

THE Government has finally announced an enquiry into the anti Sikh riots in Delhi in November 1984. This is a positive development and is the result of the persistent raising of the demand for an enquiry by a whole range of political groups and independent citizens. However, the manner in which the courts have so far rejected citizens' pleas for an enquiry is a telling comment on the independence or otherwise of the judiciary.

A judge of the supreme court will now conduct an enquiry at the government's behest. But only 10 days earlier, the same supreme court had summarily dismissed a petition asking the court to appoint commissioners to enquire into the genesis of the riots.

The petition, filed by three Delhi university lecturers, Madhu Kishwar, Ruth Vanita and Rakesh Bharadwaj, impleaded as respondents the Union of India, the home minister, the Delhi administration, the metropolitan council, the Congress (I) party through its president, Rajiv Gandhi, and the then Congress (I) members of parliament from Delhi.

The petition alleged that all these individuals and institutions, by a series of acts of commission and omission, had violated the fundamental rights of thousands of citizens belonging to the Sikh community. (See Manushi No. 25 for text of petition)

### **Court Helpless ?**

When the case came up for admission on April 2, the chief justice, Y. V. Chandrachud hardly listened to our arguments. He kept shaking his head and repeating: "No, we can't do anything in this matter. This is a political matter."

At this, one of the petitioners remarked that it would be "absurd" for the court to refuse to protect the citizens' most fundamental right, the right to life. As soon as he heard the word "absurd", the chief justice suddenly got animated and threatened to punish us for contempt of court and to bar us from arguing in court. The petition was dismissed without any reasons being given.

## **Government Yields To Demand For Enquiry**

We found it ironical that the highest court in a democracy should refuse to take action when thousands of citizens are brutally murdered in broad daylight, but should be ready at a moment's notice to punish a citizen for remarking that such refusal would be absurd.

Earlier, Delhi high court judges Yogeshwar Dayal and B.N. Kirpal had similarly dismissed the PUCL-PUDR petition for an enquiry, saying that this was a "political" matter and the court could not interfere.

Clearly, therefore, the institution of the enquiry by government is also a "political" act, strategically timed to make themselves appear righteous and the Akalis appear unreasonable. The decision to hold an enquiry at this point has little to do with justice, even though a supreme court judge is to conduct it. Had it in fact been seen as a matter of protecting fundamental rights and protecting the Constitution which has guaranteed those rights, the courts would not have found themselves unable to take action on their own initiative, with or without clearance from the ruling party.

The supreme court has several times intervened to protect violation of citizens' fundamental rights on a much smaller scale, as in the Bhagalpur Windings case, the Delhi stone quarry workers

case, the Asiad construction labour case, the Delhi and Agra Nari Niketans cases. In lengthy judgements, several supreme court judges had ruled that article 23 of the Constitution gives the supreme court wide discretionary powers to evolve a procedure suitable to each case of violation of fundamental rights, because the court has a "sacred duty" to protect the fundamental rights.

But this "sacred duty" was scuttled by the courts in the present case because of political pressure by the ruling party.

### **A Great Favour ?**

The government is behaving as if it is doing Sikhs a great favour by instituting an enquiry. Unfortunately, many people, including large sections of the media, seem to be taken in by this propaganda.

In what way is the enquiry a concession to the Akalis? When a murder takes place, the State is required by law to prosecute the guilty. This is certainly not seen as a "concession" to the murdered person. When people die due to negligence by an authority, the institution of an enquiry is a time honoured practice. It is shameful that the government waited six months to institute an enquiry into the murder of thousands of persons in the capital city. And now they are trying to make this into a proof of their generosity.



The demand for an enquiry was not made by the Akalis alone. It was made by many political as well as civil liberties organisations, and by a wide range of rightminded individuals, belonging to different communities. The demand was for justice not just to Sikhs but to all of us.

The organised massacre of thousands ought to be a matter of concern to all of us as citizens of the country. The enquiry is not a concession to Akalis or to Sikhs but is owed to all citizens of India.

### The Right To Know

The demand for an enquiry was more an assertion of people's right to information than an expression of a hope that government would actually do justice in the matter. In fact, several independent enquiries have been undertaken by human rights organisations, and the basic facts have been made available in the form of reports. We need to disseminate this information as widely as possible so as to counter the communal prejudices that

are being assiduously fostered by the State controlled or State influenced media.

Today, in a situation when the State has acquired enormous powers which are constantly used to intimidate and attack the citizens, it is of crucial importance that all of us be more efficient and organised in collecting and disseminating information, whenever and wherever the State machinery is used to violate the fundamental rights of citizens and find ways of resisting this onslaught.

### On The March

The Chhatra Yuva Sangharsh Vahini organised a 12 day women's *padyatra* from Kothputli in Rajasthan to Delhi. On April 5, the 23 women participants arrived in Delhi where a three day conference was held.

Most of the participants were from Bihar. There were also a few from Orissa and Maharashtra. Along the way, they met women in 20 villages of Rajasthan



and 30 of Haryana. The villagers' response ranged from enthusiasm to hostility.

At many places, the men, seeing a contingent of young women walk-ing on their own, mistook them for a dancing girls' troupe. At certain halting places, the hostility of men was so great that the group was apprehensive of an attack at night. However, on the whole, the res-ponse of the village women was encouraging.

They found that, everywhere, women were toiling under extremely difficult conditions. They heard of cases of wife murder in many villages. Some village *panchayats* who have been making efforts to curb dowry demands, were friendly and hospitable to the group.

The *padyatris* felt they had learnt a lot, and had also acquired considerable self-confidence through the experience.