

### **Abdul Gani Najar (94/6)**

Abdul Gani Najar the 22 year old son of Ghulam Rasool Najar and Rehmi r/o Fidarpora, tehsil Sopore, district Baramulla, was a carpenter. He was one of 5 boys & 2 girls. Three of the brothers lived with their in-laws as *ghar jamai*. Married to Atiqa, Abdul Gani had two daughters Shazia and Roza. The family lived with Atiqa's parents in Utthara Channpora, Sangram. Abdul Gani had never been arrested or detained before.

Abdul Gani was home on a visit when he fell sick, with diarrhea and was so weak that he could not walk. He was at home in bed when the first ever crackdown of Fidarpora started. It was 21 Nov 1990 at about 3 a.m., when the army in uniform came in their thousands surrounding six villages – from Machanpora to Bakhipora. The villages were sealed. At Fidarpora the army trucks were parked out of sight. There was no camp in the vicinity and the forces had come from Baramulla. As it was the first crackdown, the villagers did not know what to look for, what they could or could not do or what was the law. Although they could not identify the unit, they are sure it was the army and not the BSF or CRPF.

All the men were ordered to assemble in the playground. The villagers informed the army that Abdul Gani was sick and laid up in bed. A house to house search was conducted by the army, accompanied by the village chowkidar – Ali Mohammad Malla. All the houses were all searched. Nothing was damaged but several villagers claimed that their belongings had been stolen. When the search party reached Abdul Gani's house on seeing him in bed, the soldiers picked him up and threw him down from the second floor window. Although very badly injured according to Ali Mohammad Malla, Abdul Gani was beaten badly with sticks. Then two soldiers picked him up and brought him to the house of Razak Dar. Fourteen others arrested that day were also brought to this house. Everyone was beaten. Abdul Gani was in such a bad state that he was barely breathing. The villagers begged that he should be left behind but he was put in a truck and taken away.

According to Ghulam Mohammad Lone, one of the men arrested that day, the last time they saw Abdul Gani was in Fidarpora while they were all being beaten. He was in a very bad state. The men were all accused of being militants<sup>1</sup>. The crackdown carried on till the next evening. As they were taken away in army vehicles, the men were blindfolded. They were all taken to the Match Factory at Baramulla, but Abdul Gani was not among them. The men were again beaten and interrogated. Ghulam Mohd says that his interrogators kept saying that he was a gun man and to give them the goods. He was released after 7 days. Of the 14 men arrested that day, 13 were released within a few days. Ghulam

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<sup>1</sup> The villagers were not sure if the forces filed a FIR in this regard.

Ahmad Dar the brother of the present village *mukhiya* was the last to be released after 14 days. Abdul Gani was never seen again.

After the crackdown was over the *mukhiya* Ali Mohammad Dar filed a complaint (DD 6) at PS Panzalla about 4 km from Fidarpora. In the investigation that followed, although statements of the villagers were recorded by the police, the forces were still not identified.

The family searched everywhere – the army camps at Baramulla, jails at Jammu, Karnah, Kathua, Rajasthan following every rumour. They also made representations to the Governor, DC Baramulla, SSP Baramulla. The following year during another crackdown the *mukhiya* spoke to the CO inquiring about Abdul Gani. The CO told him to come to the army camp at Baramulla assuring him that if Abdul Gani was there he would be released. However the villagers did not meet the CO again and they were too scared to go to the army camp.

When Abdul Gani did not return, four years later, in September 1994, the family filed a writ in the Srinagar High Court, following the case for 5 – 6 years. Since the family had no clue to the identity of the unit/s responsible, the petition filed on Abdul Gani's behalf, named the "Army Headquarters" as respondent no. 4. However, the Army did not enter an appearance before the High Court or the Inquiry Court. The State government's reply was the usual, one line denial: saying that Abdul Gani Najar had not been arrested by any agency of the State and, nor had he been "received" by any JIC of the State government, filed 16 months after notice was served upon them. On 6.2.96 the High Court referred the case to the CJM Sopore for inquiry.

In his report the Inquiry Judge recorded that 'respondent no. 4 could not be served because no address was provided for it'.<sup>2</sup> Based upon the eyewitness testimony, the Inquiry report concluded that Abdul Gani had been abducted by the Army during a crackdown on his village but said that the unit involved could not be identified by either the villagers or the police. The Inquiry Judge specifically asked the police to help him identify the accused unit but they expressed helplessness.

The inquiry report dated 6.5.97 seems not to have been received nor put on record even in July 01. The high court directed the Registrar Judicial to correspond with the CJM to complete the report and send it with its record within 2 months. The registrar was also directed monitor the status and progress of the report. More than a year and a half later on 16.12.02 it was noted that a photocopy of the report had been sent by the CJM with the information that the report had already been submitted more than 5 years previously.

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<sup>2</sup> The Army's failure to participate in the proceedings before the High Court must be deemed, deliberate. The failure on the part of the High Court and the Inquiry Court is, also, patent. That an address was not provided for the "Army Headquarters" cannot be made an excuse for not causing notices to be served upon them. Every Post Master in India must be deemed to know the address of the "Army Headquarters".

After this for another 15 months the case dragged on waiting for respondents to file objections to the inquiry report. Abdul Gani's family had given up making the long journey to the Srinagar high court when nothing ever seemed to happen. In April 2003, the High Court mechanically "accepted" this report and, relying upon the absence of a representative on behalf of the petitioner, dismissed the petition for "non-prosecution" nearly nine years after it was filed.<sup>3</sup> Abdul Gani's family did not know what had happened in their case.

The High Court must be faulted on at least two counts. First, it ought to have acted on the premise that the unit in charge of the JIC from where the others were released should be held responsible. Second, given that there was no doubt that the arrest was made by the Army, even though the unit could not be identified, it could have insisted on pinning responsibility on the Army Headquarters, which was a respondent.<sup>4</sup>

The family is abjectly poor. Abdul Gani's father Ghulam Rasool or as he is called Lassa Najar, is a quiet 70 year old who still works as a carpenter. He has aged greatly since his son's disappearance. To attend the court hearings Ghulam Rasool was forced to work as a labourer. There are two younger sons who live in the house. Abdul Gani's older sister Fazi was so traumatized by his disappearance that she would weep and scream remembering him. Within six months of Abdul Gani's disappearance, Fazi died of a heart attack. His other sister remains to be married, but there is no money. Abdul Gani's wife Atiqa has now remarried. Their daughters live with their maternal grandparents.

About 4 years ago the family applied for ex-gratia relief at Baramulla. Nothing has come of this, nor of the SRO 43 application. Again the police came and took statements in this regard, but it was not known what report was given.

After that first time, crackdowns became a regular feature of the area. 28 RR is the unit based at Bategam nearest to the village. The villagers say that no other disappearance has taken place in the area though there are encounters sometimes, the last one being in February 2004 when four people were killed. None of those killed were from Fidarpora.

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<sup>3</sup> Though the Inquiry report was sent to the High Court in May 1997, the High Court continued to "await" it till December 2002, when the Inquiry Court sent it a copy.

<sup>4</sup> Also see page 96 of the Narratives chapter.