

Frontier Magazine, 16 Nov 2008

sation" and to "prosecute the offenders". The Commission observed, "There is no material to suggest that the deceased belonged to Naxalite or CPI (Maoist) group".

The Commission also disbelieved that the police and CRPF fired bullets in their self-defence. In its decision dated 13th August 2008, the Commission observed, "None of the police party was hurt. We do not find any material to hold that the police party was provoked from any group of persons. The firing and crossfiring must have been heard by the villagers of Birubai, but none of them was produced before us. Mere discovery of two SBML guns near the dead body does not lead to the conclusion that the deceased used them and fired at the police party". The two-member bench of OHRC comprising chairman Justice R K Patra and member Mr Himadri Mohapatra further categorically discarding the theory of encounter observed "the Theory of death in encounter as presented by the police is liable to be rejected in the absence of injury on any police personnel or mark of violence at the spot, other than the gun shot injury on the deceased. He was not involved in any crime and for no fault of his, he was killed." The Commission also came to the finding as "We are inclined to hold that Paleka was shot dead by firing by the police (CRPF) party." The Commission also observed, as "no member of the family of the deceased was present in the inquest or during the post-mortem-examination even Mali Paleka, the petitioner was not trusted and was not examined in connection with the PS case. The acts of commission and omission of the police exhibit clear violation of human rights, not only of the victim but also of the members of his family."

Srimajhi Paleka, aged about 30 years, is a *Jani* (Adivasi Priest) of

village Birubai. He was also doing dangur cultivation along with his wife Mali Paleka. Paleka has two small children. Birubai is situated in a scheduled area of Orissa in the district of Rayagada. There are about twenty "Kandha tribe" families residing in the village. Almost all families live on dangur cultivation and forest produces. The village is situated in a remote jungle area, which is approachable only by foot covering hills and forest for about six kilometres. On 07.07.2006 at midnight Srimajhi had gone to his backyard to attend call of nature. Without any warning police and CRPF combing party reached there and fired bullets at him, which caused his death. But the police spread a story that Paleka died in an encounter of police with "Maoists".

In another incident very recently in the Deogarh district, one youth as per media report known as "Akash", died in a very mysterious situation. As per the police version he was a "Maoist" who was taken to custody by SOG and while "Akash" was taking them to the concealed spot for leading discovery of weapons, he pushed the security personnel and while trying to run away he fell down and died in the hospital. It amounts to a custodial death. As per the Supreme Court decision in earlier cases, the onus lies with the police to explain under what circumstances 'Akash' was injured, which led to his "unnatural" death. But the state Govt. has not yet ordered any enquiry into the said unnatural death.

In another case in MPV Village-78 in Malakanagiri, a security man killed the ward member of the village and it was presented as an "encounter" death between police and Maoists.

In the areas where there is presence of "Maoists" it is the routine allegation that anybody may be killed by security forces in the plea of

'ENCOUNTERS' STORIES

Biswapriya Kanungo

IN A SIGNIFICANT DECISION the Orissa Human Rights Commission (OHRC) disbelieving the story of police regarding death of an Adivasi youth Srimajhi Paleka in Birubai Village under Rayagada District in "Encounter", directed the Orissa Govt. to grant an amount of one lakh rupees towards "Compen-

"encounter" of police with "Maoists". So "encounter" death of "Maoists" in Orissa is frequent now. But in no such case the police observed the guidelines prescribed by the National Human Rights Commission and all such cases go without any independent public enquiry. Thus, the police and or any security forces have no accountability for the so-called encounter deaths. In other words right to life has very little value in the above context. There is wide range of disaffections and discontents amongst the greater masses including tribals, dalits, farmers, labourers, fishermen etc. against the so-called development policy of the state Govt.

There are also different political movements with dissent ideology and even with militant resistance ideology. The state Govt. without responding to the causes of such dissent voice/ideology in a socio-economic-political approach treats every such issue as law and order problem. "Encounter" culture is an extension of such policy of the state to forcibly silent the dissent.