

**By Hand**

O. No. ADGP (PR) / PS / Affidavit /2004  
Office of the D.G. & I.G. of Police,  
Gujarat State, Police Bhavan,  
Sector-18, Gandhinagar – 382 018.

**Dtd. April 09, 2005.**

**To,**

**The Secretary,**  
Justice G.T.Nanavati &  
Justice K.G.Shah Commission,  
Bungalow No. 33, Opp. Police Stadium,  
Shahibaug, Ahmedabad –380 004.

**Sub:** Submission of Affidavit on harassment and victimization  
for deposing before the Justice G.T.Nanavati & Justice  
K.G.Shah Commission.

Sir,

As instructed by the Director General and Inspector General of Police, Gujarat State, Gandhinagar, I had submitted two Affidavits to the Commission, (1) vide O.No. PS / ADGP (Int.) / 1214 / 2002, dated 15.7.2002, and (2) vide O.No. ADGP (PR) / PS / Affidavit / 2004 / 91 E, dated: October 06, 2004, on performance of duties by the officers and personnel in the State Intelligence Bureau under the supervision of Addl. DGP (Int.), Gujarat State, Gandhinagar, in relation to the terms of reference of the Justice G.T.Nanavati and Justice K.G.Shah Commission.

2/- Again, I respectfully submit before the Commission an additional Affidavit, in 3 copies (enclosed). This Affidavit contains my humble representation regarding harassment and victimization perpetrated on me on account of my deposition before the Commission on 31<sup>st</sup> August, 2004 and submission of the second Affidavit on 6<sup>th</sup> October, 2004, by higher authorities, in the State Govt. This affidavit may kindly be given due consideration and remedial measures may kindly be ordered as early as possible.

3/- I may kindly be summoned before the Commission for submission of further data in this matter.

Yours faithfully,

**( R.B.Sreekumar )**  
Addl. Director General of Police,  
Police Reforms, Gujarat State,  
Gandhinagar.

**Encl.:** - As above

**Copy w.cs.to:** -

- **The Principal Secretary,  
Home Department, Govt. of Gujarat, Sachivalaya, Gandhinagar**
- **D.G.& I.G. of Police, Gujarat State, Gandhinagar.**

Legal Department, dated 6<sup>th</sup> March, 2002, and the subsequent Notification by the Legal Department, dated. 20<sup>th</sup> July, 2004, about the constitution of a Commission of inquiry headed by Justice G.T.Nanavati and Justice K.G.Shah and its terms of reference.

2/- I was incharge of the State Intelligence Bureau (SIB), which is also called CID IB, from 9<sup>th</sup> April, 2002 to 17<sup>th</sup> September, 2002. I am quite conversant with and rightly informed about the functions of SIB. The duties and responsibility of this Branch were laid down vide the Gujarat State Police Manual Vol. III, Rule No. 461. Details of this Rule had been enumerated in the para 3 of my earlier Affidavit to the Commission submitted on 15<sup>th</sup> July, 2002.

3/- This Affidavit is submitted in continuation of the earlier Affidavits by me to the Commission (1) on 15<sup>th</sup> July, 2002 and (2) on 6<sup>th</sup> October, 2004. It is filed by me to bring to the kind notice of the Commission instances of harassment and victimization perpetrated on me by the higher authorities in the Govt., who are my supervisory officers, on account of my truthful deposition to the Commission on 31<sup>st</sup> August, 2002 during the cross-examination and also on 6<sup>th</sup> October, 2004, in my second affidavit to the Commission. My earlier

Affidavits and these submissions contain my assessment about the law and order situation and related matters, which are, however, neither in tune with the perception of the higher formations, nor favorable to the interests of the ruling party in the State. The background and reasons for the higher authorities unmerited prejudicial approach to me including the instances of harassment and victimization are delineated below:

4/- I have submitted my first Affidavit to the Commission on 15.7.2002, with copies to DGP of Gujarat State. Nevertheless, by the middle of August, 2004, newspapers reported that my above Affidavit contained many statements and assessments adversely affecting the stance of the Govt. relating to the Godhra incident on 27<sup>th</sup> Feb., 2002, and the subsequent protracted communal clashes, which rocked many parts of Gujarat, particularly, in Ahmedabad city. Thereupon, a few senior police officers approached me and requested me to avoid any deposition before the Commission, damaging the political interests of the Govt., during my cross-examination scheduled for 31<sup>st</sup> August, 2004. Responding to these officers, I reiterated that I will stick to the letter and spirit of my Affidavit. Continuing the efforts to influence me, on 21<sup>st</sup> August, 2004,

afternoon, one middle level officer from Home Department, Shri Dinesh Kapadia, Under Secretary (Budget & Coordination), called on me and during the long interaction, he persuaded me to be favorable to the Govt. in my deposition to the Commission on 31<sup>st</sup> August, 2002. He exhorted that no purpose would be served by telling truth to the Commission, as its recommendations will not be accepted and that all Commissions are paper tigers. He added that the Commission is not the forum to tell the truth and such an action, on my part, would create misunderstanding about me in the Govt. Opining that Shri P.C.Pande, IPS, the then Commissioner of Police, Ahmedabad city, had deposed rightly before the Commission, Shri Kapadia, hinted to me to follow the example of Shri P.C.Pande, in the matter of deposition before the Commission. He viewed that I was partly biased in my assessment of the situation and so I should avoid telling more facts and providing additional material to the Commission. The details of the interaction between me and Shri Dinesh Kapadia is recorded in an audio cassette and the verbatim transcript of the same is enclosed as **Annexure-A** (My comments highlighted therein may kindly be seen). Nonetheless, there was no element of

coercion in the entreaty of Shri Dinesh Kapadia. Afterwards, perhaps knowing that I am not amenable to friendly persuasion by Shri Dinesh Kapadia, Under Secretary, Shri G.C.Murmu, IAS, (1985 Batch) Secretary (Law & Order), Home Deptt. had summoned me on 24.8.2004, evening and held a briefing session for tutoring me about items to be presented in the cross-examination on 31.8.2004. I remained present in the briefing, on the verbal instructions of the DGP, Shri A.K.Bhargava. Shri Arvind Pandya, Govt. Pleader to the Nanavati Commission was also present in the meeting and gave me elaborate briefing. They directed me to avoid giving any statement, which could embarrass the Govt. They also insisted that they had briefed all witnesses i.e. Govt. officials to depose before the Commission, without harming the Govt. interests. I was specifically asked to be careful about questions put by one advocate Shri Mukul Sinha. I was also told that I should not give deposition in such a way that more names would be opened up leading to their summoning for cross-examination. I was also threatened that if I give statement contrary to State Govt. interests, I will be declared a hostile witness and dealt with suitably later. I told them that I would depose before the Commission as per the statutory

requirements and will not suppress truth, because that would be an act of perjury. In short, the whole meeting was a pre-planned and well-focused massive exercise to coerce me to suppress facts, tell lies and present data in such a manner that would not expose the Govt. functionaries, senior politicians and others, who played diabolical and criminal role during the long-drawn-out communal riots, after the Godhra incident in Gujarat State.

5/- In my humble view, the above briefing / directive given by Shri G.C.Murmu and Shri Pandya was in total violation of the letter and spirit of the terms of reference of the Commission contained in the Govt. Legal Deptt. Notification No. GK / 07 / 2002 – COI / 102002 / 797 / D, dated: 6.3.2002 and Notification No. GK / 07 / 2002 – COI / 102002 / 797 – A, dated: 20.7.2004. In these Notifications the State Legal Deptt., inter-alia, stressed on inquiring into the “Role and conduct of the Hon’ble Chief Minister, police officers, etc. in the Godhra incident and subsequent violence”. But in the above, in camera meeting, I (a prime witness) was directed to tell lies on oath and to avoid telling the whole truth. The Commission may kindly go into the legality of directions by the Home Secretary and the Govt. Pleader. The self-evident

asymmetry between the thrust of the above Notifications and essence of Home Secretary's instructions could easily invite strictures against the Govt. in any judicial evaluation. The verbatim version (recorded) of the meeting held by the senior Home Deptt. official is available in CD disk. The transcript of the same is enclosed as (**Annexure – B**). (My comments highlighted therein may kindly be seen). I got the transaction in the meeting recorded through a scientific gadget provided to me by Shri Rahul Sharma, IPS, Superintendent of Police, CBI, Gandhinagar and the same was put in CD disks by him. Subsequently, in my deposition (answers to the cross-examination) before the Commission on 31.8.2004, I have presented true facts known to me, ignoring the intimidation and warning by Shri Murmu and Shri Arvind Pandya, so that I would not commit the offence of perjury. It is pertinent to note that as can be seen in **Annexure – B**, the Home Deptt. officials have been tutoring all Govt. functionaries summoned for cross examination by the Commission. Obviously, the truth was suppressed and false depositions were made by many Govt. servants. This can be proved by fact that as per the newspaper reports (Indian Express, Ahmedabad Edition, dated: 21/11/2004 to 27/11/2004), many officers



(witnesses) pretended amnesia and did not present facts and assessments relevant to the terms of reference of the Commission, evidently due to their tutoring by the Home Deptt. officials. My deposition to the Commission was therefore a major irritant to the Govt. and particularly, the Hon'ble Chief Minister. It is learnt that Shri G.C.Murmu, IAS, has been authorised and entrusted with the task of tutoring and briefing Govt. officials deposing before the Nanavati Commission by the highest authorities of the Govt. and Home Deptt. Shri Murmu belongs to 1985 batch of IAS and he has dared to summon me, a 1971 batch officer in IPS, holding the rank of Addl.DGP / Addl. Secretary, Govt.of India. One, who listens to the recorded audio tape of the meeting, can get convinced that Shri Murmu has talked to me with an authoritative posture without even observing the conventional etiquette followed in interaction with senior officials of All India Services. Shri Murmu had even spoken about briefing of Shri Ashok Narayan, IAS, (1966 batch), the State Vigilance Commissioner and retired Addl.Chief Secretary, who is the senior most IAS officer serving the State. Such a posture by Shri Murmu is possible only if he has the specific support and clearance from the higher

authorities in the Govt. i.e. the Hon'ble Home Minister / the Hon'ble Chief Minister. The long course of directives by Shri Murmu and Shri Arvind Pandya contained (1) Directive to conceal facts to the Commission, (2) To accept the conspiracy theory regarding fire in the train bogie on 27<sup>th</sup> Feb., 2002, (3), Not to reveal data on acts of omission and commission by Govt. functionaries and other senior officers (4) To avoid any comment on the inaction of the Govt. on reports sent by ADGP (Int.), (5) Not to provide additional facts which would result in the Commission summoning more Govt. functionaries for deposition, (6) Intimidation that action will be taken by issuing a notice if deposition is made adverse to the Govt., (7) Critical remarks about the Hon'ble Supreme Court, (8) Undesirable comments on the Hon'ble Gujarat High Court, (9) Directive that the officers should be committed to the interests of the Govt. even at the cost of adherence to truth, etc.

6/- It appears that higher formations were quite annoyed about my deposition to the Inquiry Commission, on 31.8.2004. Unfortunately, the electronic and print media had also projected my deposition as an anti-ruling party version (Data and newspaper cuttings are available). I did not comply

with the illegal and objectionable briefing given by Shri Murmu, for obvious reasons. This must have further exacerbated the prejudice of higher formations against me, particularly, after copy of my deposition on 31.8.2004 was out by 24.9.2004. This, in my view, had even prompted higher authorities to ask my explanation on 28.9.2004, unwarrantedly questioning the validity of my promotion in April, 1999 as ADGP, vide No. IPS – 102003 – 2048 – B (Part – I), dated: 28.9.2004. Reply to this memo dated: 28.9.2004, was submitted by me vide letter No. ADGP (PR) / PS / 102 / 2004, dated: 3.11.2004, the same enclosed as **Annexure – C** may kindly be seen. The reply and the Annexure therein is self-explanatory and narrate the germination and continuance of ill will against me by the higher authorities and the reasons thereof. It may kindly be noted that the Ministry of Home Affairs had exonerated me in the pending DE and at present no Departmental action is pending against me. In the above letter I submitted that the above memo was issued with the unholy objective of reverting me to the rank of IGP (Junior rank to ADGP), on the ground that Departmental Inquiry was pending and also to supersede me in any further promotion. Still ignoring my submissions the Govt. superseded me in

promotion in Feb, 2005, without assigning any reason. My supersession in promotion to the grade of Director General, in my humble view, is an act of victimisation by the authorities against me, for agonising me, as I did not comply with the directives of the Home Secretary Shri G.C.Murmu, in my deposition to the Commission.

7/- Meanwhile, directives were received from DGP, vide his fax message No. G-2 / 197 / Tapas Panch / AFF 1711 / 2004, dated: 21.9.2004, instructing for filing a second Affidavit by all officers, who had filed their first Affidavit to the Commission. This second Affidavit was pertaining to the additional terms of reference to the Commission issued by the Govt., vide Legal Deptt., Notification, dated: 20<sup>th</sup> July, 2004. Strangely, again a few senior police officers, who are reportedly close to the Govt., approached me and advised me for not filing the second Affidavit. However, I filed my second Affidavit to the Commission on 6<sup>th</sup> October, 2004, since I have to comply with the written directive of the DGP.

8/- The filing of second Affidavit, despite the persuasion by officers, by me had further annoyed the authorities as the Affidavit contained unpalatable

assessments about the communal situation and the state of investigation of cases, which I have submitted to the Home Deptt. during my tenure as ADGP (Int.), in 2002. In my humble view, the authorities initiated another act of harassment by reviving an old issue about sending of a DO letter to the Commissioner of Police, Ahmedabad city by me, on 5.9.2002, in my capacity as the then ADGP (Int.). Earlier, the then DGP Shri K.Chakravarthi, who inquired into the matter, had judged this to be an action taken “in good faith, as part of normal duties”, vide his letter to the ACS (Home), No. SB / 44 / 49 / 2002, dated: 3.10.2002. The matter remained nearly dormant since then. But it was revived, which in my view was on account of my submission of the second Affidavit. I have been asked to submit further explanation, notwithstanding the DGP’s conclusion that nothing amiss was committed by me, in this matter, vide Home Deptt. letter No. IPS / 102003 / 906 – B, dated: 19.10.2004. My reply in this connection to the Home Deptt. is self explanatory and the same is enclosed as **Annexure – D**. It may kindly be seen that in reply to the above memos (1) questioning my promotion in 1999, April and (2) on the trivial issue of sending a DO letter to the Commissioner of Police,

Ahmedabad, I reiterated that these actions are taken on account of animosity and ill will operating against me, on account of my failure to depose before the Nanavati Commission in favour of the Govt., by suppressing the truth and actual facts relating to the communal riots, and submission of a second Affidavit. I also added in the above explanation that I will be forced to reveal grounds of unwarranted bias against me by the Govt. at the appropriate time, if I am superseded in promotion or any other malafide action is initiated against me. Therefore, I am forced to submit the above facts for the sake of truth and justice, by strictly adhering to my oath of allegiance to the letter and spirit of the Constitution of India and for complying with the terms of reference of the Commission.

9/- It is felt that I should also bring to the kind notice of the Commission the other details of the origin and steady aggravation of unjustified ill will against me on the part of higher authorities in the Govt., on account of my judicious and conscientious performance of professional duties as ADGP (Int.), from 9<sup>th</sup> April, 2002 to 17<sup>th</sup> Sep., 2002. My work during the above period has a direct relevance to the terms of reference of the Commission and the Commission's

objectives to uncover the truth about communal riots in Gujarat State in 2002. I respectfully submit that my unbiased and truthful reports on the communal situation had evoked critical comments from higher officers, since April, 2002, itself. In my report captioned “An analytical note on current communal scenario, in Ahmedabad city”, vide No. PS / RBS / 90 / 2001, dated: 24<sup>th</sup> April, 2002 to ACS (Home), immediate remedial measures for stabilising the situation were indicated. (This report was appended in my First and Second Affidavits to the Commission). Nevertheless, a few of these suggestions were implemented after the arrival of Shri K.P.S.Gill, former DGP Punjab, as advisor to the Hon’ble Chief Minister. It is pertinent to note that though over 1000 citizens lost their lives, the bulk of them from Ahmedabad city in the post Godhra riots, no analytical report was sent by SIB till that time. One main reason was the built-in hesitation of SIB officers to report truthfully about the complicity of pro ruling party elements in perpetration of atrocities on members of minority communities. My well-motivated and forthright evaluation was in tune with the guidelines given by Hon’ble Supreme Court in

case of AIR 2001 SC 2524. In the said judgement the Honourable the Supreme Court has, in para 15, inter-alia, observed thus:

“In the system of Indian Democratic Governance as contemplated by the Constitution senior officers occupying key positions such as Secretaries are not supposed to mortgage their own discretion, volition and decision making authority and be prepared to give way or being pushed back or pressed ahead at the behest of politicians for carrying out commands having no sanctity in law”.

Unfortunately, the higher formations in the Govt. did not find it convenient to agree to my intelligence assessment about **viz.** (1) the then prevailing communal situation, (2) partisan approach of a few police officers in the investigation of communal riot related cases, (3) soft attitude of police towards offenders belonging to the majority community, (4) biased role of the Govt. Public Prosecutors, (5) police officers obeying verbal instructions of political leaders ignoring legal orders from departmental superiors, (6) non-



implementation of recommendation of National Human Rights Commission (NHRC) and National Commission for Minorities, (7) exacerbating loss of faith in the efficacy of the Criminal Justice System among the minorities, (8) stock piling of weapons by criminal and fundamentalist elements of both minority and majority groups, etc. When it was noticed that remedial measures suggested in 24<sup>th</sup> April, 2002, were not implemented by the Govt. as these would affect adversely their political interests, strategy and tactics in the electoral arena, I had send further assessment reports to the Home Deptt. with copy to DGP on 15<sup>th</sup> June, 2002, 20<sup>th</sup> August, 2002, and 28<sup>th</sup> August, 2002. (These reports are also appended with my Second Affidavit, dtd: 6/10/2004). In these subsequent reports, besides stressing on early implementation of suggestions not yet implemented, it was also requested for initiation of measures, i.e., (1) Implementation of the recommendations of NHRC and National Commission for Minorities, (2) Action against communal propaganda kept at high voltage, particularly by the pro BJP elements, (3) Displacement of large group of riot affected persons from minorities and the urgent need for their speedy rehabilitation, (4) Need for ensuring voting rights for the displaced

persons, otherwise they will remain disenfranchised, (5) Need for extra paramilitary forces for the Assembly Election, in case the same has to be conducted soon, etc. It may be noted that till my handing over the charge of State Intelligence Bureau on 17<sup>th</sup> September, 2002, many of the above remedial measures were not carried out. Significantly, most of the aspects in my assessment reports have been echoed in the rulings of the Hon'ble High Court and the Hon'ble Supreme Court relating to the role of various wings of the State Administration, during the post Godhra carnage period. Similar was the appraisal of National level statutory bodies like, NHRC, particularly in its findings dated 31.5.2002, National Commission for Minorities, etc.

10/- Secondly, my appraisal about the law and order situation presented to the full member meeting of the Central Election Commission, held on 9.8.2002, in A'bad, was also contrary to the perception of higher officers, in the State Government. In the above meeting I submitted that "An under current of tension and fear was prevailing beneath the apparent normalcy in the State", and provided statistics in support of this assessment. The Commission had accepted this and observed in para 20 / 32 of its Open Order dated

16.8.2003 that “This (my presentation) evidently falsifies the claim of the other authorities that the riots were localised only in certain pockets of the State”. In the above order the Election Commission had refused to concede to the request of the State Govt. to conduct the State Assembly Election soon, though the Assembly was dissolved before the completion of its term, for holding election at the earliest. The postponement of the Assembly election, largely on account of my estimation of the situation, submitted to the Commission, had intensified the detrimental pre-disposition of the higher authorities against me. The then Chief Secretary, Shri G.Subba Rao and the then ACS (Home), Shri Ashok Narayan verbally scolded me for going against the Govt. assessment about the prevailing law and order situation. Thereafter, a series of malafide actions were started to harm my career interests and impose mental distress on me.

11/- For instance, my explanation was called for, on a trivial issue of sending a secret message through fax, though this had been done by Home Deptt. and other senior officers, constantly, after ensuring the identity of the receiver. In fact, the relevant urgent fax message was sent actually to elicit information required by the Central Election Commission, as per its direction in the above-

mentioned meeting. My final representation in this matter is still not responded by the Home Department. It is also relevant to note that letter asking my explanation was issued on the same day when the order of Election Commission was available in the websites and news channels i.e. on 16/08/2002.

12/- Thirdly, another reason for authorities disenchantment was on account of State I.B, under my charge, reporting about the details of a speech delivered by the Hon'ble Chief Minister as demanded by the National Commission for Minorities. (See the verbatim of the CM speech in English as **Annexure - E**), on 16.9.2002, vide ADGP office letter No. J / 2 / BJP / Yatra / 539 / 2002, to the Home Deptt. This was done in response to a fax message from National Commission of Minorities, dated: 10<sup>th</sup> September, 2002. The higher authorities, particularly, the Home Department was keen to block the reporting of the verbatim speech of the Hon'ble Chief Minister, so I received another copy of the letter from the National Commission of Minorities, with an endorsement of DGP that my department need not sent any report in this matter. Perhaps, deeming it to be the last straw on the camel's back, I was

transferred on the next day (on 17.9.2002) from the post of Addl.DGP (Int.) to the post of Addl.DGP (P.R.), which has no specific charter of duty. (I continue in the same post). My transfer from the above post of Addl.DGP (Int.) was in violation of Govt. Resolution about the tenure of senior IPS officers in State I.B. issued vide Home Department MHK / 10-2002 / 1526 / S, dated 29.6.2002.

13/- Fourthly, there were a few instances of higher formations asking me to comply with many verbal instructions which would fall in the category of directives to commit criminal offences like illegal tapings of telephones, proposal to eliminate persons, submission of reports suiting to the political interests of BJP, etc. There are other commands of doubtful legality and questionable propriety, during my tenure as Addl.DGP (Int.). Certainly, I did not comply with such directives. These include instructions from the highest levels for (1) Submission of reports regarding alleged involvement of an opposition party in fomenting communal trouble in A,bad city, without any basis, (2) Illegal direction to do the tapping of telephone of a very senior leader of the opposition party, (3) Not to closely cover activities of the ruling party

and its sister bodies, (4) Report about activities of a State Minister with call details of his friend's telephone, (5) Consider even elimination of those trying to disturb A'bad Rathyatra or planning to spoil the same, (6) To provide situation assessment reports indicating normalcy in the State for facilitating early Assembly Election and general instructions to send intelligence estimation reports in tune with the political strategy and tactics of the ruling party (BJP), etc. These verbal instructions have been recorded in an Official Register, numbered and certified by the then IGP (Admn. & Security), the SIB. The typed copy of hand written entries in the Register are enclosed, as **Annexure – F**. Kindly note that in the said Register there are many direction / advice from higher formations, particularly, from Shri Narendra Modi, Hon'ble Chief Minister, Shri G.Subba Rao, the then Chief Secretary, etc. forcing me to do grossly unlawful things. My refusal to carry out such unethical and illegitimate orders must also be another reason for unjustifiable approach against me, by higher authorities. I humbly appeal to the Commission, to put, all persons figuring in my Register, with reference to illegal orders given to me, through lie-detector and brain finger print examination, in case, these

persons are denying about such illegal and unethical verbal instructions imparted to me.

14/- The grounds for bias against me as listed above will establish that the authorities are not in favour of myself discharging my duties as per the letter and spirit of the Constitution of India, canons of Rule of Law, other relevant statutes regarding policing, Section 23 of Indian Police Act and assigned charter of duties as per Gujarat Police Manual. The process of subversion crept into the Criminal Justice System in the State was assessed by me, through the mechanism of standard intelligence operations and tradecraft methods during my tenure as ADGP (Int.), from 9.4.2002 to 17.9.2002 and advance intelligence inputs were disseminated to higher authorities and jurisdictional officers, for initiating remedial legal action. Alarming trends of deviation from proper legal and structured administrative path by the Govt. functionaries, in the matter of handling communal incidents and investigation of riot related cases, particularly in the form of condemnable unfairness against the minority community, had been highlighted in my reports to the Home Deptt., particularly, those dated (1) 24.4.2002, (2) 15.6.2002, (3) 20.8.2002 and (4)

28.8.2002. The above reports had graphically portrayed the enfeeblement of the system of Rule of Law and secularism, one of the unalterable Basic Features of the Indian Constitution (as confirmed by the Hon'ble Supreme Court in S.R.Bommai v/s Union of India case 3 SCC-1 / 1994) in the State, on account of acts of commission and omission by certain Govt. functionaries. Copies of these reports were included in my affidavits to the Commission.

15/- In fact, the ground situation was much more demoralising and horrendous than what I had presented in the above reports. But for the sake of official decorum, I had used moderate terminology. It is pertinent to note that most aspects of my above assessment reports have been confirmed in the observations and rulings of the Hon'ble Supreme Court and bodies like NHRC, in relation to petitions alleging bias against the State administration. To illustrate, the Hon'ble Supreme Court in the Criminal Appeal Nos. 446-449 / 2004, the case of Zahira Shaikh v/s State of Gujarat, judgement delivered on April 12, 2004, observed



“If one cursorily glances through the records of the case, one gets a feeling that the justice delivery system was being taken for a ride and literally allowed to be abused, misused and mutilated by subterfuge. The investigation appears to be perfunctory and anything but impartial without any definite objective of finding out the truth and bringing to book those who were responsible for the crime. Those who are responsible for protecting life and properties and ensuring that investigation is fair and proper seem to have shown no real anxiety. Large number of people had lost their lives. Whether the accused persons were really assailants or not could have been established by fair and impartial investigation. The modern day “Neros” were looking elsewhere when Best Bakery and innocent\_children and women were burning, and were probably deliberating how the perpetrators of the crime can be saved or protected. Law and justice became flies in the hands of these “wanton boys”. When fences start to swallow the crops, no scope will be left for survival of law and order or truth and justice. Public order as well as public interest becomes martyrs and monuments”. The Hon’ble SC also concluded that there was “Ample evidence on record, glaringly demonstrating subversion of justice

delivery system with no congeal or conducive atmosphere still prevailing”, i.e. April, 2004.

Such observations by Courts and other statutory bodies might have embarrassed the Govt., since my reports, were not only corroborative of the adverse judicial observations, but were also pre timed and prognostic, must be a major cause for ruling party’s displeasure against me. Seeking my explanation on trivial and inconsequential matters (as narrated earlier) be kindly adjudged in the right perspective, as against the inaction of higher authorities not asking even clarification of senior police officers for their intentionally committed acts of serious omissions and grave professional misconduct in handling of riots and subsequent investigation of cases. These supervisory omissions were pointed out by the Courts, NHRC, etc. and in certain cases middle level officers were even arrested. Still no action, so far, against senior supervisory cadre was initiated.

16/- It may also kindly be noted that though there was extensive criticism about the role of Collectors / District Magistrates (DM) during the riots, the

Govt. had chosen to ignore the same, as it suited to the hidden agenda of the ruling party. It is widely known that the DMs and Collectors, who are bound by Police Acts and regulations to maintain law and order through their personal intervention and effective supervision of District Police had not initiated any action to contain / control riots or to stabilise the situation, especially in those areas, where mass murder, rape and other heinous crimes had taken place. This malady was quite pronounced in the Districts of Mehsana, Sabarkantha, Banaskantha, Gandhinagar, Ahmedabad Rural, Kheda, Anand, Vadodara Rural, Godhra, Dahod, etc. Secondly, it is also known that many DMs have recommended pro-Ruling party advocates to the posts of public prosecutors. There was criticism that these public prosecutors acted more as Defence lawyers of the accused belonging to majority community. Thirdly, most of the DMs had forcibly closed down relief camps meant for riot victims, largely drawn from minority community in August, 2002, in order to project an image of normalcy to the Chief Election Commissioner, for facilitating early Assembly Elections. This was also reflected in the Election Commission's

order dated 16.8.2002, in which so many directives were given for remedying the problem of disenfranchisement of riot affected persons.

17/- In my humble view, it is quite relevant to submit here that the Govt. has been utilising the instruments of (1) Transfers, (2) Promotions, (3) Placements, (4) Supersessions, (5) Rewards, (6) Post retirement assignments, etc. for sending a message to the Govt. functionaries to be committed to the political agenda of the Hon'ble Chief Minister than to the Constitutional obligation for which every Govt. servant had taken oath. If required, adequate data on this matter can be submitted to the Commission.

18/- I further respectfully submit that in my 34 years of service I have not been bypassed or superseded in promotion to higher ranks. I was also not penalised in any Departmental action or punished for moral turpitude or corruption. I have been awarded with two police medals also. I respectfully further submit that my supersession was on account of the operation of the above mentioned prejudice against me at the highest levels. I further submit that my supersession in promotion will certainly transmit a negative and debilitating message to Gujarat State police officers that Govt. is not in favour

of the police functionaries taking a clinically legal view, in tune with the Constitutional provisions regarding various facets of policing operations carried out by them. Thereupon the officers would choose the soft line of law enforcement, for protecting the political interests of the ruling party, rather than discharging their legal obligations / duties, for the sake of self-service and careerism. This could also impinge on the impartiality and morale of officers currently reviewing 2000 odd riot cases, as per Hon'ble Supreme Court orders. Such a mind-set in officers would also adversely affect the nature and pattern of response, in a communal situation, by the police officers, in future, as assessed by NHRC and other bodies in case of 2002 riots. "The pragmatic objective of smooth service advancement" will take precedence over purposeful discharge of assigned functions, in the legal trajectory. Therefore, my supersession would bring into sharp focus such sensitive law and order issues, like the commitment of the Govt. functionaries to the Rule of Law, secularism, the unstinted loyalty of government servant to the Constitution of India, (to which every functionary has taken oath at the time of appointment), health of Criminal Justice System to withstand extraneous pressures, etc. These

dimensions of the issue may kindly be appreciated in the context of the unprecedented situation prevailed during the communal riots in 2002, in Gujarat State, as acknowledged by the then Prime Minister (who directed the Hon'ble Chief Minister Shri Narendra Modi to perform as per Rajdharm) and many other authorities, at national level. This will indeed, be sad because decimation of law enforcement agency like the police will render the security of life and property of citizens in a hapless condition. In this way the entire issue is not only about harassment, victimisation and injustice in my service matter but it is also inseparably connected with larger public interests.

19/- Move of the higher authorities to keep me in a state of extreme mental agony and tension, by asking explanations, on flimsy and frivolous matters and the current supersession in the promotion are contrary to regulations regarding Human Rights. It will also go against the letter and spirit of judicial pronouncements about employers obligation to abide by the principals of Natural Justice, Equity and Fair play, in dealing with employees.

20/- In short, the persisting acts of harassment and victimisation against me are largely, in the recent context, an outcome of my deposition of truth,

pertaining to the terms and reference of the Commission, so far. Meanwhile, some friendly police officers again requested me to avoid presentation of any facts or assessments before the Nanavati Commission, harming the political interests of the Govt., in case, I am called for a cross examination by the Commission. I further respectfully submit that my supersession was also aimed at restraining me from telling truth if, the Commission summons me for cross-examination in relation to my second Affidavit, in future. In this context, now I am apprehensive of further actions of victimisation and be-devilment from higher formations.

21/- The Commission may kindly pardon me for making certain submissions about the background, motive and reasons behind my stance against the political interests of the Govt., even at the cost of my career advancement, in the matter of reports to the higher formations about the communal riot situation, in 2002. In my view, I discharged my duties, fully in tune with the letter and spirit of my oath of allegiance to the Constitution of India. In fact, the posture of higher formations in the Govt. was not only against the provisions of the Basic Law of the Land and other statutes but the cannons of

ancient eternal wisdom on administration (Rajdharma). The oldest etymological treatise in Sanskrit language, composed by Yaska Muni, defines the Administrator (Raja) as a person, who keeps the subjects (citizens) in a state of satisfaction, peace and amity. (Prajanam Ranjanath Iti Raja). During the riots, I found that many in the Administration were not following this golden principle.

22/- The immortal scriptural treasure of Hindu religion – the Rig Veda, compiled in 1500 BC, has laid down the ideals to be followed by the Administrators, the society and all cultured people for building a stable Nation, in its last Mantra “Sam gachadhvam sam vadadhvam sam vo manansi janatam | Deva bhagam yatha purve samjanana upasate || Samano mantrah samitih samani samanam manah saha cittam esham | Samanam mantram abhi mantraye vah samanena vo havisha juhomi || (Book 10, Sloka 191). Meaning in English: May you move together, speak together in one voice; let your minds be of one accord; and like the ancient sages, may you enjoy your assigned share of fortune. May our consul or the public prayers be common, and common be our Assembly. May our minds move in accord; May our



thinking be in harmony, - common the purpose, and common the desire. May our prayers and worship be alike, and may our devotional offerings be one and the same. May your resolves be one; May your hearts feel alike; May your thinking be one; and thus may all of you live happily with thorough union.

23/- Manusmriti – Chapter 10, Sloka 324 says “Evam charana sadayukto rajadharmeshu parthiva: | Hiteshu chaiva lokashya sarvan bhutyan niyojayet ||, Meaning: “The king conducting himself always in conformity with Rajdharma, should command all his servants to work for the welfare of his people”. Kautilya’s Arthshastra, expects, the Chief Administrator, to be totally self-evasive and merge his interests with those of the people. “Praja Sukhe sukham Rajnah, prajanam ca hite hitam | Na atma priyam hitam Rajnah, prajanam tu priyam hitam || Tasmanityosthito Raja kuriadarthanushashanam | Arthasya mulamuthanamanarthasya viparyeah ||”. Meaning: “In the happiness of his subjects lies the king’s happiness; in their welfare, his welfare; whatever pleases himself, the king shall not consider as good, but whatever pleases his subject the king shall consider as good”. “The king shall ever be active and discharge his duties, towards the enforcement and protection of the three fold

objectives of life (Trivarga) namely, Dharma, Artha and Kama and also the destruction of Adharma, Anartha and Dwesha (hatred)”, from Kautilya’s Arthshastra, English translation by Dr.R.Shyama Shashtri, page 39. Lord Rama is extolled as the ideal king because he even sacrificed his private duties as a person and a husband for the sake of the interests of the kingdom. (Preferred Rajdharma over Bhatrudharma). The question here is whether the political interests are greater than the Constitutional obligations and the interests of the people, the real sovereigns, as per the Preamble of the Indian Constitution. 24/-

24/- Similar wisdom is found in the ancient Tamil classic (3<sup>rd</sup> Century BC), Thirukkural by Sage Thiruvalluvar. (In all there are 1330 couplets). To quote “The king protects the whole world and justice protects him if unfailingly administered” (547), “The king who does not administer impartial justice goes to ruin” (548). It is also laid down that the Administrator’s two eyes are espionage and the celebrated code of laws (581). For the success and justice in administration, the administrator should listen to those who give critical report, also. “The world is under the sway of the monarch who puts up with the bitter counsel” (389). The similar advice is given by Vidhura, the Prime Minister of

Kauravas, to the king Dhrutharashtra, when he refuses to listen to the reports about misdeeds of Duryodhana by the spies. Vidura says “there are plenty of people, oh, king, who will speak good things, but there are very few, who are willing to listen to and speak unpalatable truths”. - Sulabha Pursha Rajan Satatam Priyavadina; Apriyatu Pathyasya Vakta Shrota Ca Durlabha. – My humble submission is that my reporting of unpalatable, unpleasant, and bitter truths about the ground situation during the riots, true to the requirements of my charter of duties and also in pursuance of the dictates of my conscience, incurred the malicious wrath and penal action from my supervisory authorities.

25/- The Shanti parva of Mahabharata (59 – 106 & 107) speaks about the Rajdharma, to be followed by the Administrators in explicit terms. “Pratignam chathirohsvah manasa karmana girah | Palaishyamaham bhaumam brahma ityeva chasakrut || Eschatra dharmo nityokto dandnitivyapasryaha | Taptasyangh karishyami sowasyoh na kadachana || “You must act according to Dharma systematically and rule fearlessly. You shall treat all living beings equally without yielding to evil desires, anger or greed or prompted by personal ego or acting according to your own pleasure or displeasure. You

should punish in accordance with law those who transgress the laws. You should take a pledge that by thought, word and deed, you will rule the world believing that creation is the very incarnation of the Creator. You shall never allow yourself to become a despot”, quoted in the Book, captioned ‘Legal and Constitutional History of India’, by Justice M.RAMA JOIS, former Governor of Bihar. “Kamandakia Nitisara” Chapter 5, Sloka-82, 83, cautions the Administrator (the king) to protect the citizens from “the favourites” (chamchas and flatterers). “Ayuktakemyaschoremyah paremyo rajavallabhat I Pruthavipatilobhachcha prajanam pankjadha bhayam I Panchprakarampiyet dapohyam nrupatebhryam II Meaning: The subjects require protection against wicked officers of the king, thieves, enemies of the king, royal favourites (such as the queens, princes, etc.), and more than all, against the greed of the king himself. The king should secure the people against these fears”. It may kindly be pondered as to whether the above components of Rajdharma as per real Hindutva of the Hindu religion were actualised by the Govt. functionaries, from the highest to the lowest, during the riots, in Gujarat State.

26/- During the protracted riots in 2002, as reported otherwise, many functionaries turned a Nelson's eye to the situation by remaining inactive, devoid of due empathy towards the victims of violence, notwithstanding their call of duty. Most of them acted like the Maharathis – Bhisma, Drona, Vidura, Kripacharya, etc., who allowed the disrobing of Maharani Draupadi, lest their judicious intervention result in their loosing their positions / chairs and aristocratic privileges. Many in the Gujarat bureaucracy and police also responded in the same manner to the prolonged molestation and rape of the holy maiden of the Rule of Law, the beloved daughter of our common Mother – the Constitution of India. As can be seen in the wide spread criticism, for unknown reasons, many a Govt. functionary adhered to the philosophy of Duryodhana, i.e. though aware of righteousness did not remain sincere to it, on the other hand pursued evil, despite full knowledge of the consequences. “Gnanami Dharmam Na Cha Me Pravrutti; Gnanami Adharmam Na Cha Me Nivrutti”. With all humility at my command I submit and sincerely feel that I did not join the band of those Govt. functionaries.

27/- I earnestly subscribe to the view that secularism is an unalterable and unchallengeable part of the basic structure of the Indian Constitution. This edifice was under tremendous stress and strain during 2002 riots in Gujarat State. The trauma and shock of the victims of the riots, witnessed by me, had motivated me and energised me emotionally to articulate the whole truth – bitter, painful and naked – to the authorities concerned. Exhortation of Lord in his incarnation as Kapila Rishi, in the third Book of Srimad Bhagavatam, empowered my mind in this context. When Devahuti asked Kapila about the proper method of worship to God, he clarified, “Atha mam sarveshu bhuteshu, bhutamanam krtalayam; Arhayet dana-manabhyam, maitrya abhinnena chakshusha” Meaning: “Worship Me, Who exist in all beings and has built a temple for Myself in them, through dana (sacrifice) and mana (compassion) i.e. removing the felt wants of people and doing so with respect to the recipient, and with an attitude of friendliness and non-separateness”. On the other hand, as an individual citizen, being proud of the cultural heritage of India and as a practising Hindu, the Slokas of Upanishads and Bhagwad Gita, infused in me potentiality to be secular with reinforced vigour. Hinduism preaches that all

ways to God are divine, holy and equally respectable, and that there can be many paths to God realisation. I believe that no true Hindu can afford to be fundamentalist, exclusivist, sectarian, militant and unidimensional in his interface with the followers of other faiths, in case, he is intrinsically an honest and real follower of basic Hindu scriptures. A reading of the following slokas from the Bhagwad Gita, the fundamental scriptural authority of the Hindus, would make the position categorically clear. (i) “ye yatha mam prapadyante, tams tathai va bhajamy aham | mama vartma nuvartante, manusyah partha sarvasah” ||. “In whatever way men identify with Me, in the same way do I carry out their desires; men pursue My path, Oh partha, in all ways”. Chapter 4, vers 11. (ii) Yo mam pasyati sarvatra sarvam ca mayi pasyati | tasya ham na pranasyami sa ca me na pranasyati || “He who sees Me everywhere and sees all in Me, he never becomes lost to Me, nor do I become lost to him”. Chapter 6 / 30 (iii) Yo-yo yam-yam tanum bhaktah, sraddhaya rcitum icchati | tasya-tasya calam sraddham, tam eva vidadhamy aham || “Whatever form any devotee with faith wishes to worship, I make that faith of his steady”. (Chapter 7 / 21).

28/- I conclude that the need of the hour is to boldly counter the unholy forces bent upon dismembering our motherland, on multidimensional divisive and communal lines, by drawing strength from the initial inspirational words of Lord Krishna to the warrior Arjuna, who was lost in a state of hopeless dejection and despondency, in Bhagwad Gita. “Kutas tya kasmalam idam visame samupasthitam | anaryajustam asvargyam akirtikaram arjuna” || “Whence has this unmanly, heaven-barring and shameful dejection come upon you, at this juncture, O Arjuna ?” (Chapter 2 / 2), Klaibyam ma sma gamah partha, nai tat tvayy upapadyate | ksudram hrdaya daurbalyam, tyaktvo ttistha paramtapa || “Yield not, O Partha, to feebleness. It does not befit you. Cast of this petty faint-heartedness. Wake up, O vanquisher of foes” ! (Chapter 2/3).

29/- The above scriptural inheritance of India has been actualised by the great freedom fighter. The inimitable patriot, Subhashchandra Bose, rightly said thus **“The greatest curse for a man is to remain a slave. The grossest crime is to compromise with injustice and wrong. The highest virtue is to battle against inequity, no matter what the cost may be”**, quoted in the newspaper ‘Hindustan Times’, dated: 23.1.2005. Mahatma Gandhi, the



father of our Nation wrote “If there is a fundamental distinction between man and beast, it is the former’s progressive recognition of the law and its application in practise to his own personal life. All the saints of the world, ancient and modern, were each according to his light and capacity a living illustration of that supreme Law of our Being” - In Harijan, dated: 26<sup>th</sup> September, 1936. Mahatma advised further **“If observance of Truth was a bed of roses, if Truth cost one nothing and was all happiness and ease, there would be no beauty about it. We must adhere to Truth, even if the heavens should fall”.** – **Young India, dated: 27<sup>th</sup> September, 1928.**

30/- In the light of the above I humbly make the following prayers:

- A. The Commission may take notice of the above facts regarding harassment and victimisation faced by me on account of my candid and honest deposition to the Commission.
- B. The Commission may kindly direct the state Govt. authorities to desist themselves from initiating any further acts of ill-treatment and persecution against me.

C. The Commission may kindly summon me so that I can submit more details about the facts narrated in the Affidavit and related matters.

**( R.B.Sreekumar )**  
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