271200.htm>

Tamang report illegal, says Gujarat

Special Correspondent

AHMEDABAD: The Gujarat government's petition in the High Court against the Ahmedabad Metropolitan Magistrate S.P. Tamang's report on the Ishrat Jehan encounter said it should be scrapped as it was "illegal and doubtful."

Seeking a stay, the government claimed that Mr. Tamang had no authority to make "critical remarks" about the encounter killing, and under Section 176 of the Criminal

Procedure Code, he should have confined himself to establishing whether the death was “natural or unnatural.”

It said the Metropolitan Judge had exceeded his jurisdiction in making critical references about the encounter. By completing the investigation and submitting the 243-page handwritten report within 25 days and that too, without the permission of the High Court, he had created doubts about its accuracy, the petition said.

A Division Bench, comprising Justices Kalpesh Jhaveri and Z.K. Sayed heard the plea.

Justice Jhaveri, who is also hearing petitions filed by Ishrat’s mother Shamima Bano Kausar and Javed Sheikh’s father Gopinath Pillai, had ordered constitution of the SIT team headed by Additional Director General of Police Pramod Kumar to probe the encounter. He said the government petition would be taken up for further hearing along with the pleas of Ms. Kausar and Mr. Pillai.

The High Court had rejected their pleas for a Central Bureau of Investigation inquiry but granted a fresh probe by the SIT.

Superintendent of Police in the State Anti-Terrorism Squad G.L. Singhal, who was with the City Crime Branch at the time of the encounter and is one of the accused in Mr. Tamang’s report, also filed a petition demanding a stay. However, he withdrew his plea after the State filed one.

The Division Bench took strong exception to Mr. Tamang launching his inquiry into the Ishrat encounter the same day when the High Court ordered constitution of the SIT.

Incidentally, the Chief Metropolitan Magistrate had sent Mr. Tamang a letter on August 12 to inquire into the matter and submit his report at the earliest.

The High Court also faulted Mr. Tamang for submitting his report to the Chief Metropolitan Magistrate and subsequently allowing it to be made public without its permission.

Legal experts said though the report had become public, the stay would take away the rights of any individual or organisation to file police complaints or initiate court proceedings against the accused police officials or others.

<http://www.hindu.com/2009/09/10/stories/2009091061191200.htm>

We stand by affidavit but encounter cannot be justified: Centre

Vinay Kumar

NEW DELHI: A day after the Gujarat government questioned the magisterial inquiry report on the June 2004 “fake encounter” on the outskirts of Ahmedabad, the Centre

said it stood by its affidavit that the four victims, including Ishrat Jehan, were suspects, but stressed that “terrorists cannot be killed in cold blood.”

“We have submitted the affidavit in court, and it contains inputs and facts which were available with the Central government and intelligence agencies. We are not backtracking on the affidavit,” Home Secretary G.K. Pillai told journalists here on Wednesday.

Seeking to make a distinction between providing intelligence inputs and the police action, Mr. Pillai said, “Nobody can justify the encounter,” adding even if “they were terrorists, they cannot be killed in cold blood.”

Mr. Pillai said nobody from the Central agencies was involved in the “so-called encounter” and the Home Ministry “has nothing to do with the encounter.” He said “facts based on the intelligence reports” were given in the affidavit.

The Ministry was neither a party nor in a position to decide on the bona fides of the encounter, and it was for the court to find out, he said.

<http://www.hindu.com/2009/09/10/stories/2009091058350100.htm>

Gujarat High Court stays Tamang report

Manas Dasgupta

AHMEDABAD: The Gujarat High Court on Wednesday granted a stay on the report of the Ahmedabad Metropolitan Magistrate, S.P. Tamang, declaring the June 2004 police encounter with Ishrat Jehan and three others “fake.” A Division Bench, comprising Justices Kalpesh Jhaveri and Z.K. Sayed, also directed the Registrar-General to institute a departmental inquiry into the conduct of Mr. Tamang in holding a parallel inquiry, when the High Court was already seized of the matter, and submitting the report without its permission.

The High Court, however, allowed the report to be submitted before the three-member Special Investigation Team (SIT) of the top police officers appointed by it, to take a fresh look at the encounter episode. The SIT would be required to act on the report “on merit.”

<http://www.asianage.com/presentation/leftnavigation/news/india/gujarat-hc-stay-on-ishrat-jahan-report.aspx>

Gujarat HC stay on Ishrat Jahan report

Deepal Trivedi

Ahmedabad

Sept. 9: In what is being viewed as a boost to the Gujarat government's claim that the Tamang report on Ishrat Jahan was flawed, the Gujarat high court here on Wednesday stayed metropolitan magistrate S.P. Tamang's report, which had concluded that encounter of Ishrat Jahan and three others was fake, on a petition by the state government.

The Gujarat government had approached the high court demanding a stay on the report, claiming that the report was "bad in law."

Justice Kalpesh Jhaveri, while staying the report, said that observation made in the reports were beyond the jurisdiction of the judicial magistrate.

Justice Jhaveri also ordered appropriate authority of the high court to look into the actions of magistrate Tamang and take necessary action. Further hearing of the case has been kept on 30th of September.

However, the Gujarat high court has given liberty to Ishrat's mother to produce the report before the three member committee constituted by the high court in August to investigate the encounter. It further said that the report can be considered as evidence by the committee. The four, claimed to have been killed by the police in an encounter on June 15, 2004, were — Ishrat, Javed Ghulam Sheikh alias Pranesh Kumar Pillai, Amjad Ali alias Rajkumar Akbar Ali Rana and Jisan Johar Abdul Gani.

Magistrate Tamang's report submitted on Tuesday said the encounter in which Ishrat Jahan and three others were gunned down in 2004 while allegedly plotting to kill chief minister Narendra Modi was fake.

'Probe all encounters'

Age correspondent

Ahmedabad

Sept. 9: An NGO working for the victims of post-Godhra riots and families of those killed in encounters in Gujarat on Wednesday demanded a judicial inquiry in all the encounters that have taken place in the state in the last seven years.

<http://www.asianage.com/presentation/leftnavigation/news/india/encounters-true-or-fake.aspx>

Encounters: True or fake?

Dippy Vankani

Mumbai

Sept. 9: The fate of people who have fallen prey to police bullets only because they were at the wrong place at the wrong time and in the wrong company has now started getting the police on the wrong foot. There are other cases where people could have become victims of an encounter for being at the wrong place:

n The Imran Sheikh encounter of 2007:

Mr Irfan Sheikh (50) has filed a petition in the high court accusing the police of having killed his 18-year-old son in a fake encounter in 2007. Imran was killed along with Ram Avtar Sahni, both of whom were allegedly affiliated to gangster Bunty Pandey. The two were shot dead by a team of the Anti-Extortion Cell, headed by then AEC chief Vijay Salaskar, in Powai on December 14, 2007.

n The Ramnarayan Gupta encounter case:

Ramprasad Gupta, a city-based lawyer, whose brother Ramnarayan Gupta was allegedly killed in an encounter with the police on November 11, 2006, had moved the high court saying that his brother was picked up by the police seven hours prior to his death along with his friend Anil Bheda, a shopkeeper.

To back this claim, Mr Gupta also produced telegrams and faxed copies that he had sent to the police commissioners of Mumbai, Navi Mumbai and Thane hours before the encounter took place, expressing fears that Ramnarayan may be killed in a fake encounter.

According to the police's version, the encounter took place in Versova at 8.15 pm on November 11 itself, in which Ramnarayan, alias Lakhan Bhaiyya, alleged lieutenant of Chhota Rajan, was killed. In August, the high court ordered the police to register a fresh FIR against 17 policemen who were a part of the encounter. Among the police charged is suspended MIDC senior inspector Pradip Suryavanshi.

"Bheda is the most important witness in the case but he has not appeared before the court since July 2008. I don't know where he is but there is certainly police pressure on him. Bheda had appeared before the court earlier but he has been untraceable ever since the magistrate changed and ordered to examine him. The police in their report had mentioned that when they went to deliver the summons to him, he was not available on the given address," said Mr Gupta.

n Goregaon encounter in 2003:

Following the Ghatkopar bomb blasts in 2002-03, a police team led by senior inspector Pradeep Sharma and sub-inspector Daya Nayak killed three alleged Lashkar-e-Tayyaba terrorists – Abu Sultan, alias Irfan, Abu Anwar Ali (both Pakistanis) and Mohammed Iqbal Wani (a Kashmiri) – in Goregaon on March 29, 2003. Huge agitations took place

in Kashmir claiming Iqbal's innocence and that he was not part of any terror group and that he was killed in a fake encounter.

<http://www.asianage.com/presentation/leftnavigation/news/india/top-law-official-removed-over-affidavit.aspx>

Top law official removed over affidavit

Age Correspondents

New Delhi

Sept. 9: A senior official in the Union law ministry has been removed from his post in the wake of controversy over the Centre's affidavit in the Gujarat high court related to the Ishrat Jahan killing in an alleged fake encounter. Law ministry sources also claimed that the home ministry did not get the affidavit vetted by the law ministry before it was filed in the high court in the case. Sources in the law ministry said that the additional solicitor general P.S. Champaner, who had failed to bring the affidavit to the notice of the ministry, has been removed. Sources also confirmed that the home ministry did not get the affidavit vetted by the law ministry before it was filed in the high court, in a case which arose after a petition was filed by Ishrat's mother against the police. A magisterial probe into the killing had on Monday concluded that the encounter was fake. The Gujarat government had on Tuesday claimed that the encounter against the four alleged operatives of Lashkar-e-Tayyaba(LeT) was carried out on the basis of intelligence provided by central agencies.

Finding itself in the midst of a controversy, the home ministry on Wednesday said that it "stands by the affidavit it has filed in court" while shifting focus on the Gujarat government maintaining that "terrorists cannot be killed in cold blood." "Whatever we have given in the affidavit is a fact available with the home ministry...We are not backtracking from the affidavit," home secretary G.K. Pillai said.

However, he went on to add that "terrorists cannot be killed in cold blood", indicating that due process of law had to be followed. Mr Pillai made it clear that nobody from the Central agencies was involved in the "so-called encounter".

<http://www.asianage.com/presentation/leftnavigation/news/top-story/punish-the-police,-says-ishrat-mom.aspx>

Punish the police, says Ishrat mom

Age Correspondent

Mumbai

Sept. 8: A day after the killing of Khalsa College student Ishrat Jahan was deemed a fake encounter by a judicial inquiry in Gujarat, her family demanded action against the policemen responsible. They also thanked NCP leader Jitendra Avhad, who, they claimed, had provided infinite support during their five-year battle for justice.

Speaking at a press conference in Thane on Tuesday, Ishrat's mother Shamima Kausar said, "My daughter's death was a great blow as she used to support the family by taking tuition after college hours. After she was killed we had to discontinue the education of my other daughter Mushrat and son Nusrat. We have been doing zari work since then." Ms Kausar said the family had managed to fight the legal battle only because of the help provided by Mr Avhad. "We had invited him to the press conference but he did not want to attend," she said.

<http://epaper.timesofindia.com/Default/Scripting/ArticleWin.asp?From=Archive&Source=Page&Skin=ETNEW&BaseHref=ETM/2009/09/10&PageLabel=3&EntityId=Ar00305&ViewMode=HTML&GZ=T>

ET

REAL PROBE

Gujarat High Court stays Ishrat Jahan probe report

PTI AHMEDABAD

THE Gujarat High Court on Wednesday stayed metropolitan magistrate SP Tamang's report, which had said the police encounter that killed Ishrat Jahan and three others was fake. It also asked High Court authorities to look into the action of the magistrate and take necessary action. The Gujarat government had approached the High Court on Tuesday demanding stay on the report. Justice Kalpesh Javheri while ordering the stay said observations made in the report were beyond the jurisdiction of the judicial magistrate. Justice Javheri also ordered the appropriate authority of the High Court to look into the actions of magistrate Tamang and take necessary action. The next hearing of the case is fixed on September 30. However, the court has given liberty to Ishrat's mother to produce the report before the threemember committee constituted by the HC last month to investigate the encounter.

Meanwhile, a senior official in the law ministry was removed from his post following revelations that the Centre had filed an affidavit in the Gujarat high court concurring the suspects killed were terrorists belonging to the LeT. However, Union home secretary G K Pillai stood by the affidavit although adding that terror suspects cannot be killed in cold blood.

<http://www.indianexpress.com/news/gujarat-rejects-magistrate-report-on-ishrat-killing-it-is-bad-in-law/514836/>

Gujarat rejects magistrate report on Ishrat killing: It is bad in law

[Express News Service](#)

Ahmedabad: Rejecting a magisterial report which concluded that the state police faked the 2004 encounter in which Mumbra girl Ishrat Jahan and three others were killed, the Gujarat government today said it would challenge the report in a higher court.

After the four were gunned down, Gujarat police had claimed that they were on a Lashkar-e-Toiba mission to kill Chief Minister Narendra Modi.

Releasing metropolitan magistrate S P Tamang's report to the media on Monday, advocate Mukul Sinha, who had been appearing for Ishrat's mother Shamima in the Gujarat High Court, said the magistrate found that the encounter was faked by police officers eager for promotions and the appreciation of Chief Minister Modi.

While the BJP today said that Modi could not be held responsible for everything that happens in the state, Union Law Minister Veerappa Moily raised the pitch, saying Modi would have been in "some other place" if the Ishrat Jahan encounter had taken place in any other country.

Moily told reporters that Modi could be headed for big trouble as "there are many such cases which are coming up now... if more investigations are conducted, more skeletons may tumble". He said revelations in the Ishrat Jahan encounter was a "very serious matter for the country and... any other foreign country, Narendra Modi would have been in some other place".

In Ahmedabad, Gujarat government spokesman Jaynarayan Vyas said: "Magistrate Tamang's report is bad in law and he has overstepped his jurisdiction by submitting his report even before a high-level committee appointed by the High Court to probe the matter could do so."

"The report prepared by the magistrate is beyond the jurisdiction of Section 176 CrPC (inquiry by magistrate into cause of death) and will not stand legal scrutiny," Vyas told a press conference. Quoting the Central government's affidavit in court, he said it stated that Ishrat and the other three were LeT operatives who were planning terror strikes in Gujarat.

In June 2004, Ishrat from Mumbra in Thane district and three of her friends, Javed alias Pranesh Pillai, Amjad Ali alias Akbar Ali Rana and Jishant Johar alias Abdul Gani, were gunned down by the Ahmedabad DCB on the outskirts of the city. Tamang's report said there was no gunbattle between the four and the police. The report claimed that the four were kidnapped from Mumbai and killed in cold blood.

<http://www.indianexpress.com/news/awarding-encounters/515263/>

Awarding encounters

On June 15th 2004, the Gujarat police announced that four operatives of the dreaded Lashkar-e-Toiba had been killed in an encounter in Ahmedabad. Photos of their bodies, lined up in front of the blue Indica car in which they were allegedly travelling, did the rounds. But, such being – sadly – the reputation the Gujarat police force has earned for itself, allegations of a fake encounter were bound to arise.

In that narrative, Ishrat Jahan, a student of a well-known Mumbai college, was picked up in her home town and killed, along with three of her friends, in police custody – all for the awards that terrorist kills bring law enforcement officials. Ishrat's mother filed a petition in the Gujarat High Court seeking a CBI probe into the killings, a petition that is still being heard. In court, the Centre filed an affidavit stating that the four dead were indeed LeT suspects – though the Centre was silent on the manner of their killing. Now comes the latest twist: a Gujarat magistrate tasked with investigating custodial deaths has held that encounter was faked. Ishrat was killed in cold blood. The Gujarat government has been swift to oppose the magisterial report.

This is a mistake, for there are two distinct questions here: First, were Ishrat and the three others terrorists? And second, was the encounter staged? These are very different questions. The Centre's claim that they were LeT suspects, even if true, doesn't justify murder-for-honours by the state police. That is not the rule of law; it is the mockery of it. The BJP has been quick to add that Modi cannot be held responsible for everything that happens in the state. But the Gujarat government's decision to instinctively back its men sends the reverse signal: that innocent or guilty, the Gujarat government is in this together. As the high court decides on its next move, Narendra Modi must know that India's eyes, not to mention those of the Supreme Court-appointed Special Investigation Team, are on him.

http://epaper.indianexpress.com/IE/IEH/2009/09/10/ArticleHtmls/10_09_2009_605_018.shtml?Mode=1

Post-Ishrat report, top cop Amin back in news for all wrong reasons

SYED KHALIQUE AHMED

AHMEDABA

Following the S P Tamang's report on Ishrat Jahan encounter, the spotlight has shifted again to Narendra Kumar Amin, the suspended Deputy Superintendent of Police, currently imprisoned in the Sabarmati Central Jail. FOLLOWING the S P Tamang's report on Ishrat Jahan encounter, the spotlight has shifted again to Narendra Kumar Amin, the suspended Deputy Superintendent of Police, currently imprisoned in the Sabarmati Central Jail.

Amin is in the jail along with controversial police officers D G Vanzara and Raj Kumar Pandian in connection with fake encounter of Sohrabuddin Sheikh and murder of his wife Kausar Bi.

Along with Vanzara, Amin is also involved in the killing of Ishrat Jahan and three others.

Amin has often landed in controversies.

In October 2004, when he went to Hyderabad to arrest Maulana Nasiruddin, the man accused of hatching a conspiracy for murder of former Minister of State Home Haren Pandya, his family members and supporters had protested. But Amin refused to stop and had fired shots from his service revolver killing one Mujahid Saleen on the spot. The incident had created tension in old Hyderabad city.

Two years ago, Amin was arrested in connection with the disposal of the body of Kausar Bi In December 2008, Amin created a sensation by submitting an affidavit to Principal Additional Sessions Judge P B Desai through his advocate V D Gajjar, saying a conspiracy was being hatched to eliminate him because he was privy to vital information in the fake encounter case.

Amin had claimed to be possessing CDs containing vital information about the fake encounter case that could create problems for several ruling party politicians, including a minister in the Narendra Modi government.

He had also accused Inspector General of Prisons Keshav Kumar of torturing him in jail.

Amin's name surfaced again last month when a magisterial court in Umargaon in Valsad district issued an arrest warrant against him on the charges of custodial murder of former Colonel Save. Save was leading an agitation against setting up of a private port by a multinational company.

The agitation led by Kinara Bachao Sangharsh Samiti headed by Save had turned violent on April 7, 2000. The police had arrested two persons, including Save in this connection.

Save, who had valiantly fought in the 1971 Indo-Pakistan war, was allegedly tortured at the Umargaon police station by Amin and others.

Save, whose condition had worsened, was rushed to the Hinduja Hospital in Mumbai where he succumbed to his injuries after 12 days.

Though an inquiry was initiated into the incident with IPS official Rahul Sharma probing it, Sharma was relieved of it after a few days.

The probe was handed over to DIG (Crime) Anil Pratham who did not find any evidence of custodial torture. He closed the case by filing a summary in the court in February 2006.

But the court rejected Pratham's probe and ordered a fresh inquiry in which Amin was found guilty and a case under Section 302 and 114 of Indian Penal Code was registered against him in August this year with the Umargaon police station.

http://epaper.indianexpress.com/IE/IEH/2009/09/10/ArticleHtms/10_09_2009_601003.shtml?Mode=1

Ishrat report brings a ray of hope to Bhavnagar family

HIRAL DAVE

H RAJKO

Ahmedabad police had shot dead Sadiq Jamal (20) on January 3, 2003 in Naroda claiming he was a LeT man on a mission to kill Modi, Togadia and Advani

THE magisterial report, observing the encounter of Ishrat Jahan and three others to be fake, has not only given a sigh of relief to the families of the deceased, but also a ray of hope for justice to another such family in Bhavnagar.

The family had lost one of its members on January 3, 2003, when the Ahmedabad police shot dead Sadiq Jamal (20), an autorickshaw driver, in Naroda claiming he was a Lashkar-e-Toiba operative on a mission to kill Chief Minister Narendra Modi, VHP chief Pravin Togadia and BJP leader L K Advani.

"Amari upper ni chhaap dhowai jase. Ame koi international gunno nathi kariyo. Amne insaaf males (The blot on our family will also be erased. We have not done any crime. We will get justice)," said Shabbir Jamal Mehrat, younger brother of Sadiq.

D G Vanzara, who is now in jail under judicial custody in connection with the Sohrabuddin Sheikh and Ishrat encounter cases, was the then Deputy Commissioner of Police, Ahmedabad. After the "encounter" Vanzara had announced that he was a LeT man. Incidentally, the team of top police officials was the same in all the three "encounter" cases. After the Supreme Court ordered an inquiry into the Sohrabuddin case, Shabbir moved the High Court on May 13, 2007, seeking registration of criminal cases against Vanzara, the then Joint Commissioner of Police P P Pandey, and others involved in the case. The petition is pending.

Sadiq's 65-year-old father, Jamal, told Newslinetoday that the taint has been unbearable for the family, but they are hopeful of getting justice one day. "Look at the Sohrabuddin case and where the Ishrat case is heading. We trust the judiciary," he said.

Contrary to the media reports, Shabbir said his brother had never been to Dubai. According to him, Sadiq used to drive an autorickshaw in Bhavnagar before he moved to Mumbai in 1999. In Bhavnagar, he was accused in a couple of cases of assault and gambling, for which he was arrested in 2002 and later released on bail. In Mumbai, Sadiq used to work as a domestic help and that is where he came in touch with a local journalist, Ketan Tirodkar.

Shabbir said Tirodkar introduced Sadiq to Daya Nayak (Mumbai police's encounter specialist) for help in the cases against him. "Nayak found a scapegoat in my brother. He tortured him for a couple of days before handing him over to the Gujarat Police. By that time, he could not even walk properly," Shabbir added.

<http://epaper.timesofindia.com/Default/Scripting/ArticleWin.asp?From=Archive&Source=Page&Skin=TOINew&BaseHref=TOIA/2009/09/10&PageLabel=2&EntityId=Ar00201&ViewMode=HTML&GZ=T>

Gujarat EDN

'Magistrate probe overreaches HC order'

TIMES NEWS NETWORK

Ahmedabad: Proceedings in the high court lasted more than two hours after the Gujarat government challenged the magistrate's report which exposed its police officers in yet another encounter case.

The angry high court judge was of the opinion that the magistrate's inquiry is "overreaching" the high court order. The state government was banking on two senior counsels, including the advocate general, to defend the policemen accused in the report for killing Ishrat and raising questions on "propriety" of lower court judge's conduct. One of the police officers involved in encounter – the then assistant commissioner of police GL Singhal – wanted to become a party in the proceedings, even as the high court kept pulling up the Centre's counsels. All senior cops of the city crime branch were also present during the hearing.

In the end, Ishrat's mother, Shamima Kausar's advocate had to defend magistrate Tamang's report against comments that the judicial officer had done his job in haste. After a heated discussion, the judge refrained from making any observation against the magistrate.

ACTION AND REACTION GUJARAT GOVERNMENT

The magisterial court's inquiry report is bad in law as the high court is seized with the matter and already ordered investigation.

Under Section 176 of the CrPC, a magistrate does not have powers to initiate this inquiry five years after the incident suo motu. The court does not have power to probe this case because Ishrat and others, killed in the encounter were not in police custody.

Section 176 of CrPC was amended in 2006. Magistrate cannot conduct an inquiry in retrospect.

How can magistrate Tamang file the order in two days, as the last and only witness examined was on September 3?

SUPERINTENDENT OF POLICE GL SINGHAL

Wanted to become a party in proceedings, as he has been indicted in the probe report as accused with 20 other officials.

The magistrate in his report has gone beyond the permitted limits of inquiry into cause of death, because the report also highlights motive of policemen in killing alleged LeT men.

Had to withdraw his petition.

UNION GOVERNMENT

Was asked to make a statement on whether it thought magistrate Tamang's report was an inquiry or an investigation.

Assistant solicitor general's effort to justify the probe report met with judge's aggressive remarks.

Justice KS Jhaveri kept reminding Centre's counsel about the affidavit filed by the MHA stating that Ishrat and the rest were terrorists. He said, "These courts are not political battlefield..."

ISHRAT'S MOTHER - SHAMIMA KAUSAR

Defended the inquiry report by stating that it will help HC's decision to get the incident investigated justly. Said magistrate's report did not contradict HC order.

Suggested that report be placed before the three IPS officers' committee.

The magistrate, who has acted in quick manner because of the provision to submit report in 30 days, must not be denigrated for performing his duty upon his superior's orders.

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Gujarat EDN

HC stays action on Tamang's report

Orders Departmental Probe Against Magistrate

TIMES NEWS NETWORK

Ahmedabad: Gujarat High Court on Wednesday ordered a stay on further action based on the inquiry report by metropolitan magistrate SP Tamang which exposed how IPS officers DG Vanzara and his men faked the Ishrat Jahan encounter for promotions and appreciation. Gujarat government had challenged the report in the HC.

Justice KS Jhaveri, who ordered an investigation into this encounter case last month, also issued orders for a departmental inquiry against Tamang for coming up with the report. The report highlights how ruthlessly Ishrat and three others – Pranesh Pillai alias Javed Shaikh, Amjad Ali Rana and Zeeshan Johar – were murdered by the city crime branch in "cold blood" on June 15, 2004.

Justice Jhaveri in his order observed that the magistrate should have consulted the High Court before coming up with his report, as the High Court had already instituted an inquiry into this case by forming a committee of three IPS officers on the date the chief metropolitan magistrate had asked Tamang to inquire this case.

However, the High Court has given liberty to Ishrat's mother Shamima Kausar, who is the petitioner before the High Court, to present certain passages of the magisterial report before the investigating team consisting IPS officers Pramod Kumar, Mohan Jha and JK Bhatt. This committee is expected to submit its finding by November 30 on

whether Ishrat's death was a real encounter or an extra-judicial killing.

Law min official removed in Ishrat affidavit row

Ahmedabad: The Ishrat Jahan killing in an alleged fake encounter took a new turn with a senior official in the Union law ministry removed from his post in the wake of controversy over the Centre's affidavit in the Gujarat High Court while the home ministry stuck to its guns that the four were suspects. As a controversy raged over the killing of the four suspected terrorists by the Gujarat police in 2004, Union home secretary GK Pillai, however, said "terrorists cannot be killed in cold blood". Highly placed sources in the law ministry said the law officer, who had failed to bring the affidavit to the notice of the ministry, has been removed. Sources, however, did not explain the nature of the action against the official. Sources also said the home ministry did not get the affidavit vetted by the law ministry before it was filed in the High Court. A magisterial probe into the killing of the four in June, 2004 on the outskirts of Ahmedabad had on Monday concluded that the encounter was fake. AGENCIES

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Guj HC stays Ishrat killing report

Orders Dept Inquiry Against Magistrate

TIMES NEWS NETWORK

Ahmedabad/ New Delhi:

The Gujarat high court on Wednesday stayed further action based on the inquiry report by metropolitan magistrate S P Tamang which exposed how IPS officer D G Vanzara and his men faked the Ishrat Jahan encounter for promotions and appreciation.

Justice K S Jhaveri, who ordered an investigation into the encounter last month, also ordered a departmental inquiry against magistrate Tamang for coming up with his report. The report highlights how ruthlessly Ishrat along with three others – Pranesh Pillai alias Javed Shaikh, Amjad Ali Rana and Zeeshan Johar – was murdered by Ahmedabad Police's crime branch in 'cold blood' on June 15, 2004.

Justice Jhaveri observed the magistrate should have consulted the HC as it had already instituted an inquiry into the case by forming a committee of three IPS officers the day the chief metropolitan magistrate asked magistrate Tamang to launch a probe.

However, the HC has given liberty to Ishrat's mother Shamima Kausar, who is the petitioner before the HC, to present certain passages of the magisterial report before the investigating team consisting of IPS officers Pramod Kumar, Mohan Jha and J K Bhatt. This committee is expected to submit its findings by November 30.

The controversy over the alleged fake encounter took a new turn with a senior official in the Union law ministry removed from his post. Highly-placed sources said that the law officer has been removed for his failure to bring the affidavit to the notice of the ministry. The sources did not explain the nature of the action against the official.

The Centre, meanwhile, said it stood by its affidavit in court but added that “terrorists cannot be killed in cold blood.”

“Whatever we have given in the affidavit is a fact available with the home ministry...We are not backtracking from the affidavit... But terrorists cannot be killed in cold blood,” home secretary G K Pillai said in New Delhi. **RULE OF LAW**

- The HC said the magistrate should have consulted it as the court had already instituted an inquiry into the encounter
- The inquiry team is expected to submit its findings by November 30
- The HC has given liberty to Ishrat’s mother Shamima to present certain passages of the magisterial report before the investigating team
- The MHA removes a senior law officer for his failure to bring the affidavit to the notice of the ministry

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Ishrat killing indicts Gujarat govt: Activists

Nitin Yeshwantrao I TNN

Mumbai: Civil rights activists on Wednesday said the Gujarat magistrate court’s findings in the Ishrat Jahan case are an indictment of chief minister Narendra Modi’s government.

“The court’s conclusions that Ishrat and three others were killed in a fake encounter are based on a studied observation of forensic reports and cannot be dismissed as a hastily given order as is being alleged by the Gujarat government. They were killed in 2004 and the inquiry report was delivered recently after a detailed probe and based on documentary evidence,” said Shubradeep Chakravorty, who has made a documentary film on encounter killings by the Gujarat police.

Addressing a press conference on Wednesday, senior advocate Yusuf Muchala said a probe by a magistrate conducted under section 176 of the CrPC is not appealable and gives detailed information about the staged shootout. “If the Gujarat government is serious, it should register an FIR against all those involved in the killing of the innocent people,” Muchala said, adding that all the circumstantial evidence showed that Ishrat was not a terrorist. However, said Muchala, even if we label her as a Lashkar cadre, as claimed by Gujarat cops, just for the sake of argument, killing in cold blood is not the way to deal with such cases.

“If that be the case, why is Kasab not being hanged ? It only shows that the Gujarat government has undermined the rule of law. If it was true that Ishrat had links with the terror outfit, then there should have been a trial instead of killing them on the streets,”

Muchala said. He said the Centre's affidavit stating that Ishrat and her colleagues were terrorists will not impact the case being fought in the Gujarat high court.

http://epaper.indianexpress.com/IE/IEH/2009/09/10/ArticleHtmls/10_09_2009_001_008.shtml?Mode=1

HC stays Ishrat report, calls for action against magistrate

EXPRESS NEWS SERVICE

AHMEDABAD,

ON A petition filed by the state government, the Gujarat High Court today stayed Metropolitan Magistrate S P Tamang's report which claimed that state police officers faked the 2004 killing of Mumbra girl Ishrat Jahan and three others to win promotions and the appreciation of Chief Minister Narendra Modi.

After the four were gunned down on the outskirts of Ahmedabad, police had claimed they were on a Lashkare-Toiba mission to kill Modi.

The High Court also directed the Registrar General to initiate disciplinary action against Tamang for not obtaining the court's permission before forwarding the report to the Chief Metropolitan Magistrate.

Tamang submitted his report to the CMM on Monday. On the same day, advocate Mukul Sinha, who has been appearing for Ishrat's mother Shamima in the High Court, released the report to the media. The High Court last month formed a three-member committee of police officers to probe the 2004 incident and submit a report by November 30.

The government, which rejected Tamang's report, moved a petition in the court of Justice Kalpesh Jhaveri and sought a stay. Special Public Prosecutor J M Panchal and Advocate General Kamal Trivedi questioned Tamang's jurisdiction and said he had exceeded the probe terms of reference.

Trivedi said when the High Court had appointed a team of senior police officers to probe the encounter, Tamang should have taken the court's permission before forwarding his report to the CMM.

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UPA plays politics with its affidavit: Home backs it, Law pulls up author

MANEESH CHHIBBER & AMITABH SINHA

NEW DELHI,

A DAY after the Gujarat government waved a Central affidavit backing its claim that Ishrat Jahan and her associates were linked to the Lashkare-Toiba and were planning a terror strike, the Union Home Ministry stood by the contents of its affidavit but the Law

Ministry sent out a completely conflicting signal by initiating action against the law officer who had filed that affidavit.

The Law Ministry today decided to take action against Assistant Solicitor General P S Champaneri for failing to bring to the notice of the ministry the contents of the affidavit filed by the Home Ministry in the Gujarat High Court, sources said.

In the affidavit filed last month, the Home Ministry told the High Court that it had indeed passed on information to the state police on the suspected

terror links of Ishrat Jahan and her three companions who were gunned down in June 2004.

Home Secretary G K Pillai said the affidavit was based on facts in possession of the Intelligence Bureau and the government was ready to substantiate the information provided to the court in the affidavit, if asked. He made the distinction between information on terror links of the victims provided to the state government and how the Gujarat police acted on that information.

"The affidavit only states the facts that were discovered about the victims through investigations. The facts are clear that the victims had suspicious links with terrorist organisations. Based on the information that the Intelligence Bureau had about these people, the Gujarat Police had been alerted about their movements," Pillai said.

"What the Gujarat Police did after receiving that information from the Home Ministry is not something that the Home Ministry can be held accountable for. As far as the government and the laws of justice in the country are concerned, even a terrorist has the right to get arrested and be put on trial," he said. With the Modi government pointing to the Central affidavit, the Law Ministry decided to penalise Champaneri for failing to apprise it of the contents of the affidavit and getting it vetted. Until evening, no formal orders against the ASG had been issued. Champaneri, on his part, said he had only filed the affidavit which was prepared and handed over to him by a Home Ministry official.