

The Elgar-Parishad Case: Charges against Prof Anand Teltumbde

(A Brief Note on Police Plot Edited 03/31/2020)

1. Murky Background of the Plot

As the Elgar Parishad to observe the 200th anniversary of the Bhima-Koregaon battle as conceived by Justices P B Sawant (Retired Justice of the Supreme Court) and B J Kolshe Patil (Ex-Justice of the Bombay High Court) brought Dalits and a section of Maratha together, the RSS-minded people in the Fadnavis-government took it as a threat and commissioned their agents provocateurs in Sambhaji Bhide and Milind Ekbote to engineer conflict between these two communities.

Bhide and Ekbote selected the Vadu Badruk, a village about 4-5 KM from Bhima-Koregaon, where a *samadhi* of Sambhaji Maharaj exists. The established folklore is that a Mahar, Govind Gaikwad collected the dismembered body of Sambhaji, risking the ire of Aurangzeb who had brutally killed him, and gave him a respectable funeral. After he died, his *samadhi* also was built in its vicinity. All through the history, this tale was never disputed. Bhide-Ekbote, however, fabricated a story that it was not the Mahar but a Maratha family of the village, Shivale, who did it and incited Marathas to reclaim the *samadhi*. On 29th December, the board at Govind Gaikwad's *samadhi* was found damaged leading to tension between two communities. This incident was covered by many Marathi newspapers, some of which rightly feared that some untoward things would take place at the Dalit congregation at Bhima-Koregaon on 1 January. [some of the cuttings are attached]

On 29 December, Bhide-Ekbote declared to observe Bandh on 1 January 2018 when Dalit congregation takes place at Bhima-Koregaon obelisk (Vijay-stambh). It was reported in some of the papers. There were hectic planning activities in the surrounding villages.

Elgar Parishad took place on 31 December 2017. It was fully videographed by the Police. Nothing untoward took place there. At the end of the conference, a collective oath was administered to all present that they would never vote for the BJP and would defend the Constitution of India.

The next day, as Dalits began congregating at the Vijay Stambh, they were suddenly attacked by the saffron flag bearers around 10.30-11. Stones were pelted from the roofs of houses lining along the road. The vehicles of Dalits were damaged. Many Dalits were badly beaten and suffered loss of property. One Maratha youth mysteriously lost life. But for this unfortunate incident, Dalits were the singular victims of the vicious attack by the Hindutva gangs. The story of the Police that Maoists planned disturbance by inciting Dalits is ludicrous as only Dalits got beating. There are plenty of videos that show the nature of attack.

In the face of it, the entire incident was meticulously planned by the Administration in conjunction with the Hindutva elements. Despite being publicly known that some disturbance would happen on 1 January, there was a scanty police force present at Bhima-Koregaon. The videos show that Police look on as the saffron flag wielding mob attacked the hapless Dalits.

One Dalit lady lodged an FIR with Pune Rural Police naming Bhide and Ekbote as the culprits under the Atrocity Act. No action, however, was taken on this FIR.

After eight days one Tushar Damgude, who is a known RSS-functionary and a disciple of Bhide, filed an FIR with Pune City Police alleging that the riots at Bhima-Koregaon were ignited by the fiery speeches in the Elgar Parishad. From here the sinister plot began to unfold. The Pune police raided houses of some of the named activists of Kabir Kala Manch and as though they got a big clue, raided houses of other noted intellectuals/lawyers/activists across the country who were well-known in society for variously defending peoples' rights against excesses of the state. None of them, except Sudhir Dhawale was remotely connected with the Elgar Parishad. The only common thing with them was they were confirmed critique of the communal politics of the BJP.

The Police plan was to take hold of their digital devices so as to insert some scripted letters to claim unearthing a big Maoist conspiracy and then paint these activists as the active members of the banned CPI (Maoist). They were declared by the entire BJP establishment as "Urban Naxal." This sinister term invented by one RSS person, Vivek Agnihotri in a book Urban Naxals: The Making of Buddha in a Traffic Jam and publicised by every BJP functionary including the prime minister Narendra Modi. It is the label that could be stuck on anyone in the country to put her/him in jail for years.

The Police propagandized their plot with press conferences until the Bombay High Court chastised them.

They distributed the letters to their obliging friends in media to create a propaganda blitzkrieg.

The letters were trashed by the security experts like Ajai Sahani, Executive Director of the Delhi-based Institute of Conflict Management, which monitors activities of terrorist and Maoist organizations. He publicly observed that they were fabricated as Maoists are known to maintain highest order of secrecy in their communication and practice destruction of messages once they were read. They would never write essay-like letters to each other with real names, real phone numbers, etc. explicating their plans. Some other ex-police officials experienced in Naxalite Operations also opined similarly.

Even Justice Dhananjay Chandrachud, the only judge in the entire judiciary who cared to look into the case while dealing with the Public Interest Litigation filed by Romilla Thapar and other four leading intellectuals, had expressed his doubt about the genuineness of these letters and recommended the case should be investigated by an SIT.

The letters had many names like Jignesh Mewani, Prakash Ambedkar, Rahul Gandhi, etc. with prefix 'Comrade' and phone number of Digvijay Singh making them also secretly supporting Maoists. Police, however, never explained why they have never even made simple enquiries with these people.

Police even never enquired with Justice Sawant and Justice Kolshe Patil although both these respected justices have been vocally disputing the Police claim that Elgar Parishad was funded by the Maoists. On the contrary, the Police had temerity to attach a statement by Justice P B Sawant in the Chargesheet, which he publicly denied having given. No action is taken on such criminal misdemeanour of the Police.

The Police has never made even a cursory enquiry with number of people figuring in the letters over last one and half years and only persisted with their lies to the court. They doggedly followed the case in every court squandering huge amounts of public money. All this needs to come out in public through an independent enquiry.

Taking shelter under the draconian clauses of the UAPA-like Act and submitting sealed envelopes in courts, the police have incarcerated these intellectuals, lawyers, activists in jail for more than one and half years. If one goes by the history of Maoist cases before, they could be easily incarcerated to 4-10 years in jail before they are acquitted or granted bail. By that time, effective destruction of their entire life and families is achieved.

2. The Modus Operandi of Raids and Confiscation

The modus operandi the Pune police adopted itself was fraught with irregularity. They ransacked houses for 6-7 hours, confining the owners in a corner and sealing the so called evidence in plastic bags. They carried two witnesses from Pune along with them violating the provision of independence of *panchas* in gross violation of **subsection 4 of Section 100** of the Code of Criminal Procedure, that mandates the police to find *two independent and respectable persons* of the *same locality* where search raids are to be carried out. However, in every raid other than the one at Gadling's house, the Pune police made use of 'stock' witnesses who had travelled with the police team from Pune – thereby compromising the independence of their observations.

The most objectionable was the confiscation of the digital devices (computers, laptops, phones, memory cards, pendrives, etc.). Unlike physical objects, the integrity of these digital devices could only be established with “hash value” a unique value computed by a mathematical algorithm for the content of a digital device. The hash values can be taken within hours depending upon the size of the disk with a small mobile equipment but police deliberately avoided to do so. The police carried its own cyber expert and equipment and could easily take hash values but did not. In absence of hash values, the computers are wide open for tampering. The fact that the Panchas in the Panchnama were their own people and absence of hash values together make these devices vulnerable for any manipulation post-confiscation, which is what the Police actually did.

It is in clear violation of Information Technology Act, 2000 for validation of the digital evidence. It stipulates not only *hash value* but the digital signature. The Police did neither. They would take shelter under the fact that the question of validity of evidence would arise only in trial and by then they could keep the accused for years in jail.

3. Repeated Denial of Access to the Evidence

The police have indulged in gross irregularity in distributing the evidence to the media but denied access to the accused. The access to digital device is in the form of “clone copies” of these devices, which are bit-stream images of the entire content of the devices including various logs that provided chronology of all actions in digital footprints. For this basic right, the accused had to struggle in the court for months before the court ordered the Police to handover clone copies to all the accused in May 2019. Police have only recently provided the so called clones in a two sets of Hard Disks, one 2 TB and another 8 TB. The latter (8 TB disk) is a server disk and cannot be ordinarily opened by a normal computer user. It is a deliberate ploy to kill time as the clones should be provided for each device and if they wanted to combine in a storage device for whatever reason, they should obtain consent of the accused for the same.

Despite the court order the Police have still not given clone copies of the hard disks of Surendra Gadling, from whose computer some of the so called incriminating letters were purportedly recovered. The clone of Rona Wilson is provided but without many a log, which registers digital footprints of the user. These clones are being looked into by many independent people.

Thus many an action of Police amounted to contempt of the courts but with political backing the Police persisted haughtily with its misdemeanour.

4. Observations from the FSL Reports

The study of the material provided by Police so far revealed numerous irregularities and inconsistencies, such as questionable integrity of the digital devices, various clues to tampering of digital devices post-confiscation, and even insertion of malwares to monitor and take control of computers. Many a detail has variously come in media, such as Caravan, The Wire, Scroll.com and others.

6. Uncanny Similarities with the Odatv-Ergenekon Case in Turkey

Odatv is a secular news organization founded in 2007 with a reputation for being critical of Turkey's government and the Gülen Movement. In February and March 2011, the Turkish National Police began a series of raids and arrests involving Odatv. Critical electronic evidence seized during the raids appeared to connect Odatv employees and supporters to the Ergenekon terrorist organization. In November 2011, an indictment in essence charged Odatv with being the media wing of Ergenekon and singled out 14 Odatv employees and supporters. The indictment was based on electronic documents seized during the raids by the Turkish National Police, leading to the imprisonment of 11 of the 14 suspects. The arrests were based on documents recovered from two particular computers. It was later found by forensic experts that those computers, used by Odatv journalists Barış Pehlivan and Müyesser Yıldız, were attacked in a relentless (and fascinating) fashion - ultimately resulting in placement of the incriminating documents just prior to seizure by the Turkish National Police ["Odatv: A Case Study in Digital Forensics and Sophisticated Evidence Tampering", <https://arsenalexper.com/Case-Studies/Odatv/>].

Examinations of the documents conducted by computer experts at Boğaziçi University, Yıldız Technical University, Middle East Technical University and the American data processing company DataDevastation have refuted the validity of the documents and concluded that outside sources targeted the journalists' computers. Rare and malicious computer trojans, including Autorun-BJ and Win32:Malware-gen, allowed the placement of the documents to go unnoticed by the defendants [https://en.wikipedia.org/wiki/Ergenekon_trials#Case_7:_OdaTV].

The Bhima Koregaon case which is also based upon the digital documents seized from the computers of two accused Surendra Gadling and Rona Wilson has uncanny similarities with the Odatv case. Rona's computer was also Trojan infected as that of Barış Pehlivan and suspicious activities were observed around the time of confiscation. The metadata of the "incriminating" documents have serious anomalies posing indications of manipulation in the content and abnormal functioning of the computer in question.

7. A Case of Criminalization of Prof Anand Teltumbde

Prof Anand Teltumbde, one of the 12 accused, is a foremost Ambedkaarite scholar, and belongs to the family of Babasaheb Ambedkar. Coming from a poorest of poor, landless family, with sheer hard work he has earned academic laurels as a meritorious student throughout. He earned his BE from VNIT, Nagpur; MBA from IIM, Ahmedabad, Ph D in Cybernetics, and is decorated with Honorary Doctorate from a University. He has impeccable and successful professional career at top management positions such as Executive Director, Bharat Petroleum Corporation Limited, and managing Director and CEO, Petronet India Limited, the company that was formed at the instance of Govt of India for boosting petroleum infrastructure in the country. He was selected by a search committee headed by the then Secretary Petroleum. After his corporate stint, he was invited by prestigious IIT, Kharagpur to join its faculty in Business Management where he worked for over five years before shifting to Goa Institute of Management where he launched India's first programme in Big Data Analytics. He is currently Senior Professor and Chair, Big Data Analytics. He is highly reputed for his professional prowess and academic excellence in the country and abroad.

Inspired by Ambedkar's dictum, in parallel with his professional job, he has been taking cudgel for the oppressed people from whom he himself has come. Right from his student days he continued to contribute variously to struggling people in terms of intellectual inputs and education. He has written in process 27 best-selling books, published by reputed Indian and foreign publishers, numerous papers, articles in reputed journals like EPW, and scores of interviews, etc. in which not a word could be found supporting any kind of violence. Rather, as a true public intellectual he is known to be an unsparing critique of both Dalit and Communist movements and advocate of a broad political unity of all oppressed people sans caste and community. He is still honoured by both the streams and general progressive circles worldwide. As regards the immediate context of the Elgar Parishad, he had written a critical piece in The Wire, on 2 January 2018 for which he had shower of abuses from a section of Dalits across the country. The piece appearing on 2 January, itself reveals his innocence.

Raid on His House and Police Press Conferences

Along with others six activists, five of whom were arrested on 28 August 2018, the Pune police raided his house in the campus. They forcibly obtained the duplicate key from the Security Guard and opened the house when the house was locked. As written in the panchanama, they just videographed the interiors and locked back the house. Prof Teltumbde and his wife were away in Mumbai. As the TV channels flashed the news of their house being opened and searched, his wife rushed back by the next flight and lodged the complaint with the Bicholim Police Station providing their telephone numbers, should the Police need to make any enquiries. On 31 August the Additional Director General Police Shri Parminder Singh took a press conference in Pune and among others, flashed one

letter in support of Prof Teltumbde's involvement. The letter was written by someone supposed to be a Maoist to some Com Anand referring to a Paris Conference in April 2018. The Police fabricated the letter based on the public fact that Prof Teltumbde attended such an academic conference along with many scholars from all over the world, which was organized by the American University of Paris. It was hilarious in its narrative that indicated that the Maoists gave money to this university and asked it to invite him. It also suggested that they arranged with "Com. Étienne Balibar" (Professor Balibar is highly respected French Marxist scholar) that he would interview 'Anand'"Anand "Com. Anupama Rao and Shailaja Paik" (Professors teaching in Bernard College and Cincinnati University, respectively) that they would invite him to their universities for guest lectures. Both the organizer of the conference Prof Lissa Lincoln of the American University of Paris and Prof Balibar were stunned by this canard and wrote back explaining the matter and protesting against the Police canard. Balibar angrily sent letter of protest and even written to the French Embassy. Prof Lincoln explained how the University invited Prof Teltumbde and bore the entire expense for my travel and attendance. On the basis of all documentary evidence, Prof Teltumbde decided to prosecute Paramjit Singh for defamation and wrote a letter to Maharashtra Government on 5 September 2018 seeking its permission as per the procedure. There is no response to it till today.

The Fabricated Letters as Evidence

Meanwhile, since there was apparently no case against him and thinking that his letter to the government might make Police its folly, Prof Teltumbde decided to file a petition for quashing the FIR against him to the High Court. The Bench rightly asked the Police to submit an affidavit listing all the things that they had against him. The Police submitted the affidavit listing five charges vide five letters, including one discussed above, purportedly recovered from the computers of others. They were all refuted with evidence. Notwithstanding the fakeness of these letters, even if they were held as genuine, they did not make any triable case. The other four letters were:

The first letter written by someone to some other saying that some Anand has taken responsibility of organizing Ambedkar Periyar Study Circle (APSC), which came to limelight in 2015 when the IIT Madras administration derecognized them. Prof Teltumbde was then Professor in IIT, Kharagpur, more than 2000 km away from Madras. If he had an inkling and capacity to organize students, he could do it in his own IIT; not the most distant IIT, without any contacts. In any case, when the APSC learnt it in newspapers, a founding member refuted the canard, categorically denying that Prof Teltumbde had nothing to do with APSC.

The second letter, again written by someone to some other referred to some Anand making a "good suggestion" in the meeting of Anuradha Ghandy Memorial

Committee (AGMC). Prof Teltumbde has been a member of the Anuradha Ghandy Memorial Committee , which is a decade old registered body with its PAN, Bank Account, and respectable people as its members. However, being physically away for almost ten years, he could hardly attend its meeting or contribute in any way. The Committee held public lectures by eminent scholars like Samir Amin and Angela Davis which were widely covered by the press. Prof Teltumbde might have attended a few of them during the entire decade.

The third letter again written by someone to some other in which there is a reference to some Anand taking responsibility of organizing a fact finding into Gadchiroli encounter. Prof Teltumbde being General Secretary of the Committee for Protection of Democratic Rights (CPDR), an old civil rights body in Maharashtra, whose raison d'etre is to do fact finding into the cases of suspected human rights violations, this could not be a crime by any stretch of imagination. The fact, however, is that neither Prof Teltumbde organized this committee nor coordinated it or participated in it. He has been General Secretary initially in deference to the wishes of the last General Secretary, P A Sebastian and thereafter, at the insistence of its members although he was away from Maharashtra all this while.

The fourth one was a note allegedly recovered from someone's computer that had a scribble: “Anand T.. 90T Surendra (through Milind)”. It was interpreted as Prof Teltumbde was paid Rs 90,000 by Surendra through Milind (sic). The Police clearly identifies ‘Anand T’ being Prof Anand Teltumbde, ‘Surendra’ being Advocate Surendra Gandling and ‘Milind’ to be Milind Teltumbde, his younger brother who had left the house three decades ago. It was ridiculous and product of poor imagination to construe that he would take such a paltry money as he has been paying that kind of money every month in income tax for years. None of this people, Surendra who lived in Nagpur and Milind who is supposed to be underground, ever met him.

His rejoinder to the Police Affidavit refuted all these charges. But at the end the Police gave some 'sealed' envelop to the judges and the court rejected his petition, without referring to any of his refutations or his personal credentials.

All these charges were ridiculous. The fakeness of letters were amply exposed, his identity with ‘Anand’ in letters is unsubstantiated, and none of the narrative in these letters constituted any crime. But the case is persisted with under the technical plea that these evidentiary matters would be seen at the time of trial . The courts ignored the fact that the liberty and reputation an outstanding person, and ruination of his family was at stake. It was not the case where evidentiary value was to be determined in trial but it was the case where there was absolutely no evidence. The so called digital evidence police was preferring did not have a panchnama!

During the bail proceeding, the High Court had asked the Police to interrogate Prof Teltumbde as much as they wanted and Prof Teltumbde fully cooperated, providing all information they required and volunteering even more. The Police never complained to the High Court that he had not cooperated. But in Court the Police would keep insisting on custodial interrogation and the Courts would accept it without asking a single question to the Police. In this process, his pre-arrest bail, which was being sought as directed by the Supreme Court, was rejected by the High Court and now even the Supreme Court. The Supreme Court had granted him time for three weeks to surrender.

On 16 March, final hearing of his Anticipatory Bail Application took place before the bench of Justice Arun Mishra and Justice M R Shah, which rejected his bail along with that of Gautam Navlakha. The bench kindly granted them three weeks' time to surrender. On 6 April Prof Teltumbde shall have to surrender to NIA.

His incarceration shall create a piece of history inasmuch as he will be the First Alumnus of hallowed IIM, Ahmedabad, the First Professor of equally hallowed IIT, a CEO of a Holding Company to be incarcerated not for any financial misconduct but for a grave crime to be charged under the dreaded UAPA, which provides mere cover for the political intentions of the party in power.

Brief Conclusion

- The entire plot is hatched in a malicious manner by the Police with obvious support from the BJP/RSS at the centre. It reflects gross misuse of power against the noted activists of the country to terrorise the entire community of those who dare to criticize the government into silence.
- Nothing ever is recovered from Prof Teltumbde. The entire evidence of the letters is in the nature of someone writing to some other, recovered from some third person in which 'Anand' occurs.
- The police violated various Acts in raiding and confiscating digital devices and deliberately left them open to tamper with in police custody.
- They did tamper with the computers in police custody and inserted the so called incriminating documents into the victim's computers
- The police have wantonly indulged in mispropaganda against the victims to malign their image and create a fog around the entire episode
- The police indulged in misleading courts and even indulged in contempt of court as observed by the Pune court in the arrest of Prof Teltumbde. As revealed recently, the Pune police with obvious support of the higher authorities have sent Pegasus spyware of an Israeli company, NSO into his and others' cell phone who are connected with defence of the victims in this case. Besides violation of persons' fundamental rights, the use of this software being

very expensive, it is a gross misuse of public funds apart from blatant violation of personal liberties

- All the so called incriminating letters purportedly recovered from the computers, are fake as declared by the experts.
- The case had an uncanny similarity with at least one case in Turkey with far reaching portents to our democracy, if not arrested in time
- There is a possibility of use of malware to insert the files into computers
- There is a joint statement of Information Technology specialist how the digital devices are vulnerable to manipulation and hence should not be used as sole or primary evidence in important cases
- The victims have already suffered irrevocable damage to their impeccable reputation, financial losses, loss of liberty for more than one and half years and are still running from pillar to post begging for bail.
- The only crime in the case is committed by the Police and their political protectors at the expense of huge public expenditure and damage to the image of the country.
- Technology could prove who and how they were created but it would require resources and time. The case is an apt case to be investigated by an independent agency and put the facts before public
- Prof Teltumbde's incarceration would mean that no person India, howsoever learned and whatsoever his background, is safe. An ordinary Policeman could destroy him completely.