

RTI GETS PAROLE

The popular perception is that it is impossible to gain convictions in riot cases. But after three years of sustained steadfastness shown by witnesses appearing before a fast track court in Godhra justice won a rare victory when five accused were given life imprisonment for multiple-murders, arson, destruction of property and loot during the 2002 Gujarat carnage against Muslims.

However less than a month after, the well-known, well-placed and well-connected lifers were often seen roaming their village while repeatedly out on parole. Each time the convicts were seen around, there was fear and tension in that little village. Those who had given evidence against them and were still material witnesses in other on going cases of murder and arson feared for their safety and that of their families. Throughout the trials there had been threats and intimidation. This had often been mentioned at court and to the police. Bringing powerful neighbours to justice had required extraordinary courage. The riots had polarized society and now when at least some of the horror was being addressed the perpetrators of premeditated murder were amidst them again. There was cause for concern. Rumours were rife. One lifer on the last day of his parole had tried to poison himself. Witnesses attributed all kinds of motivation to the attempt: he was trying to prove he was mad and escape jail; he was desperate enough to end life and would not, in his desperation, be afraid to kill others.

In this state of heightened fear the witnesses turned to the police. They wrote to the chief of prisons drawing attention to the frequent grant of parole. They questioned it, pointing out incidents of convict's misbehavior while outside, and asked for reconsideration of their parole and protection for themselves and others involved in various cases.

Typically there was no response from the police: neither by way of letter nor protective action on the ground. Self-help seemed the only way out. Newly and willy-nilly aware of their legal rights through their long battle in the courts the witnesses used the new Right to Information Act to find out how frequently parole was being granted.

A key witness, on 6th July 2006 sent an application under the Act to the Public Information Officer – Central Jail Vadodara. In it he asked for the number of days of parole, the start and end dates, and grounds/basis of parole for all five convicts. He also asked for the name of authorities granting the parole, the procedure that is followed when parole applications are received and a copy of the parole orders. A reply came after three weeks. The jail authorities shot back queries of their own. They said that the requester had failed to give the reasons behind making the application and also not mentioned to what use he was going to put the

information to. Since the reasons were not mentioned he was asked to 'remain present before the jail authorities on 21st July 2006'.

This response was clearly contrary to the spirit of the Act. There is no provision that requires an applicant to give reasons for which the information is sought or that requires the applicant to state what use he is going to make of the information received. There is certainly nothing that allows the Public Information Officer anywhere - let alone a prison official - to summon the applicant before him. All this was put down in a letter to the jail authorities. A clear response was sought as to whether the information was going to be provided or not, in which case the applicant would go into appeal.

This worked. On 8th August the applicant heard from the Vadodara jail superintendent asking for fees to be deposited and information to be collected. Though the letter was dated 31st July he only received it on 8th August.

On 23rd August the applicant sent the fees by money order to the Vadodara Central Jail. There was no response, no receipt, and no information. Several phone calls to the jail superintendent elicited no response. Inquiries at the post office shared the same fate. Finally a complaint to the Post Master confirmed that the money order had been received at the Central Jail on 14th September. This proof of payment was photocopied and sent off with yet another letter to the jail superintendent.

Nothing more was heard for another two weeks but on 31st September the information was in the hands of the applicant. In all it had taken three and a half months, five letters, several phone calls, threats of approaching higher authorities and a mini battle with the post office to get information, half of which by law (criteria for granting parole) should be in the public domain anyway and not require requests.

The information reveals much about the working of courts, public prosecutors, police and jail authorities. Parole is not easily given. Parole is a privilege prisoners get in very restricted circumstances and in particular to attend to personal moments of emergency. Before parole is granted the police make on the ground inquiries and send their assessment back to the court and prison authorities. The police almost routinely take account of opposition sentiment and object to parole on grounds that there may arise a law and order problem. From request to grant it all takes a long time even when an application for parole is successful.

But in this case no such thing was done. The papers revealed that on a couple of occasions a mother's illness, then a daughter's illness and finally own need for specialized treatment were cited as reasons for parole by a convict. In all cases there had been no opposition to parole either from the district magistrate's court

or the High Court. Despite the oft expressed fears and protests of witnesses, their families and the local community there does not appear to have been any police objection or demur to these frequent releases. It was all smooth sailing for the convicts.

Taking the matter to its logical conclusion would require further battles to find out whether laid down procedures had been breached and discretions properly applied without fear or favour. But for this applicant this was too hard a road. However, ever since the request for information about parole there appear to be no convicted murderers seen frequently in the village. The health of prisoners and their families seems to have improved remarkably. The witnesses in the case feel marginally safer.

Narrated by Navaz Kotwal for CHRI