

IN THE SUPREME COURT OF INDIA

T.P. (Crl) Nos.194-202 of 2002

IN THE MATTER OF:

National Human Rights Commission & Ors. ... Petitioners

Versus

State of Gujarat and others ... Respondents

Teesta Setalvad/Citizens for Justice and Peace ... Impleaded as  
Co-Petitioners.

AND IN THE MATTER OF:

T.P.(Crl.) Nos.66-72 of 2004

Citizens for Justice and Peace & Others ... Petitioners

Versus

State of Gujarat & Others ... Respondents

**SUBMISSIONS/SUGGESTIONS ON BEHALF OF THE PETITIONERS  
REGARDING PROPOSED DIRECTIONS BY THIS HON'BLE COURT.**

The Petitioners, who include relatives of the victims of the Godhra and post Godhra riots, respectfully submit for consideration of this Hon'ble Court the following submissions/suggestions regarding formulation of proposed directions based on the suggestions made by this Hon'ble Court after hearing the learned Amicus, during the course of hearing on 25<sup>th</sup> March, 2008:

1. This Order shall cover the following incidents/cases:

- I. Godhra Cases.
- II. Gulbarg Society Case (Chamanpura)
- III. Naroda Patiya
- IV. Sardarpura
- V. Ode Cases.
- VI. Naroda Gaon
- VII. Dipda Darwaja Case.

i) Cr.Nos

**I. Godhra : FIR No.: 9/2002**

Trial Cases No. 1-6/03 (POTA Court Ahmedabad) & 09/02 (Juvenile Court Godhra)

- a. Arising out of F.I.R. No. 09/2002 dated 27.2.2002 of Police Station Godhra:
- b. Criminal case Nos. 1-6/2003 pending in the Court of Special Judge, POTA Ahmedabad, (titled State Vs. Mohmad Rafudan Ansari & Ors); and
- c. Crime No. 09/2002 pending in the Juvenile Court, Godhra (State Vs. Junia Farooq Hassan and Ors.)

**II. Gulberg**

Session Case No.152/02 -Kailash Dhobhi v/s state of Gujarat dated 01/06/02  
 Session Case No.167/03-Sandip & Others (2) v/s State of Gujarat 25/06/02  
 Session Case No.79/03 -Sankerlal & Others Suppl. dated 29/08/02

**III. Sardarpura**

Criminal Case No. 275/2002 arising out of F.I.R. No. 46/2002 dated 28.2.2002 of Police Station Bijaypur, pending in the Court of Sessions Judge, Mehsana, Gujarat (titled State Vs. Patel Rameshbhai Kanjibhai & Ors.)

**IV. Naroda Patiya**

FIR No. : 100/02, P. S. Naroda  
 Trial Case No. : 1662/02 & 982/02

**V. Naroda Gaon**

**VI. Ode**

- a. Arising out of Crime No. 23/2002 of Khambholaj Police Station, Distt. Anand.
- b. Arising out of Crime No. 27/02 of Khambholaj Police Station, Distt. Anand

**VII. Dipda Darwaza**

FIR 60/02 P.S. VIS NAGAR. (Dipda Darwaja Case.)

2. On consideration of the record and after hearing the amicus curiae and counsel for the parties, it appears, prima facie, in the present cases that the lacunae in the investigation and trial of these cases remain much the same as those that were found and recorded by this Hon'ble Court in the Best Bakery case reported as Zahira Habibulla Sheikh v. State of Gujarat: (2004) 3 SCC 158.
3. In the interests of the administration of the criminal justice system, the unprecedented scale and spread of the alleged offences, the nature and status of the alleged offenders sought to be implicated and on an appreciation of the ground reality, the Court proposed to the parties the constitution of a Special Investigating Team (SIT) to reinvestigate the commission of the alleged offences.
4. The learned senior counsel appearing for the State of Gujarat fairly stated, on instructions, that the State Government had no objection either to the reinvestigation of these cases or to the constitution of a SIT as proposed by the Court.
5. The learned amicus curiae as well as the learned senior counsel appearing for the various Petitioners also submitted their concurrence with the said proposals.

6. Thus, all parties concerned concur with the necessity for reinvestigation and for the constitution by this Court of a SIT for the purpose.
7. Accordingly, in exercise of the court's powers under Article 32 of the Constitution as sentinel on the *qui vive* and under Article 142 of the Constitution of India, for doing complete justice in these matters, the following directions are issued:
  - (1) The Court hereby directs the constitution of a SIT comprised of the following persons:
    1. Mr.Raghavan, Formal Director of the CBI;
    2. Mr.C.B.Satpathy;
    - 3.Rajnish Kumar Rai (1992, IPS);
    - 4.Dr.Neerja Gotru Rao (1993, IPS);
    - 5.A.K.Singh (1985, IPS);

All the officers named above have not been connected in any way with the cases relating to the riots.

- (2) The SIT so constituted shall reinvestigate the cases referred to in para 1 above.
- (3) For the purposes of its investigations, the SIT so constituted shall be at liberty to select the subordinate level police officers and other ranks (i.e. executive or ministerial cadres) and to constitute its own team(s) of such officers and other ranks. The State Government shall extend full cooperation to the SIT and provide all such personnel, equipment and facilities to the SIT as may be sought by it for the purposes of its investigations. The State Government shall meet and defray the expenses

of the SIT commensurate with the status of its members and in effectuation of their investigation.

- (4) The concerned Police Stations in these cases mentioned in paragraph 1 above shall forthwith handover to the SIT the entire original case records and case properties in all these cases. The State Government is directed to instruct explicitly forthwith all its Departments to assist the SIT in carrying out its duties under these directions.
- (5) For the purposes of the cases covered by these directions, the SIT shall take over the functions of the concerned Police Stations qua investigating agencies and accordingly exercise powers and jurisdiction in consonance with the scheme and provisions of the Code of Criminal Procedure, 1973.
- (6) Liberty is granted to the SIT and to the parties herein to apply to this Court for such further directions as may become necessary to effectuate this order.
- (7) We are informed by counsel for the parties that there are a large number of accused who are in jail for periods ranging from 3 to 6 years pending trial in the cases mentioned in paragraph 1 above and that bail applications on behalf of a number of them are already pending in this Court for the last over one year. In view of the reinvestigation ordered as above, the other accused in these cases shall be entitled to apply to the appropriate Courts for being enlarged on bail.

- (8) The SIT shall carry out its investigation and submit its report within three months from the date of this Order.

(APARNA BHAT)  
Advocate for the Petitioners.

Date: 26.03.2008