

**IN THE COURT OF THE 11th METROPOLITAN
MAGISTRATE, AHMEDABAD**

MRS. ZAKIA AHSAN JAFRI

V/S

MR. NARENDRA MODI & OTHERS

PROTEST PETITION

ON THE COMPLAINT DATED 8.6.2006 &

AGAINST THE

FINAL REPORT

OF THE

SPECIAL INVESTIGATION TEAM DATED

8.2.2012

(PART I)

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This application/objections have been filed pursuant to the order dated 12.9.2011 passed by the Hon'ble Supreme Court as well as the subsequent order dated 7.2.2013 passed by the Hon'ble Supreme Court. ***(Annexure – Compilation includes all the Orders passed by the Hon'ble Supreme Court in this case)***. The Complainant submits that the Closure Report submitted by the SIT requires to be rejected in too. The said Report concludes that no offence of any nature has been made out against any of the accused. It is our submission that this Hon'ble Court take cognizance against each of the accused in relation to offences which they have been alleged to have been guilty in the Complaint dated 8.6.2006.

1. That at the outset, it may be pointed out that the complaint filed by the petitioner was sent for investigation to the SIT by an order dated 27.4.2009 passed by the Hon'ble Supreme Court. After conducting the investigation, SIT had submitted the reports before the Hon'ble Supreme Court. The said complainant's case is, therefore, a separate police case and should, therefore, be treated as such. This case should not be confused/clubbed with the other independent and individual cases based on separate F.I.R.s, filed, prosecuted and even being tried which are related to the separate incidents related to the Gujarat carnage of 2002. This has been conclusively clarified by the Hon'ble Supreme Court in its Order dated 7.2.2013. The SIT is purposefully trying to confuse the present case, which is independent of other cases and has to be dealt with and tried as such, a separate criminal case.
2. The brief facts leading to the filing of final report by the SIT are that the petitioner/ complainant had filed a complaint before the Police authorities and when no action was taken, she had approached the High Court of Gujarat under Article 226 of the Constitution read with Section 482 of Cr.P.C. that her complaint should be investigated by the Police/C.B.I. The High Court of Gujarat on 2.11.2007 directed that the complaint can be treated as a private complaint and, therefore, declined the reliefs sought for by the petitioner. This order of the High Court of Gujarat was challenged by the petitioner before the Hon'ble Supreme Court and the Hon'ble Supreme Court, vide order dated 27.4.2009, directed that the complaint of the petitioner be investigated by the SIT.

3. That thereafter, the SIT conducted investigations which resulted into filing of 4 reports by the SIT which are as follows:
 - i) 12.5.2010
 - ii) 17.11.2010
 - iii) 24.4.2011
 - iv) 8.2.2012
4. The Hon'ble Supreme Court finally disposed of the Special Leave Petition on 12.9.2011 by permitting the petitioner to file a protest petition in case a final report finding no accused guilty of committing any crimes is submitted by the SIT.
5. That the SIT not only did not provide, but actively opposed providing the complete documents collected during Investigation including of the SIT reports as mentioned in Para 3 above and, therefore, the petitioner again approached the Hon'ble Supreme Court for furnishing the above-said 4 reports. Other documents were provided through an Order of the Ld. Magistrate dated 10.4.2012. The SIT that had been clearly directed by the Order of the Hon'ble Supreme to supply all documents and reports related to the Investigation in effect resisted and delayed matters to such an extent that between 8.2.2012, when its final report was filed, and 7.2.2013, when the Hon'ble Supreme Court finally directed that all reports should be provided to the Complainant, a year had passed.
6. That by an order dated 7.2.2013, the Hon'ble Supreme Court directed that all the reports which were submitted by the SIT be supplied to the petitioner to enable her to file an effective Protest Petition/Objections to the final report submitted by the SIT. It is in the above background that the Complainant/Petitioner is submitting this Protest Petition.
7. That in deciding the Protest Petition the Hon'ble Court has to exercise its Independent mind on the Final Report submitted by the Investigating Agency. The Court is not bound by the conclusions drawn by the Investigating Agency. The Court has to look at the material to satisfy itself whether *prima facie* it is a case for taking cognizance of the offence. The material has to be looked at, not from the angle that it is sufficient for conviction but that the material is sufficient for proceeding with the case. The Court cannot

adjudicate on the material to find out whether an offence is made out or not, which is the domain when the trial starts and evidence is led by the parties.

Vide Judgements (Case Law)

8. That before going into the detailed submissions and factual aspects, it is necessary to discuss what jurisdiction this Court has in deciding the protest petition and in accepting or rejecting the final report submitted by the SIT as an investigating agency. It has been held by several judgments of the Hon'ble Supreme Court as well as the High Courts that at this juncture, the jurisdiction of the learned Court is very limited. The Court can only examine whether *prima facie*, there is reasonable material to take cognizance of the offence. In case, there is reasonable suspicion, *prima facie* a case is made out from the material on record; the court has a duty to issue process against the accused. The Court cannot look into and discuss or adjudicate on the material on record to find out whether an offence is made out or not. That is a domain when the trial starts and evidence is led by the parties.
9. That the Petitioner/Complainant submits that this Court, while deciding the protest petition and appreciating the final report submitted by the SIT, has to look into following amongst other issues:
 - (1) Whether on the basis of material which has been submitted by the SIT, a case of reasonable suspicion/prima facie case is made out against the accused and thus, requiring cognizance to be taken by the Court. It is enough if the Court feels that it is necessary to proceed against the accused and/or whether triable issues are made out.
 - (2) Whether the SIT, during investigation, has collected all the relevant material which it was required to do in conducting fair investigation.
 - (3) Whether it was within the jurisdiction of the Investigating agency to adjudicate on the material which came out during the investigation, i.e., to reject the statement of a particular witness or to accept the statement of a particular witness in order to come to the conclusion

that no offence is made out, particularly when the statement made under section 161 of Cr.P.C. clearly pointed out to reasonable suspicion/*prima facie* case of commission of the crime.

- (4) Whether a case is made out for directing further investigation under section 173(8) of Cr. P.C. as the SIT has omitted to consider the relevant evidence which connects the accused with the crime.
- (5) That in case this Court comes to the conclusion that the investigation done by the SIT was not proper or important facts/documents/links were not looked into, to favour the accused, or otherwise, whether a separate investigating agency will be required for further investigation under section 173 (8) of Cr. P.C. In that eventuality, this Court has also to decide whether the prosecution can be controlled by the SIT which has conducted investigation in such a blatantly biased manner. It is of the utmost importance that the truth of the allegations against them is determined by a competent forum. Such a course would subserve public interest and public morality because the Chief Minister and Ministers, the civil servants, the Magistracy and the Police of a State should not function under a cloud. It is imperative, therefore, that further investigation be conducted in a thoroughly impartial manner. **See: Vishwanath Chaturvedi v. Union of India:** (2007) 3 SCALE 714 at 724 para 36 (Writ Petition under Article 32 of the Constitution) = (2007) SCC.

Background of the Present Complaint

10. Mrs. Zakia Nasim Ehsan Jafri, widow of late Mr Ehsan Jafri, formerly R/o Gulberg Society, Meghaninagar, Ahmedabad City and now residing at 25, Alvi Row-house, Rander Road, Surat City, Gujarat, submitted a complaint dated 08-06-2006 to Mr. P.C. Pande, Director General of Police, Gujarat State, Police Bhavan, Gandhinagar, for the registration of FIR u/s, 120(B) IPC read with 302, IPC & sec. 193 read with 114 IPC, 186 & 153-A, 186, 187 IPC & u/s 6 of Commission of Inquiry Act, The Gujarat Police Act & The Protection of Human Rights Act, 1951. On 01-03-2007, Mrs. Zakia Nasim Ehsan Jafri and Citizens for Justice & Peace, through its Secretary, Ms. Teesta Setalvad filed an application in the Hon'ble Gujarat High Court bearing Spl. Criminal Application No. 421 of

2007 vs State of Gujarat, DGP, Gujarat and CBI under Articles 226/227 of the Constitution of India r/w sec.482 Cr.P.C. with a prayer to pass an order of Writ of mandamus and or appropriate Writ, directing the DGP to register an FIR and further directing the same to be investigated by an independent agency, i.e., CBI. The Petitioners further prayed that pending admission and or final disposal of this petition, DGP be directed to register the FIR and directions issued to CBI for investigation in the interest of justice and grant such other and further relief as deemed fit in the interest of justice. The Gujarat High Court rejected the Petition by an Order dated 2.11.2007. Aggrieved by the Order of the Gujarat High Court, the Petitioners through SLP 1088/2008 approached the Hon'ble Supreme Court for inter alia, registration of an offence and transfer of investigation to an Independent agency. As mentioned in Para 4 above through an Order dated 27.4.2009, the Hon'ble Supreme Court directed that: *"Having heard learned Counsel for the parties we direct that complaint dated 08.06.2006 which the petitioners herein claim to have sent to the DGP of Gujarat shall be examined by the Special Investigation Team (in short 'SIT') constituted pursuant to the orders of this Court. The SIT shall look into the matter and take steps as required in law and give its report to this Court within three months."*

11. The Hon'ble Supreme Court of India, in its order dated 15-5-2009 in Writ Petition (Crl.) No. 109/2003, reconstituted the SIT by inducting two new Members, namely, Mr. Paramvir Singh, Ex-DGP/Special Director, CBI and Mr. A.K. Malhotra, former DIG, CBI and by relieving Mr. C.B. Satpathy, Ex-DGP, as per his request. The Govt. of Gujarat issued a Notification regarding the reconstituted SIT on 27-05-2009. It is recalled that the SIT was originally constituted vide order dated 26-03-2008 of the Hon'ble Supreme Court of India whereby 9 Godhra related cases were ordered to be further investigated by the SIT, which was to consist of Dr. R.K. Raghavan, Ex-Director, CBI (Chairman), Mr. C.B. Satpathy, Ex-DGP, Ms. Geetha Johri, then IGP (now Addl. DGP (Convener), Mr. Shivanand Jha, then IGP (now Addl. DGP) and Mr. Ashish Bhatia, IGP. In their order dated 01-05-2009 in Writ Petition (Crl.) No.109 of 2003, the Hon'ble Supreme Court of India had directed that the SIT would continue to function and the Court entrusted to the SIT a larger role in the supervision of trials/prosecutions, witness protection, etc. and

to carry out any investigations that were yet to be completed or any further investigation that may arise in the course of the trials.

12. The widespread violence that engulfed Gujarat spreading to 19 of the state's 25 districts – 14 very seriously - post the tragic burning to death of 59 persons in the S-6 Coach of the Sabarmati Express is perhaps the worst ever record of reprisal communal violence. Since 2002 when the National Human Rights Commission filed its Interim and Final reports and 2003 and 2004 when the Hon'ble Supreme Court first pulled up the state government for absence to 'observe its Raj Dharma" and accused it of criminal negligence "The Neros in Gujarat fiddled as Gujarat burned" (*Zahira Habibullah Shaikh v/s State of Gujarat, April 12 2004 Supreme Court*) serious allegations of top level criminal conspiracy in masterminding the violence have been made against the chief functionaries of the government. On 8.6.2006 a Complaint was sought to be filed (Mrs Zakia Ehsan Jafri) and this complaint that is the core of this Protest Petition lays down the basis for the Criminal Conspiracy alleged. The NHRC concluded in its Report dated 31.5. 2002 that "there was a comprehensive failure of the State to protect the Constitutional rights of the people of Gujarat". *The NHRC in its order dated 31st May,2002 has also noted that its special representative had "observed in a Report to the Commission dated 24th April 2002 that "almost 90% of those arrested even in heinous offences like murder, arson, etc have managed to get bailed out as soon as they were arrested." Reports have also appeared in the media that those who have been released on bail were given warm public welcomes by some political leaders. This is in sharp contrast to the assertion made by the State Government in its Report of 12th April 2002 that "bail applications of all accused persons are being strongly defended and rejected."*

Incidents specified in Complaint– pp. 138 to 140, (para 13)

- Incidents widespread in 19 of the State's districts (coloured maps)
- Naroda Patia case: Naroda P.S. Cr.No.I 100/02: 96 Killed, including women and children. Naroda Patiya (where 96 men women & children were massacred and a number of women were raped, killed and burnt.

- P.I. Mysorewalla & the SRPF Men present provided no assistance to the victims and instead taunted them & forced them towards the rioting mob & death.
- Gulberg Society case: Meghaninagar P.S. Cr.No.I 67/2002: His death not even condoled in a reference in the House (State Assembly). **Totally 69 persons killed.** From the 28th morning rampaging mobs of those associated with the Bajrang Dal, VHP, BJP attacked Muslim localities, houses and business establishments. Muslim men were killed & beaten and women were raped & killed. Gory murders, rapes and molestations took place at Gulberg Society Chamanpura, Meghaninagar (where 69 persons including Ex MP Jafri were killed & 10 – 12 women were raped in a mob attack which lasted for 7 hours - till 4.30 p.m. Jafri had made numerous calls for help to the Commissioner Mr. PC Pande, to the Home Minister & the Chief Minister. At about 2.30 Jafri was stripped, paraded naked & cut into pieces. Police stood by and did not even try to stop the rioters.
- The Chief Minister was also dismissive of Mr Jafri's calls for help – and in fact later attributed the violence to firing by Mr Jafri. Minimal Police intervention took place only after 4.30 p.m.
- Post March 1 2002 : Panchmahal Dailol where a number of Muslims attempting to flee were killed & women raped.
- Mehsana where 14 Muslims were killed in Visnagar & 33 electrocuted in Sardarpur, Sardarpura Village, Mehsana District, Visnagar P.S. Cr.No.I 46/2002: 33 persons killed.
- Best Bakery case, Vadodara: 14 persons burnt alive – accused acquitted – many convicted after the re-trial and transfer to Mumbai (2006).
- Kidiyad case, Sabarkantha District: 60–65 persons burnt alive.
- Odh Village, Anand District: 27 persons burnt alive on March 1. Complainants said only 4 deaths confirmed and bodies of other victims disposed of at unknown location. Two FIRs

Cr.No.23/2002 & Cr.No.27/2002 lodged. JMFC, Umreth rejected remand application. During pendency of remand application, 18 accused released on interim bail for 8 days to celebrate Shivrathri by Order of Court.

- Dahod where men were killed & women raped.
- Banaskantha where brutal killings took place.
- Kheda where massacred were allowed to occur.
- Patan, where two boys were shot dead and the FIR names the BJP MLA of Radhanpur and the chief of the BJP's Radhanpur Unit & other VHP & BD members.
- Vadodara (where 14 people were burnt alive at the Best Bakery).
- Vadodara Rural, Bharuch, Kheda, Bhavnagar, Rajkot and many other places.
- *Police Firing in Ahmedabad.* The Police were either absent and/or inactive, or actually supported the rioters by shooting any Muslim offering any resistance. Significantly on Feb 28th in Ahmedabad of the 40 persons shot dead 36 were Muslims – although it was the Muslim community which was being targeted by huge well armed mobs. Repeated calls to the Commissioner of Police Ahmedabad & even the Chief Minister resulted in no assistance or response. The murders, mayhem, rape & molestations took place openly and over a number of hours. Details of these heinous crimes have been recorded in the Report of the Citizens Tribunal. The Concerned Citizens Tribunal report has been signed by all members of the panel included Justices (retd) VR Krishna Iyer, PB Sawant and Hosbet Suresh. Additional DG SIB recorded in his Secret Report of 24th April 2002 that as on 23rd April 2002, 636 Muslims were killed in the riots (of these 91 were killed in police firing) as against 181 Hindus killed (of which 76 were killed in police firing. Nearly 329 Muslims had sustained injuries in arson as against 74 Hindus. The loss of property of Muslims is accounted to be approximately

Rs. 600 crores as against Rs. 40 crores of loss of property of Hindus.”

- By August 2002 the Government itself had recorded those 185 cases of attacks on women of which 100 were in Ahmedabad city; that there had been 57 attacks on children of which 33 were in Ahmedabad and that 225 women and 65 children killed. The Government had also recorded 11 cases of rape of women: 3 cases from Dahod, 1 from Anand, 4 in the Panchmahals & 3 in Ahmedabad. In fact the rape / molestation of women were far more pervasive. Many of the victims were killed & burnt beyond recognition. Others were too terrified to record complaints.
- Then Additional DG Sreekumar also subsequently reported to the Additional Secretary Law and Order and the Chief Election Commission (CEC) in August 2002 that communal incidents had taken place in 993 villages and 151 towns covering 284 police stations out of a total of 464 and were spread over 153 assembly constituencies out of a total of 182. By Aug 2002 (as recorded in the Report of the Women’s Parliamentary Committee) as many as 132,532 persons had been displaced / forced to leave their houses & were living in 121 riot relief camps of which 58 were in Ahmedabad city.
- By 1st June 2002 (as recorded in the Report of the Women’s Parliamentary Committee) there had been 4954 cases (2023 urban and 2931 rural) of residential houses having been completely destroyed. There were a further 18,924 cases of partially damaged houses (11,199 urban & 7095 rural) - i.e. more than 23,000 houses had been destroyed or damaged by the rioters. Thereafter a further 5000 urban houses and a 1000 rural houses were destroyed or damaged.

A. Failure to Take Steps Statutorily Required under Law to Prevent the Outbreak and Spread of Violence

- Failure to Declare Curfew on Time Failure to Arrest Persons from List of Communal “Goondas” Available with Every Police Station.
- Failure to Record Evidence as Per Law.
- Failure to Register Crimes with Names of All Accused. Police officials failed to properly register FIRs.
- The names of VHP, Bajrang Dal, BJP members & their associates who had been involved in the heinous attacks were not recorded in the Firs. No steps were taken to arrest most of them. Even the few arrested were bailed out very soon without any opposition from the Prosecutors (quite a few of whom were supporters of the VHP/ BD/ BJP) and the police.
- The NHRC in its order dated 31st May 2002 records that it’s Special Representative had reported on 24th April 2002 that “ in respect of most of the sensational cases, the FIRs registered on behalf of the State by the Police Officers concerned, the accused persons were shown as “unknown”. His report adds that this is the general pattern seen all over the State. Even when complaints of aggrieved parties have been recorded, it has been alleged that the names of the offenders are not included. In almost all cases, copies of the FIR which the complainant is entitled to has not been given”. There has been widespread public outrage, in particular, in respect of atrocities against women, including acts of rape, in respect of which FIRs were neither promptly nor accurately recorded and the victims harassed and intimidated.”

B. Failure to Take Statutorily required Steps to Control Mob Violence

- Declaration of Curfew.
- Orders for the Army to Take over from Police on Time.

- Preventive Arrests.
- Firing etc.
- (Police Act, Circulars with Rules on Requirements during Communal Violence, CrPC etc)

13. In some of the criminal cases which reached trial the prosecutor/ prosecution and the police effectively ensured the acquittal of the accused. In the Best Bakery case where a large mob killed 14 persons in Vadodara on 1st March 2002, all the accused were acquitted. The NHRC, the 1st Petitioner, Survivors and NGOs filed Petitions to the Supreme Court.
14. By a judgement & order the Supreme Court [dated 12-04-2004] allowed the Petitions, set aside the acquittal, directed a retrial by a Court under the jurisdiction of the Bombay High Court and also directed the appointment of another public prosecutor after taking into account the suggestions of the victims/ affected persons. The Court observed that it was apparent from what had transpired that the investigation had been done in a manner with the object of helping the accused persons. The Court held "The investigation appears to be perfunctory and anything but impartial without any definite object of finding the truth and bringing to book those responsible for the crime. The public prosecutor appears to have acted more as a defence counsel than one whose duty was to present the truth before the Court. The Court in turn appeared to be a silent spectator, mute to the manipulations and preferred to be indifferent to sacrilege being committed to justice. The role of the State Government also leaves much to be desired." The Court observed: "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 a fair and impartial investigation. The modern day "Neros" were looking elsewhere when Best Bakery and innocent children and helpless women were burning, and were probably deliberating how the perpetrators of the crime can be saved or protected. Law and Justice become 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 become martyrs and monuments. "Following the re-trial conviction resulted in Maharashtra (February 24, 2006).

15. Another shameful case of gang rape was transferred out of the state of Gujarat to Mumbai i.e. the Bilkees Rasool case. Significantly the CBI which was entrusted with the investigation has found top police officials and government doctors responsible for destruction of evidence.
16. Survivors and citizen's groups approached the Supreme Court for transfer of investigation. Eight other major criminal trials that were tried, some are still ongoing) after further investigation was ordered and in many due to the monitoring by the Supreme Court and witness protection provided large number of convictions have taken place, are being currently monitored by the Hon'ble Apex Court and investigations and further investigations were ordered.
17. The Hon'ble Supreme Court had, in 2004, also ordered that a special cell of 7 Range Inspector General's should be set up to look into the FIRs and other materials of 2000 cases in which A summary Reports had been filed resulting in closure of the cases, to decide whether further investigation was required and to submit quarterly reports regarding the same to the Court.
18. A-1 Mr Narendra Modi, chief minister of the State at the time of commission of the alleged offences and still so, with continued subversion and denial of justice until today is arraigned as Accused No.1 in the Complaint. The complaint contains specific allegations complicity and involvement of Accused No.1 in the commission of the alleged offences. See the complaint paragraph 43, paras 45 to 52, paras 54 & 55, paras 65 & 66, para 67(5), para 78, para 83, para 88. Following the Investigations even more Crimes are Made out under the IPC –Section 34, 107 read with Section 120B, Sections 35, 36, 27 and 38 as also Section 166, 176, 218 and 217 of the IPC.
19. Likewise, Accused Nos.2 to 12 are persons involved in the conspiracy who were Ministers at the material time (one is since deceased) Among the remaining accused are cabinet ministers,

some MLAs the high ranking bureaucrats and police officers who were part of the conspiracy that led to the perpetration of the various offences alleged. The allegations made against them by the complainant/petitioners cast a cloud on their integrity and on their allegiance and oath to the Constitution and to the protection of Constitutional values and human rights.

20. Criminal Intent and Conspiracy Can Be Determined by the Prejudicial Acts of Commission and Omission by the Man at the Helm (Speeches, Disparate Amounts of Relief Granted to Godhra and Post Godhra Victims), Failure to Visit the Minority Refugees in Relief Camps, Inflammatory Speeches to Doordarshan, Zee TV, Other Channels and even at Becharaji in September 2002. Amicus Curiae Shri Raju Ramachandran has recommended Prosecution of the Chief Minister under Sections 166 and 153A and B of the Indian Penal Code Prosecution of Joint Commissioner of Police MK Tandon and PB Gondia has also been recommended under Sections 304rA of the IPC.
21. As the allegations in the complaint dated 08-06-2006 of Mrs. Zakia Nasim Jafri in the matter relating to SLP (Crl.) No. 1088 of 2008 in which the Citizens for Justice and Peace through its Secretary, Teesta Setalvad were co-petitioners, were of an extremely sensitive nature and were against the present Chief Minister of Gujarat, several Ministers and top IPS and IAS officers etc., it was decided that the matter would be dealt with in a highly confidential manner by Mr. A.K. Malhotra, former DIG, CBI and Member, SIT, Mr. Paramvir Singh, former Special Director, CBI and Member, SIT and Dr. R.K. Raghavan, Chairman, SIT. However, Mr. Paramvir Singh, Member, SIT resigned in the last week of February, 2010.
22. Though this inquiry had the mandate of the Hon'ble Supreme Court of India, several difficulties/constraints were experienced in the enquiry, some of which are given below. (SIT Reports dated 12.5.2010 and 8.2.2012). Yet the SIT does not interrogate the following lapses or the persons responsible for them.
 - (i) The police wireless messages for the year 2002 were not made available by the Govt. of Gujarat as the same had been reportedly destroyed. (In late March 2013, Accused Nos-29 then Commissioner of Police Mr. PC Pande

suddenly produced CDs with 3,500 pages of scanned documents containing PCR messages related to Ahmedabad).

- (ii) No record/documentation/minutes of the crucial law & order meetings held by Govt. during the riots had been kept.
 - (iii) Some of the public servants, who had retired long back, claimed loss of memory as they did not want to get involved in any controversy.
 - (iv) The other category of public servants, who have since 2002 retired and given good post-retirement assignments, felt obliged to the State government and the present Chief Minister and therefore their testimony lacks credibility.
 - (v) The serving public servants, who have been empanelled for the higher posts, did not want to come into conflict with the politicians in power and incur their wrath which affected their frank response.
 - (vi) Those public servants considered upright by the complainants and cited as a witness in their support, confirmed various controversial incidents/events, yet they did not attribute the same to their transfers/postings to insignificant posts.
23. In the complaint dated 8.6.2006, submitted to the Director General of Police, Gujarat, the Complainant has furnished explicitly further evidence, oral and documentary, regarding the nature and extent of the involvement of the accused named in her complaint. The said further evidence comprises the following:
- i) Parole and affidavit evidence as well as documentary evidence led before the Nanavati Shah Commission.
 - ii) Specific allegations against individuals accused.
 - iii) Specifics of punitive transfers and disciplinary proceedings against top ranking police officers who were “non co-

operative”.

- iv) Specifics of favours done to collaborating IAS and IPS officers.
- v) Subjugation of the IPS officers’ association.
- vi) Collaboration and complicit role of IAS officers functioning as Collectors/District Magistrates.

24. During the course and hearing of SLP 1088/2008 and thereafter, Complainant Mrs. Zakia Ahsan Jafri, the Present Petitioner and Co-Petitioners in SLP 1088/2008, Ms Teesta Setalvad, Secretary Citizens for Justice & Peace have consistently provided more and more information and evidence as and when these have been made available or come to their notice. A compilation of these communications to the Investigating Agency are filed with this Protest petition in a separate compilation.

25. It is well settled that even in cases where a first complaint is registered and investigation initiated, it is possible to file a further complaint by the same complainant based on the material gathered during the course of investigation. Even with regard to a complaint, if it is found on further investigation that there was a larger conspiracy than the one referred to in the previous complaint, then a further investigation under the Code culminating in another complaint is permissible. A fortiori, therefore, this principle applies also to a subsequent complaint by a different complainant. **Ram Lal Narang v. State (Delhi Admn.):** (1979) 2 SCC 322 at 330 to 338, paras 11 to 22. (2 Judges), affirmed in **Upkar Singh v. Ved Prakash:** (2004) 13 SCC 292 at 297-299 paras 16 to 23 (3 Judges).

26. The complainant -- Petitioner No.1 -- is a victim of the offences alleged against the persons accused, an eyewitness to the gruesome murder of her husband and a personally and directly aggrieved citizen of India.

27. To recap in brief the serious allegations contained in the Complaint dated 8.6.2006 (**Annexure III, File I, SIT Papers**):

- (i) Mr. Narendra Modi, Chief Minister of the State at the time of commission of the alleged offences and still so, is arraigned as Accused No.1 in the Complaint. The complaint contains specific allegations of masterminding a criminal conspiracy and executing it misusing his position, complicity and involvement of Accused No.1 in the commission of the alleged offences. See the complaint paragraph 43, Paras 45 to 52, Paras 54 & 55 at pp.174 to 178, Paras 65 & 66, Para 67(5), Para 78, Para 83, Para 88. Likewise, Accused Nos.2 to 12 are persons involved in the conspiracy who were Ministers at the material time or are so now. Among the remaining accused are the high ranking bureaucrats and police officers who were part of the conspiracy that led to the perpetration of the various offences alleged. The allegations made against them by the complainant/ petitioner cast a cloud on their integrity and on their allegiance and oath to the Constitution and to the protection of Constitutional values and human rights.
- (ii) (Para 8 of the Complaint) -- Officers have been directly influenced to depose with falsified facts and thereby commit the criminal act of perjury.
- (iii) (Para 10 of the Complaint) -- Top level meetings were held between the Accused No.1 chief minister, some of his cabinet colleagues and top level bureaucrats at which illegal instructions were issued where policemen and bureaucrats were instructed to in fact perform the illegal acts and omissions that constitute the alleged offences. Evidence of this was documented by a *Concerned Citizens Tribunal* (CCT) constituted and headed by former Judges of the Hon'ble Supreme Court before which a former Minister testified about the details. He was the late Mr. Haren Pandya. Illegal attempts to influence the police by senior cabinet colleagues of the Chief Minister were reported by the press.
- (iv) (Para 12 of the Complaint) -- Statement made by a former cabinet minister of the government of Gujarat that a high level meeting was convened by the chief minister at which

the then chief secretary and the then Home Secretary and senior policemen were summoned and to whom clear instructions were given “not to deal with the Hindu rioting mobs”.

- (v) (Paras 15-56 of the Complaint) -- Allegations against accused based on affidavits filed before the Nanavati Shah Commission.
- (vi) (Para 16 of the Complaint) -- Rahul Sharma stated in his cross examination before the Nanavati Commission that the whole attack on the Madrassa at Bhavnagar appeared to be an organized one. Gordhan Zadaphia was complaining about more number of deaths of Hindus compared to Muslims as a result of police firing in Bhavnagar. Mr. Sharma also states in his affidavit before the Commission annexed to the Complaint that then DGP Chakravarti A-25 told him on 1.3.2002 (affidavit dated 2.7.2002) when he desperately asked for additional forces to contain the deliberately provoked and perpetrated violence in Bhavnagar that “the bureaucracy had been neutralized.”
- (vii) (Para 21 of the Complaint) -- Mr. Khurshid Mysorewala stated in his affidavit that he was not able to stop the heinous crime of murders at Naroda Patiya. ***(The affidavit filed by the SIT is dated August 2002 ; SIT appears to have consciously not filed his additional affidavit dated 12.1.2004 which the Complainant has applied for and will be filed in a separate compilation).***
- (viii) (Para 22 of the Complaint) -- Mr. M. T. Rana stated in his affidavit that persons of VHP were seen in the mob at Naroda Patiya. In fact the police failed to save the lives of the people of Naroda Patiya.
- (ix) (Para 24 of the Complaint) – Mr. Shivanand Jha in his cross examination before the Nanavati Commission admits that he did not take any special measures to maintain peace on the day of the Bandh, i.e., 28.2.2002; that when he saw a huge and aggressive mob on 28.2.2002 and dispersed it he did

not arrest anyone from the RSS-VHP-BJP led mob.

- (x) (Para 25 of the Complaint) – Mr. M. K. Tandon stated in his cross-examination that when the incidents of Naroda Patiya and Gulberg Society, Meghaninagar occurred, neither he nor the Police Commissioner were present. When the attack on Gulberg Society took place, two Dy.S.P.s, one PI and one CISF police officer were present but strict measures were not taken to disperse the mob.
- (xi) (Para 28) -- Mr. Chakravarti, who was the DGP at that time, had not given any special instructions for the preservation of law and order, no strict instructions on how mobs should be dealt with, despite evidence coming in from field offices of the state intelligence bureau that aggressive communal mobilisation had begun post Godhra incident on 27.2.2002 from 11 a.m.–12 noon onwards.
- (xii) (Para 38) -- Mr. R. B. Sreekumar stated in para-4 of his affidavit that a few senior police officers approached him and requested him to avoid any deposition before the Commission, to prevent damaging the political interest of the Govt. This amounts to intimidation, preventing and obstructing a public servant from performing his lawful duty and in fact using power and influence of A-1 to ask a public servant under him to commit perjury.
- (xiii) (Paras 38,39) -- Mr. Sreekumar stated in his affidavit that he was intimidated and warned by Mr. Murmu and Mr. Arvind Pandya, government pleader to tell lies on oath and to avoid telling the whole truth.
- (xiv) (Para 46) -- In para 38 of Mr. Sreekumar's affidavit -- "all Govt. officers appearing as witness were tutored by Mr. Murmu, the reluctance of most of the govt. officials viz. Mr. K. Chakravarti, the then DGP, Mr. P. C. Pande, the then Commissioner of Police, Ahmedabad City and many other senior officials to tell truth to the Commission may kindly be appreciated in the light of guidance to them by Mr. Murmu."
- (xv)(Para170) -- The Chief Minister had said in the meeting on the night of 27.2.2002 that "in communal riots police

takes action against Hindus and Muslims on one-to-one basis. This will not do now (para 84 of Mr. Sreekumar) allow Hindus to give vent to their anger.”

- (xv) (Para 59) -- Ahmedabad's Commissioner of Police, Mr. P. C. Pande commented on News Hour (*Star News*) (1.3.2002) that *“These people also, they somehow get carried away by the overall general sentiment. That's the whole trouble. The police is equally influenced by the overall general sentiments.”*
- (xvi) (Para 65) -- The partisan and diabolical role of the Chief Minister and members of the political party that he represents and ideologically affiliated organizations like Rashtriya Swayamsevak Sangh (RSS), Vishwa Hindu Parishad (VHP), Bajrang Dal (BD) etc.
- (xvii) (Para 67) -- Cases of punitive transfers and disciplinary proceedings against top ranking police officers who were “non co-operative”.
- (xviii) (Para 68) -- Rewards for collaborating with the illegal plans of the CM/BJP during 2002 riots and afterwards.
- (xix) (Para 69) Subjugation of IPS Association.
- (xx) (Para 70) -- Collaboration by IAS officers & Collectors.
- (xxi) (Para 71) -- The govt. officers appearing as witnesses to the commission were tutored by Mr. GC Murmu and Mr. Arvind Pandya.
- (xxii) (Paras 71 to 83) -- The State Government vis-à-vis the Nanavati Commission.
- (xxiii) (Para 83) -- Sreekumar's third affidavit to Nanavati Commission giving details of illegal instructions given by officers viz. Chief Minister, Chief Secretary, Mr. Chakravarti,”

(xxiv) (Paras 84-85) -- Slack review of post-riot cases ordered by Supreme Court in August 2004.

(xxv) (Para 88) -- Allegations against all accused named in the complaint.....”

28. **COMPLAINT dated 8.6.2006: Offences alleged**

Section 34 r/w 120 B Common Intent and Criminal Conspiracy

- Section 107 Abetment

Section 35, 36, 37 and 38 on Intent and Crimes

Section 302 r/w Sec.120-B - Murder/Criminal conspiracy.

Section 193 – Punishment for false evidence r/w

Section 114 – Abettor present when offence is committed, and r/w

Section 6 of the Commissions of Inquiry Act, 1952.

Sections 167, 168, 175, 176, 177 (Furnishing False Information),
217, 218, 219, 220, 221, 222, (Chapter XII—

Offences Committed by Public Servants)

Punishment for false evidence (Section 193, IPC r/w Section 6 of
the

- Commissions of Inquiry Act, 1952).
- Section 166 (Public servant disobeying law, with intent to cause injury to any person)
- Giving false information about an offence committed (Section 203, IPC).
- Sections 338, 503,
- 506, 507 (Criminal Intimidation)
- Section 186 – Obstructing public servant in discharge of public functions.
- Section 187 – Omission to assist public servant when bound by law to give assistance.
- Section 199 (False Statement made in Evidence)
- Section 153A, B,C, Section 295, 298 and 505 – Promoting disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities – disturbing the public tranquillity.
- Section 3, Prevention of Damage to Public Property Act 1984(Mischief causing damage to public property)
- Additional Sections that become applicable after scrutiny of the Voluminous Evidence.

29. **Legal Background:** The complaint dated 08.06.2006 is clearly “information relating to the commission of a cognizable offence” within the meaning and intent of Section 154 (1) Cr.P.C. The D.G.P., Gujarat therefore was statutorily obliged to direct the Officers in-charge of the concerned Police Stations to register the respective cases as laid in the said complaint and then to proceed with the investigation. **See: Parkash Singh Badal v. State of Punjab:** (2007) 1 SCC 1 at 39-41, paras 63 to 68.
- A. As the said information relates to cognizable offences under Section 157(1) Cr.P.C. such officers are required to forthwith send a report to the Magistrate empowered to take cognizance of such offence upon a Police report and to proceed to the spot, to investigate the facts and circumstances of the case and, if necessary, to take measures for the discovery and arrest of the offender. Section 156(1) which is to be read in conjunction with Section 157(1) requires that the said Officers may, even without the order of a Magistrate, investigate any cognizable case which a court having jurisdiction over the local area within the limits of the Police station concerned would have power to enquire into or try under the provisions of chapter XIII of the Code. **See: Parkash Singh Badal**, supra, pp.41 to 42, paras 70-71.
- B. The ultimate test is whether the allegations in the complaint/ information have any substance. An investigation on such information cannot be shut out at the threshold or on a plea of mala fides. **See: Parkash Singh Badal**, supra, p.43, para 74.
- C. Petitioner No.1’s said complaint/information and the allegations therein against the accused arrayed in the said complaint/information, as to their complicity and conspiracy in the commission of the alleged offences, are not the mere *ipse dixit* of the complainant/the petitioners. On the contrary, they are based upon and buttressed by the following record, inter alia:-

- (a) judicial record and judicial pronouncement of the Hon'ble Supreme Court of India: **See: *Zahira Habibullah Sheikh v. State of Gujarat*: (2004) 4 SCC 158.**
- (b) Investigational records of a statutorily constituted Commission of Inquiry, viz., The Nanavati Shah Commission set up under the Commissions of Inquiry Act, 1952.
- (c) The records/report of the National Human Rights Commission, constituted under the Protection of Human Rights Act, 1993.
- (d) The records and report of the "Concerned Citizens Tribunal – Gujarat, 2002" constituted of two retired Judges of the Supreme Court; a retired Judge of the Bombay High Court, a Senior Advocate, a retired IPS officer and former DGP, two reputed academicians and an equally reputed social activist.
- (e) The voluminous records of Investigation collected following the directions of the Hon'ble Supreme Court on 27.4.2009. These were obtained by the Complainant with great difficulty and the lapse of a year, given the resistance of the SIT to part with them despite the clear Order of the Hon'ble Supreme Court on 12.9.2011.
- (f) Last, but not the least, the Complainant's own experience as a victim in the Gulberg Society carnage in which her husband was killed.
- (g) Despite all this "information relating to the commission of several cognizable offences", which informed and permeated the Petitioner No.1's complaint/information, the D.G.P., Gujarat and the complicit State machinery refrained from registering the FIR and proceeding to investigate the case and the Complainant had to go to onerous and painful lengths to reach the present stage.

30. In the Best Bakery case, the investigation of which forms a part of the subject matter of the present complaint/petition, the Supreme Court has explicitly faulted and indicted the various State organs/agencies and officials concerned, who are also arraigned as accused in the present complaint, for their acts of commission and omission in purported discharge of their constitutional and statutory obligations:**See: Zahira Habibullah Sheikh** (supra): (2004) 4 SCC 158 at pp.197-201, paras 68-74.

- i. In the same judgment, the Supreme Court has also enunciated the following fundamental legal principles, inter alia.
- ii. “Discovery, vindication and establishment of truth are the main purposes underlying existence of courts of justice”;
- iii. “In a criminal case the fate of the proceedings cannot always be left entirely in the hands of the parties, crimes being public wrongs in breach and violation of public rights and duties, which affect the whole community as a community and are harmful to the society in general. The concept of fair trial entails familiar triangulation of interests of the accused, the victim and the society and it is the community that acts through the State and prosecuting agencies. Interests of society are not to be treated completely with disdain and as *persona non grata*. Courts have always been considered to have an overriding duty to maintain public confidence in the administration of justice – often referred to as the duty to vindicate and uphold the ‘majesty of the law’”.
- iv. “The principles of rule of law and due process are closely linked with human rights protection. Such rights can be protected effectively when a citizen has recourse to courts of law... It will not be correct to say that it is only the accused who must be fairly dealt with. That would be turning a Nelson’s eye to the needs of the society at large and the victims or their family members and relatives. Each one has an inbuilt right to be dealt with fairly in a criminal trial. Denial of a fair trial is as much injustice to

the accused as is to the victim and society. Fair trial obviously would mean a trial before an impartial judge, a fair prosecutor and atmosphere of judicial calm...”

- v. The court “has a greater duty and responsibility i.e. to render justice, in a case where the role of the prosecuting agency itself is put in issue and is said to be hand in glove with the accused, parading a mock fight and making a mockery of the criminal justice administration itself... If deficiency in investigation or prosecution is visible or can be perceived by lifting the veil trying to hide the realities or covering the obvious deficiencies, courts have to deal with the same with an iron hand appropriately within the framework of law. It is as much the duty of the prosecutor as of the court to ensure that full and material facts are brought on record so that there might not be miscarriage of justice. **(See Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble: (2003) 7 SCC 749)**”.

See: Zahira Habibullah Sheikh supra, pp.182 to 184, paras 30 to 36, page 192, paras 55&56.

- vi. Despite the above declaration of law under Article 141 of the Constitution with specific reference to the Respondents 1 & 2, in the present Spl. Crl. A. and to the accused and their ilk arraigned in Petitioner No.1’s complaint/information dated 08.06.2006, in aid of which declaration and law the said Respondents and the said accused were required to act under Article 144 of the Constitution of India, they have brazenly and flagrantly flouted and disobeyed the Hon’ble Supreme Court and its directives.
- vii. The default and failure of the government of Gujarat under Accused No 1 to register the FIR despite the aforesaid information made by the Complainant/ Petitioner No.1, prima facie establishes the complicity of the State Agencies in the commission of the offences alleged and/or their endeavour to shield and protect the offenders, including themselves.

viii. Even today the power and intimidation used by A-1 against the Complainant and those assisting her, including Citizens for Justice and Peace, is tremendous. Further, the Complainant urges that: “The accused named in the FIR are very head strong persons and considering their clout in the administration it would be almost impossible for the State’s police to investigate the offence freely and fairly. Since the local police personnel are prima facie complicit and allegedly involved in the commission of the heinous offences, the larger requirements of justice demand that the investigation be entrusted to an independent agency like the CBI so that all concerned including the Petitioner No.1 and her family may feel assured that an independent agency is looking into the matter and that would lend the final outcome of the investigation credibility. **See: R.S. Sodhi v. State of U.P.:** (1994) Supp.1 SCC 143 (W.P. (Crl.) filed under Article 32 of the Constitution).

ix. At bottom, considering the complicity and connivance of the political administrative and police organs of the Government of Gujarat in the perpetration of the alleged offences and their equally masterly inactivity in registering proper FIRs and investigating the cases of the said offences, the question is: *Quis custodiet ipsos Custodes?* (Who will guard the guardians themselves?) **See: Union of India v. Tulsiram Patel:** (1985) 3 SCC 398 (CB) at 524, para 176 (per Madon, J. per majority).

31. The Petitioner submits that the Closure Report needs to be rejected and the Protest Petition allowed on the following grounds, which are in addition to the reasons and grounds set out elsewhere in this Petition:

- a) The documents and annexures as submitted by the SIT along with the closure report make out a clear case for taking cognizance against all the accused;
- b) Without prejudice to the above, the SIT while investigating, has not examined all the necessary

witnesses or called for all the necessary documents as set out in the Petition. In view of this the Investigation is defective and incomplete. Further investigation therefore needs to be ordered to arrive at the whole truth;

- c) Without prejudice to the above, the SIT's analysis of the statements of witnesses and other documents is hopelessly biased, inaccurate, and suffers from total non application of mind.
- d) SIT has taken great pains to disbelieve and discredit any witnesses who have spoken against the Accused No.1 or for that matter against any accused. Besides, the witnesses who were favouring Accused were not confronted with relevant documents and statements.
- e) SIT was required to ascertain whether there is any substance to proceed against the accused persons and once it comes to the conclusion that such substance exists it should have proceeded to file a Charge Sheet. Such substance exists against all the accused. There are witnesses and documents to cast reasonable doubt against the conduct of all the accused and pointing towards their culpability. For instance, the statements of senior officers like RB Sreekumar, Rahul Sharma, Sanjiv Bhatt as well as the Tehelka tapes (validated by the Sessions Court) are enough to file a charge sheet/ take cognizance. Instead of doing this, the SIT has acted like a super court dissecting every bit of evidence, turning and twisting it, ignoring relevant material and accepting uncorroborated irrelevant material to somehow whitewash this entire exercise. Worse the SIT has deliberately and manifestly ignored the huge voluminous evidence that is available on record. SIT has acted beyond its jurisdiction as an Investigating Agency. In fact this Hon'ble Court ought to disregard the SIT Report altogether and look at the gathered evidence independently to arrive at the conclusion that cognizance ought to be taken.

- f) Apart from anything it needs to be verified whether the Closure Report is based on a collective application of mind by SIT as a whole or not. Large number of documents/ statements are in Gujarati. Admittedly they have not been translated. Majority of the SIT members cannot read Gujarati. In order to decide the weight to be attributed to each of the statements/ document it was necessary that the SIT, as a collective applied its mind to these documents. In the absence of any translations it is not clear as to how the SIT has come to the conclusions it has arrived at.
- g) The Petitioner submits that against each of the accused there is sufficient material to take cognizance of offences of conspiracy and abetment, subversion of public justice, destruction and suppression of evidence, of rioting, theft, robbery, murder, attempt to commit murder, etc. Besides, against many of the accused Charge Sheets should have also been filed for hate speech.
- h) SIT should have considered that once a public servant is held to be negligent in performing his duties, and if any criminal offence has taken place, he ought to be automatically charged with abetment. This is so because the definition of abetment includes acts as well as omissions. SIT has come to the conclusion that Accused Nos - 33 then Joint Commissioner of Police MK Tandon and then DCP Zone IV PB Gondia, were negligent in their duties. Having arrived at this conclusion, SIT had no option but to charge them with the criminal offence of abetment at least as the negligence did result in offences being committed or not being prevented.
- i) SIT should have held that the statements and the documents which have been gathered make out a clear case of conspiracy against all including Accused No.1.
- j) The Petitioner submits that as has been held by various courts a conspiracy is usually hatched in secrecy and very rarely there is direct evidence of this. The offence can only be proved largely from inference drawn from

acts or illegal omissions committed by the conspirators. Even at the time of trial, there need not be proof of express agreement. The agreement can be proved by necessary implication. Besides, it is not necessary that all the conspirators participate in all the offences resulting from the conspiracy though they would be liable for each one of them.

- k) In the present case direct evidence exists in terms of Sanjiv Bhatt ' s testimony about at least one part of the conspiracy being hatched at the meeting held on 27.2.2002. Once this evidence is available it is for the trial court to decide what weight to attribute to it. It is not for the Investigating Agency to dissect this evidence with a view to discredit the same.
- l) In any event, without prejudice to whether Mr. Modi made the statement attributed to him in the meeting on 27.2.2002 the fact that the meeting took place is not disputed. One has to therefore to look at the subsequent and prior events to decide as to what could have transpired at this meeting. It is obvious that as the event reflect a conspiracy was hatched at this meeting to allow the people to vent their anger (justified or otherwise, instigated or otherwise, organized or otherwise) and not to intervene when offences are committed. In addition the forces were encouraged to abet this ire and to assist the people in venting it and at times to participate in it. Anyone who tried to maintain law and order was penalized. The conspiracy was very clear and played out over the next few days.
- m) The Petitioner further submits that the offences of conspiracy and abetment along with the responsibilities of public servants have, independently or together introduced the concept of command responsibility under our criminal law. Therefore any public servant shall be criminally responsible for crimes committed by forces or officers under his or her effective authority and control, as a result of his failure to exercise control (preventive or punitive) over these crimes. This would include the Chief

Minister/ Home Minister, other Ministers, police and bureaucratic top brass. This is more so since in the present case they knew or owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes. It is further because the said public servants failed to take all necessary and reasonable steps to prevent or repress their commission or to submit the matter to the competent authority for investigation or prosecution.

- n) The Chief Minister/ Home Minister was directly in charge of law and order in the State. Under his aegis crimes were committed. No steps were taken to curb these crimes. Just to give an example, preventive arrests were essential once the Bandh call was made. These are required for prevent commission of offence. No such arrests were made making the Home Minister downwards all responsible for crimes having been committed for failure to carry out preventive arrests. Besides, if instructions were given to make preventive arrests and they were not carried out then failure to take steps against the officers for not having done preventive arrests itself will amount to failure to discharge duties as a public servant and abetment.
- o) SIT has misdirected itself in looking at the allegations and events in a piecemeal manner rather than a holistic manner. What was needed to be done was to look at events prior to 27.2.2002, on 27.2.2002 and subsequent to 27.2.2002 to see if a common thread emerges. If this was done an obvious and apparent link between all these events and conduct of the accused comes out which would be sufficient to charge them with conspiracy and abetment, apart from other offences.
- p) We further submit that offences under S.153 A and B have been made out against accused who were charged with the same in our complaint and the SIT ought to have filed Charge Sheets in respect of the same.

Facts of the Protest Petition

Narration

27.2.2002

7.55 – 9 a.m.

32. The tragic train fire on the S-6 Coach of the Sabarmati Express took place at 7.55 a.m. and was over by 8.13 a.m. at Godhra on 27.2.2002. This information about the Godhra incident was conveyed by the district magistrate Godhra, Mrs. Jayanti Ravi to Mr. Ashok Narayan, ACS Home, at 9 am and at the same time chief minister Mr. Narendra Modi (A-1) and DGP Mr. K. Chakravarti (A-25) were also informed. Therefore, by about 9 a.m. of 27.2.2002 both Mr. Ashok Narayan (A-28) and Mr. K. Nityanandam (A-34), and Mr. Modi (A-1) had information about the said incident. In this information it has been conveyed that it was the provocative sloganeering and behavior of the *karsevaks* that had caused the mob to gather and start pelting stones at the train. Independently, through sources of the VHP other co-accused, Mr. Ashok Bhatt (A-2), Mr. Gordhan Zadaphiya (A-5) and Mr Jaideep Patel (A-21) were also informed of the incident.
33. The train arrived at Godhra 7.10 a.m. five hours late, stopped at the station, proceeded again at 7.20 a.m. after which it was stopped again a few minutes later about half a kilometer away from the station. Mr. Narendra Modi (A-1) was informed of the Godhra incident telephonically around 9 am (Malhotra's report dated 12.5.2010 filed before the Hon'ble Supreme Court ***under Para Allegation IV, Page 12***) from the Godhra district administration. This communication (that appears to be only partial (plain white paper torn apart and placed in the SIT records at ***Sr Nos 1 File XLI Annex III***) and it details the sequence of events resulting in the burning of bogey No S-6 and killing of 59 persons.
34. The communication states that the train, the Sabarmati Express arrived five hours late on that day reaching Godhra around 7.10 a.m. and also records that when the train left Godhra station at 7.20 hours on 27.2.2002 the *karsevaks* who were returning from Ayodhya after *karseva* were shouting provocative slogans. This is contained in a note in the SIT investigation papers. (***See Sr Nos 1 File XLI Annex III***). This note also mentions that after hearing these provocative slogans, members of the Muslim community residing in the nearby areas gathered and started pelting stones on the bogey occupied by *karsevaks*. The train was stopped as per this communication, at a place nearly half a kilometer further on the

rail track in the direction of Vadodara, Signal Falia area, and there the bogey caught/was set on fire.

35. The Mr P C Pande of ignition leading to the arson of S-6 bogey in Sabarmati Express, as per this first message received by the state admin at the state HQ from the Godhra district authorities, establishes that the shouting of slogans had provoked the Muslim community living around the area and in response they had started pelting stones. This was an instantaneous reaction by a crowd gathered after getting provoked by the slogans and other provocative behavior of the *karsevaks*. The DM & Collector Godhra, Mrs. Jayanti Ravi also states in her affidavit before the Nanavati Commission dated 7.6.2002 at **Annexure III, File X, D-106**, that immediately after she was informed by SP Godhra on 27.2.2002 regarding the incident on Sabarmati Express, she had informed the Addl. Chief Secretary (Home), Gujarat Government, Principal Secretary (Revenue) Gandhinagar and the Chief Minister's office about the same.
36. This first information that is received from the district administration is fully corroborated by another document at ***Serial Nos 11, File XL1 Annexure –III, Copy of fax message from Adl. DG (Int.) to Addl. Chief Secretary, Home vide No.D-2/2/Com/Godhra incident/70/2002*** dated 27.02.2002 regarding attack on Sabarmati Express Train at Godhra Railway Station and actions taken by police. This message independently indicates and establishes that the *karsevaks* were shouting slogans after which the Muslims living nearby the area congregated and pelted stones on the train after which Coach no.S-6 caught/was set on fire. This second document is based on information received by ADGP-Intelligence at Gandhinagar from their branch office at Godhra and sent by DCP-Intelligence, Mr. Sanjiv Bhatt. (The SIT Index describes this as a Copy of a Fax Message from ADGP-Int to ACS Home. ***(Accused Nos 28 Ashok Narayan sent vide nos D-2-2/COM/Godhra Incident/ 70/2002 dated 27.2.2002)***). This report confirms the first report received by the State headquarter from the Godhra District Administration.
37. The Home Department whose political head is and was in 2002, Accused No 1 Mr. Modi and whose administrative head, is Accused No 34, then Home Secretary Mr. K. Nityanandam, would

automatically also receive information from the SPs and DMs of all districts, by fax and personal phone calls. As per the law and procedure as laid down, and as detailed by Accused No 28, Mr. Ashok Narayan in his deposition to the Nanavati Commission annexed at **Annexure III, File XV, D-151** in the SIT papers, there is a separate control room in the Home Department where the DGP (Accused No 25 Mr. K. Chakravarti) would forward all critical and important information received by it.

38. At 10.30 a.m. a meeting had taken place at the residence of Accused No 1 at Gandhinagar. In the said meeting Gordhan Zadaphiya, (Accused No. 5), Ashok Narayan (Accused No. 28), K Chakravarti (Accused no 25) and PC Pande (Accused No. 29) and other Zadaphia of the chief minister's secretariat were present.
39. Before this official meeting following the Godhra incident could take place, however, Accused No. 1 had in the first instance, already called Mr Jaideep Patel (Accused No. 21) from the mobile of his PA (09825037439). There was another call made by Accused No. 1 to Mr Jaideep Patel on his mobile at Mobile No. 09825023887. Mr Jaideep Patel, who was at that time at Naroda, left that place for Godhra and reached Godhra around 1 p.m. The moment the Chief Minister's Office (CMO) and the Gujarat Home Department also headed by Accused No.1 received information of the Godhra incident at Gandhinagar, and this was obviously conveyed to Accused No. 1, he makes a telephone call using the mobile phone of his PA, AP Patel (09825037439) to his collaborator and chief executor of the conspiracy Accused No. 21 Mr Jaideep Patel (09825023887) first at 9:39:38 (77 seconds), then again at 9:41:39 (20 seconds). That is, within minutes of Accused No. 1 receiving official intimation of the Godhra tragedy, he (chief minister) gets in touch with none less than the Secretary of the Gujarat unit of the VHP, Mr Jaideep Patel.

Outgoing	9825037439 A P Patel (Accused No 1, Mr Modi)	77	27.2.2002 09:39:38	9825023887 Mr Jaideep Patel VHP General Secretary (Accused No 21)
Outgoing	9825037439 A P Patel (Accused No 1, Mr Modi)	20	27.2.2002 09:41:39	9825023887 Mr Jaideep Patel VHP General Secretary (Accused No 21)

40. These phone calls in quick succession soon after he receives knowledge of the Godhra tragedy is significant and evidence of A-1 speaking and conferring with the VHP's front man, who in Naroda at the time of the call thereafter left for Godhra. There was, therefore, a direct contact between the Chief Minister's Office (CMO) and VHP even before Accused No. 1 Mr Modi met with his officials after receiving news of the Godhra incident, or attended the Vidhan Sabha, or left for Godhra clearly establishing that plans for the conspiracy for the orchestration of the post-Godhra violent reprisals was being carefully hatched. **(See Annexure IV, File V in the SIT papers).**
41. Only after first speaking to his co-conspirators did the chief minister (Accused No. 1) call a meeting at his residence at about 1030 hrs at which meeting he discussed the matter with Mr. Gordhan Zadaphia (Accused No 5), the then Minister of State (MOS) for Home, Ashok Narayan, the then ACS, Home (Accused No 28), K. Chakravarti, the then DGP (Accused No 25), P.C. Pande, the then CP, Ahmedabad City (Accused No 29) and other Zadaphia of the CM's secretariat. Mr. Ashok Narayan stated to the SIT that until then no news had been received about the exact number of casualties and the information was being received piecemeal.
42. On instructions of A-1, Ashok Bhatt (A-2) also leaves Ahmedabad and reaches Godhra around 1 p.m. (Statements to the media officially released by A-21 Mr Jaideep Patel and A-19 Kaushik Mehta also an office bearer of the VHP also provoke and distort facts. This is done with the full knowledge of A-1.) Curfew was declared at about 10 a.m. in the Godhra town.
43. A-21 Mr Jaideep Patel has shown his criminal intent being part of the conspiracy hatched by A-1 Mr Modi and himself. A fax message

recorded by the State Intelligence Bureau (SIB) (**Annexure III, File XVIII-D-160 at 188** dated 27.2.2002 states that A- 21 Mr Jaideep Patel, A- 19 Kaushik Mehta, also senior functionary of the VHP and Dilip Trivedi another general secretary of the VHP had, in a joint statement issued by them declared that “hundreds” of Ram sevaks had been attacked in a preplanned conspiratorial attack, that compartments set on fire and women molested. This message coming from Vadodara are proof that such misinformation and provocative sloganeering had begun and had been allowed at Godhra. The remarks in this message says that though no such incident as alleged has happened (molestation of women) and also says that such propaganda has been “recklessly made”. *The SIT could have scrutinized such records to ascertain the build up to the conspiracy.* This message also suggests that a written statement may have been issued by the VHP. *Why has SIT not bothered to look into such material at all?*

44. *There is absolutely no discussion in the SIT report about what transpired between 9 a.m. to 10.30 p.m. and Accused No. 1's role therein. The crucial evidence related to the calls made by A-1 to fellow conspirators and co-accused during that time have been completely omitted/ignored.*

10.30 hours 27.2.2002

45. On the decision taken by Accused No. 1, Mr Jaideep Patel and Ashok Bhatt had left for Godhra. It is important that Mr Jaideep Patel who was general secretary of Vishwa Hindu Parishad (VHP) Gujarat which is a sister organisation of the ruling Bhartiya Janata Party (BJP), whereas Minister for Health, Ashok Bhatt, was a senior member in the Gujarat cabinet at the time. It is at this meeting that a collective decision was taken to distort the facts sent by the DM regarding the provocative sloganeering and behavior of the *karsevaks*. On the basis of this collective decision a Note was prepared by the Home Secretariat -- A-28, Mr. Ashok Narayan, and A-34. Mr. Nityandandam, headed by A-5 Mr. Gordhan Zadaphiya and A-1 Mr. Narendra Modi.
46. In what appears to be a deliberate move, (**SrNos 5, D-196, File XLI Annexure III**) the message prepared by the Home Department headed by Accused No 1 (Mr. Modi) and Accused No. 34 (Mr.

Nityanandam) and Accused No. 28, (Mr. Ashok Narayan) suppressed this critical aspect of the information relating to the provocation of the *karsevaks* by shouting humiliating anti-Muslim slogans and through this the *mens rea* behind the crime of pelting of stones by the mob on the S-6 bogey. It was on the basis of the note of the home department, not the first information originally sent by the Godhra district administration, that Accused No. 1 (Mr. Modi) and Accused No. 5 (Mr. Zadaphiya) made their statements before the State Assembly at 1300 hours.

47. This was done with a view to obfuscate the provocative and incendiary behaviour of the *karsevaks/rambhaktas*. *(The Court should ask for examination of the Case Diary of the Godhra Train Fire Investigation from the Registration of FIR onwards to be able to examine what was stated in the FIR in the first instance and alterations made thereafter).*
48. *This meeting has not been dealt with by the SIT The note sent by the DM and how it was diluted/manipulated by the Home Secretariat becomes important because it was on that basis that misleading information **leaving aside the provocative behavior of the karsevaks** was given to the Assembly. At this stage, there are statements collected by SIT that suggest that A-1 spoke to the media. But just like in the case of other speeches made by A-1, SIT has completely avoided looking into this.*
49. It appears clear that from the go-ahead signal given by the chief mastermind (Accused No. 1) to chief executor, Mr Jaideep Patel (Accused No. 21) to unleash a communal backlash, that a plethora of phone calls are exchanged between the co-conspirators (see table below). Hence from the afternoon of 27.2.2002 itself, violent attacks on the minority are unleashed. Yet no emergency instructions, alerts or steps are taken by the seniors in the administration to contain or prevent violence. Incidentally, records from the State IB contained in **Annexure III File XIX (D-161) at Pages 67-68 of the SIT papers**, independently show that “one person named Abdul Rashid Kalubhai Mashita Shaikh was assaulted by some *karsevaks* who came from Baroda train between platforms 2 and 3. Abdul Rashid died and another two persons were injured. The *karsevaks* were recorded to be shouting slogans. This message of the State IB was sent at 1500 hrs on

27.2.2002, i.e., even while senior cabinet ministers were at Godhra, the Chief Minister had not yet left by air for Vadodara (**See Annexure IV, File IX, Serial Nos 250, the daily Itinerary of Accused No. 1 and the flight schedule in SIT Papers**), violent incidents in retaliation leading to the deaths had already begun. Moreover, they were provoked by the unruly and aggressive *karsevaks* who had been aggressively attacking members of the minority community even before the Sabarmati Express train had reached Godhra, five hours late on 27.2.2002. This violence continues and is allowed even as the train proceeds towards and reaches Ahmedabad Railway station in the sensitive Kalupur area on the afternoon of 27.2.2002 while the chief conspirator is on his way to Godhra.

1300 hours

27.2.2002

50. The Assembly proceedings started at 1300 hours. A Motion relating to Godhra incident was moved by Mr. Punjabhai Vansh which came up for discussion at 1300 hours. It was however Accused No. 16, Dr. Maya Kodnani, M.L.A. from Naroda and co-conspirator (now convicted to 28 years life imprisonment for executing the conspiracy at Naroda Patiya by a judgement of the Sessions Court dated 29.8.2012), who spoke on the issue and her speech raised unsubstantiated issues related to the ill-treatment of women by Muslims at Godhra (She states, "...Women treated very badly.."). On 27.2.2002, in a planned way such disinformation was spread to ensure and enable that the Godhra incident does not stay localized but is malevolently used to foment widespread violence, which is not spontaneous but fuelled by a rabid organization like the VHP with the full support of A-1 and his administration. A-21 Mr Jaideep Patel has through his organization the VHP also made the same untruthful claims to the media along with A-19 Mr Kaushik Mehta, also of the VHP and Mr Dilip Trivedi, secretary of the VHP in Mehsana the same day. (The same Dilip Trivedi is appointed by the Gujarat government under A-1 to be the special public prosecutor in the Sardarpura and Deepda Darwaza cases, making a mockery of the justice process and substantiating charges in this complaint about the A-1 using the tool of partisan public prosecutors as part of a conspiracy to subvert the deliverance of justice. *The SIT has turned a blind eye to these obvious facts and refused to make the obvious connections and draw the necessary conclusions.*

51. This statement needs to be seen in the context of the deliberate inflammatory rumours spread by VHP persons accosting DM Ravi when she reached the site of the tragedy in Godhra. Later the *Sandesh* newspaper also published fabricated reports that effectively provoked mob reactions and despite strong recommendations from three separate sources in the Gujarat police, Accused No. 1 as home minister instead of prosecuting such coverage actually congratulated the newspapers. (see Statement and Deposition) where Mrs Ravi states that these were false reports. **(Annexure III, File II, D-6 and Annexure II, File IV, D-50, Vidhan Sabha Proceedings dated 27.2.2002 & 28.2.2002, 14.3.2002, produced by Suresh Mehta former Minister in the Modi cabinet and Gordhan Zadaphiya, then MOS Home (Accused No. 5 in the complaint).**
52. Zadaphia read out the statement prepared by Home Department, based on the available information, which as explained above, had omitted crucial bits of information relating to the provocations caused by *karsevaks*. Suresh Mehta, Minister of Industries, was present in Vidhan Sabha sitting next to Modi when Zadaphiya was reading the Note. "I was sitting by the side of Mr. Narendra Modi, CM who remarked that *"Hindus should wake up now"*. **(Statement made by Suresh Mehta on 15.8.2009 to the SIT at Annexure I Volume I, Pages 83-84).** The Chief Minister Accused No. 1) went to Godhra by helicopter on the same afternoon. Mr. Gordhan Zadaphiya, MoS (Home) also left for Godhra by road. The CM returned to Ahmedabad in the night. Subsequently, Suresh Mehta states that he learnt that a review meeting of the situation post-Godhra incident was held by the CM on 27.2.2002 night with the senior officers and this fact related to the review meeting held by the CM with top officers had also been admitted by Zadaphiya in the assembly on 14-3-2002 according to the minutes.
53. The Note prepared by the Home department and the facts relayed by Zadaphiya to the State Assembly make no mention of the motive behind the stone pelting by a crowd that suddenly gathered which was the provocative and incendiary behavior of the *karsevaks*. Accused No. 1 in his response to the discussion on 27.2.2002 **(see Assembly proceedings at Annexure III, File II, D-6 and Annexure II, File IV, D-50, Vidhan Sabha Proceedings dated**

27.2.2002 & 28.2.2002, 14.3.2002) already hints at a sinister design, “the train came, it stopped, then it left and the time-gap between the same is merely 3 to 5 minutes and suddenly attack of this kind was launched. In such a situation, the issue becomes grave...” Both A-1 and A-5 clearly state that the incident at Godhra was the result of a long term conspiracy.

54. These statements that go beyond the scope of the knowledge available at the given time would also amount to a breach of privilege of the state assembly (misinforming members) since the district administration had clearly stated that the stone attack and subsequent arson was a result of the outcome of provocative slogan shouted by *karsevaks*.
55. *The SIT only deals with the brief statement made by Mr Gordhan Zadaphiya and does not Pande out that Maya Kodnani (A-16) also made a speech. The SIT does not even attempt to link the reaction as alleged in the statement of Mr. Suresh Mehta with subsequent conduct of A-1 including ordering hasty and illegal post mortems in the open railway yard, in violation of curfew orders while a violent and aggressive crowd of VHP, RSS and BD members are present. The same statement by A-1, as alleged by Suresh Mehta, in the Assembly was repeated in the infamous alleged instructions given by A-1 at night.*
56. As stated by the *Concerned Citizens Tribunal* headed by Justice Krishna Iyer (retired Supreme Court of India), Justice PB Sawant (retired, Supreme Court of India), Justice Hosbet Suresh (retired, Bombay High Court) *Patterns of Violence* at Para 5.7: “The state *bandh* on February 28, and the Bharat *bandh* on March 1 — both called by the VHP/BD and supported by the state BJP and the chief minister himself — helped in the killing, loot and destruction. The fear created by aggressive sloganeering and posturing, the deathly silence and empty streets helped the trained militia to carry out their jobs with ease, unhindered by the state police.” **(Para 5.7, Pages 23-37, Concerned Citizens Tribunal, relevant paras at Page 30, Annexure III, File I of the SIT papers).** “Given the widespread reports and allegations of groups of well-organised persons, armed with mobile telephones and addresses, singling out certain homes and properties for death and destruction in certain districts – the further question arises as to what the factors were, and who the

players were in the situations that went out of control”. (NHRC Report,2002).

57. The call for Gujarat Bandh by the VHP was seen to be endorsed by the ruling party and neither A-1 Mr Narendra Modi nor A-5 Mr. Gordhan Zadaphiya responsible for the maintenance of law and order made any appeal for peace and calm. In fact, several messages of the state intelligence bureau from various districts began warning headquarters at Gandhinagar about the implications of the Bandh call and the bloodthirsty sloganeering by the VHP that had already begun by the afternoon of 27.2.2002.
58. The utter and deliberate non-seriousness with which the SIT has investigated an allegation of the knowledge of the Bandh call given by the VHP and open collaboration declared by the ruling party, by none less than the Chief Minister himself, is shocking given the fact that apart from a close reading of the Vidhan Sabha proceedings on 27.2.2002, a message of the State Intelligence Bureau contained in **Annexure III File XXI(D-163)**, which is a message titled “Vidhan Sabha/VHP/544/02 dated 27.2.2002” already records that today, i.e., on 27.2.2002 during zero hour, the Vidhan Sabha had discussions related to the incident at Godhra and the Chief Minister had informed that a high level enquiry would be conducted regarding the incident. It also states that VHP had declared a Gujarat Bandh and today called a meeting at 1600 hours at the VHP office to discuss further steps to be taken regarding the incident”.
59. Not only has the VHP by now declared the Bandh but official and government support to it has been also been given. The consequences of this collusion would unfold in a sinister and macabre display of state sponsored violence in the days to follow. The role of A-1 as chief minister to, instead of appealing for calm and restraint on 27.2.2002, declare open support to the Bandh, that too declared by the VHP, is a clear declaration of his intent in unfolding the conspiracy. *The SIT does not deal with this overt or covert support for the Bandh by the government satisfactorily.*
60. There are a series of messages of the State Intelligence Bureau (SIB—See Tables in Annexure) which warn of the repercussions of the bandh. One has been sent out as early as 3.10 p.m. on 27.2.2002 (before A-1 leaves for Godhra). It is a message D/2?2

com/takedari/71/2002 and can be read at Annexure IV, File XX, 8394). This message already says that funeral processions are likely wherever the bodies are sent.

1330 – 1530 hours 27.2.2002

Post mortems

61. After the assembly proceedings, A-5 Zadaphiya leaves for Godhra. Accused No. 1 gets four calls from A-2 Ashok Bhatt on the mobile number of his PA, OP Singh, informing A-1 about the situation in Godhra. A-2 Mr. Ashok Bhatt (now deceased) had admitted that it was he who had instructed local doctors through the Civil Surgeon at Godhra for the post-mortem. A-2 Mr Ashok Bhatt who was in regular touch with A-1 Mr. Modi left for Godhra at 9.30 a.m. according to his statement to SIT and reached around 12-12.30 p.m. As the inquest was over, a decision is taken by A-2 taking instructions from A-1 to conduct post-mortems in the railway yard itself where the dead bodies are lying. Decision was taken to start hasty post-mortems (Phone call records). SP Raju Bhargava (A-46) is directly responsible along with DM Jayanti Ravi for allowing these post-mortems in public in violation of law. Under the criminal law, it is the inquesting authority who has to decide whether to send the dead bodies for post-mortem or not. But in the present case PM of almost all bodies were over by 18.45 hours, the time when inquest report was signed in the presence of A-1, A-2 and A-5 obviously following their directions. The question is, which the SIT has simply not bothered to ask is, under whose orders, the Post- mortem was being conducted in the Railway Yard Itself without any facility and equipments and also by doctors who were not trained to do Post Mortem? The motive behind this was clear:

- Bodies could be dispatched through a VHP strongman and co-A- 21 Mr Jaideep Patel to reach Ahmedabad by next morning for the proposed funeral processions and parading
- Public post-mortem and free use and distribution of photographs of the gory bodies was encouraged by A-1, A-2 an A-5 to inflame the anger of the funeralists, which could be converted into a violent communal reprisal against innocent sections of the minority.

Call Type	Cell-No (Name)	Duration Secs	Date-Time	Dialed / Received No – Name
Out	9825039877 (Ashok Bhatt, Accused No 2)	35	27-feb- 2002 13:53:44	9825000836 Omprakash Singh, CMO, (PA to CM Accused No 1)
Out	9825039877 (Ashok Bhatt, Accused No 2)	15	27-feb- 2002 14:50:44	9825000836 Omprakash Singh, CMO, (PA to CM, Accused No 1)
In	9825039877 (Ashok Bhatt, Accused No 2)	173	27-feb- 2002 15:05:09	9825000836 Omprakash Singh, CMO, (PA to CM, Accused No 1)
Out	9825039877 (Ashok Bhatt, Accused No 2)	43	27-feb- 2002 15:38:10	9825000836 Omprakash Singh, CMO, (PA to CM, Accused No 1)

Who Called the Doctors to Godhra?

Call Type	Cell-No (Name)	Duration Secs	Date-Time	Dialed / Received No – Name
In	9825039877 (Ashok Bhatt, Accused No 2)	38	27-feb- 2002 13:39:24	24095557 Commissioner of Health
In	9825039877 (Ashok Bhatt, Accused No 2)	146	27-feb- 2002 17:19:09	24095557 Commissioner of Health
Out	9825039877 (Ashok Bhatt, Accused No 2)	118	27-feb- 2002 18:37:49	24095557 Commissioner of Health
Out	9825039877 (Ashok Bhatt, Accused No 2)	121	27-feb- 2002 18:40:10	24095557 Commissioner of Health
Out	9825039877 (Ashok Bhatt, Accused No 2)	251	27-feb- 2002 20:41:48	24095557 Commissioner of Health

62. *The calls made by Ashok Bhatt on the Mobile of Mr Om Prakash Singh has again not been discussed by the SIT The call details show that A-1 (chief minister) was in touch with A-21 Mr Jaideep Patel as well as with A-2 Ashok Bhatt. The making of calls by A-2 Ashok Bhatt to Accused No. 1 shows that the Inquest of dead bodies was done after taking instructions from A-1, the chief minister.*
63. *The A-1 had used the mobile of Om Prakash Singh. In the statement given to the SIT by Singh (**Annexure 1 Volume 1, Serial Nos 41 given on 9.11.2009**), he accepted that A-1 spoke on his mobile when there was an extreme emergency. He only says that he did not see A-1 talking to anyone on his mobile phone. The SIT's conclusions that CM was not in touch with "controversial persons Maya Kodnani and Mr Jaideep Patel during riots" is contrary to the documents on record. A-1 was therefore in touch with both Maya Kodnani (A-16) and Mr Jaideep Patel (A-21).*

1530-1645 hours 27.2.2002

Departure

64. The mobile phone call records of Mr. Anil Mukim show that between 15:37:57 hours and 21:58:36 hours his location is not traceable which is in all likelihood during the time he was accompanying Accused No1 to Godhra. However, just before that, at 15:33:40 hrs his location (and then again at 22:01:18 hrs) is shown to be in and around Meghaninagar where the Gulberg Society is located and a major massacre was perpetrated the next day. Does this mean that Accused No. 1 went to the airport via Meghaninagar and if so, why? The SIT has not investigated this despite it being pointed out. Interestingly, the other person from the CMO who accompanied A-1 to Godhra, Mr. J.M. Thakkar PRO to the CM, also shows his location before going to Godhra in the same location, in and around Meghaninagar at 15:34:48 hrs. Mr. Zadaphiya A-5 has reached Godhra by around 1600 hours.

16.45 – 19.45 hours 27.2.2002

65. It is undisputed by the investigating agency that A-1 Modi arrived at Godhra by helicopter between 1600 to 1700 hours. Fax message at **Page no.87 Mes/B/D-4/2/ 15/Com/284/2002 dated 27.2.2002** at

1912 hrs sent by ACP, State IB, Vadodara written to IG, Gujarat State, Gandhinagar states that the Chief Minister visited the place of incident at 1715 hours. (The Air Traffic Controller, Gujarat, of the state Government also suggests that Accused No.1 Modi, using Reliance plane, was at Godhra by 1610 hrs on 27 February 2002). His flight schedule corroborates that he departed from Ahmedabad between 1530-1600 hours on 27.2.2002 and reached the Godhra helipad at 1645 hours. He was accompanied by two persons from the CMO, Anil Mukim and J.Thakkar **(Serial Nos 249 at Annexure IV, File IX, SIT papers)**.

66. After arrival at Godhra helipad, A-1 directly goes to the site, which is the railway yard where the dead bodies after inquest were lying. He enters into the burnt coach and while coming out talks to the media. *(See transcripts of speech that are contained in Annexure on Hate Speech)* It is during this time that the postmortems on the dead bodies start. A-1 was therefore party to the decision to conduct postmortems (illegally in the open railway yard). When he talks to the press there are several VHP workers present. Mr Jaideep Patel (A-21), Ashok Bhatt (A-2) and Zadaphiya (A-5) were present when A-1 visited the railway yard which is where the mutilated and burnt corpses have been allowed to have been kept in the open.
67. It is at that point of time that a decision was taken to hand over the dead bodies to Mr Jaideep Patel (A-21) of the VHP for being taken by road to Ahmedabad. When A-1 arrives at Godhra, he was received by Mrs. Jayanti Ravi and Mr. Ashok Bhatt and he straightaway drove to the Godhra Railway Station, inspected the spot and thereafter proceed to the Collectorate and meet people and the press. Two ministers from his cabinet, Co-accused No 5, Mr Gordhan Zadaphiya, then MOS Home and Accused No 4, Prabhasinh Chauhan, the then Minister of Civil Aviation & Pilgrimage, were also present. It was the Collector who revealed to the investigating agency (SIT) that Mr Jaideep Patel and VHP Gujarat secretary (A-21) also met chief conspirator and Accused No.1, at Godhra.
68. Thereafter, A-1 visited the civil hospital accompanied by A-2 Mr. Ashok Bhatt and A-5 Mr. Gordhan Zadaphia. Thereafter there was a meeting at the Circuit House where the DM was also present. DM

had stated before the Concerned Citizens Tribunal that, in the first instance the government desired to transport the dead bodies of the Godhra victims by the same train on to Ahmedabad. But, she had advised against it. Before the SIT, Mrs. Ravi has denied this completely. The train had left Godhra station by detaching the burnt bogeys by 1300 hours. Accused No 2 Ashok Bhatt and A-21 Mr Jaideep Patel were already in Godhra by then and therefore they must have communicated the CM's decision on this matter to the DM.

69. *SIT admits at Page 60 in its final report dated 8.2.2012 that Mrs Jayanti Ravi has stated that in the meeting held at the Collectorate, A-21 Mr Jaideep Patel, a VHP leader was also present. However, under Allegation No. IV, the SIT still goes on to assert that A-1 Mr. Modi had never met A-21, Mr. Jaideep Patel (SIT Report, 8.2.2012). The SIT has not dealt with this aspect that the post-mortems of the dead bodies was taking place in the presence of A-1 and was not stopped by him though it was an illegal act. The SIT also does not deal with the presence of a large crowd of VHP workers and the presence of Mr Jaideep Patel general secretary of VHP Gujarat besides the presence of A-2 Mr Ashok Bhatt and A-5 Mr Zadaphiya. Worst of all, the SIT has not bothered to even look at the required legal procedures necessary to be observed in the wake of the Godhra tragedy. There are strict laws against allowing such hasty post-mortems to happen without proper procedures of identification and without family members being present; there is a strict prohibition against allowing photographs of corpses in a gory or mutilated condition from being taken, shot or telecast. (See details of Rules from the Gujarat Police Manual mentioned below). By not even dealing with this grave offence, the SIT has shown its unprofessionalism and distinct bias.*
70. *SIT has deliberately left un-investigated the whole question of the illegal and hasty post-mortems conducted in the open in the rail yard, with large and aggressive crowds of the VHP, RSS and BD present, despite the fact that these facts are made known to them in the statements of then DM Jayanti Ravi and others. SIT has not investigated how gory photographs were allowed to be taken, telecast and broadcast not just by newspapers like the Sandesh but also publications brought out by the VHP. SIT obviously did not*

consider investigating such serious facts as emerged in the Investigation that too in such a sensitive case.

Decision to Hand Over Dead Bodies to Mr Jaideep Patel A-21 & Transport Dead Bodies to Ahmedabad

71. On the evening of 27.2.2002, at the notorious meeting called by him at his residence, chief conspirator Accused No. 1 Modi had told Chakravarti, "It was a government decision to transport the bodies of the victims from Godhra to Ahmedabad by Road". (Statement of Mr K Chakravarti dated 16-17.12.2009 before the SIT at **Annexure I, Volume I, Serial 65, Pages 252-267**). Logically the decision to hand over the bodies to the member of a rabid organisation like the VHP, Mr Jaideep Patel was also taken at the highest level, in which DM Ravi and SP Bhargava acquiesced allowing the funeral and processions and parading to become a means of widespread mobilization of induced anger to whip up anger against innocent Muslims. Dead bodies of 54 persons (Hindus) killed in train fire incident were entrusted to private persons namely Jaideep Patel and Hasmukh Patel – both VHP leaders – in violation of existing regulations particularly, **Rule 223 (10-b) of Gujarat Police Manual volume-III** by Godhra district authorities under pressure from A-1.

1945 – 2230 hours 27.2.2002

72. A-1 leaves by road up to Vadodara and from there he catches a plane and reaches Gandhinagar by 2230 hours. A-2 Mr. Bhatt, according to his statement before the SIT left Godhra for Gandhinagar past midnight which means that both A-2 and A-5 Mr Zadaphia were in effect accompanying the motor cavalcade galvanized by the VHP with the full support of the government from Godhra to Ahmedabad. The SIT admits in its Report to the Supreme Court that the Mamlatdar of Godhra had issued a letter dated 27.2.2002 that establishes that the dead bodies of the Godhra victims, essentially a property of the police, that could under law be only handed over to the relatives of the individuals, were officially handed over to a strongman of the VHP, Mr Jaideep Patel, who had been in touch with the accused No. 1 (Mr. Modi) since the morning of the accident and moreover who hailed from an organization with rabid anti-minority posturing that had not just declared a Bandh the next day but that this Bandh had been

supported by the government (***“Para 7, Role Played by Accused Persons, Their Explanation and Our Comments, under A-1 Narendra Modi, CM Gujarat, Annexure***). As regards the parading of dead bodies, it has come to light that Mr M.L. Nalvaya, Mamlatdar, Godhra had issued a letter dated 27-02-2002 addressed to Mr Jaideep Patel, in which it was mentioned that 54 dead bodies as per list enclosed were being sent to Ahmedabad through five trucks whose details were given in the said letter. However the SIT in both its Reports exonerates this sinister decision completely, at best trying to blame it on the Mamlatdar.

Under Allegation II of Malhotra’s Report Mrs. Jayanti Ravi has also stated that after holding discussions, a unanimous decision was taken that the dead bodies, which had been identified should be handed over to their relatives at Godhra itself and those bodies whose legal heirs or guardians had not come, could be sent to Sola Civil Hospital. Further Malhotra Report states that *the remaining 54 dead bodies were to be sent with police escort to Sola Civil Hospital, Ahmedabad. Further, Mr. Mr Jaideep Patel of VHP was to accompany them. Under Allegation No. IV, Mr. Himanshu Shukla admits that Accused No. 25, then DGP Mr. K. Chakravarti had told the SIT that it was a government decision to bring the bodies of the Godhra victims to Ahmedabad.*

73. Most shocking aspect of this decision was giving the bodies clearly in a mutilated condition to a non-governmental person. Moreover the Gujarat Secretary of the Vishwa Hindu Parishad, an organisation well known for its rabid hatred rousing speeches, especially against the religious minority community, was chosen by accused no.1 and his co-conspirators to escort these bodies in a motor cavalcade to Ahmedabad. Clearly this decision was out of the ordinary and controversial. The SIT in its bid to protect the former District Magistrate Jayanti Ravi has tried to put the blame for the decision of the now retired Mamlatdar, M.L. Nalvaya. However, all records of investigation and statement of other persons clearly indicate that such a decision should not have been taken by an officer of the rank of a Mamlatdar. He states clearly before the SIT and on oath in the affidavit before the Nanavati Shah Mehta commission that he was simply carrying out the order given to him by Jayanti Ravi, the District Magistrate. This calculated decision to allow the bodies of the Godhra victims in a tragic and ghastly manner to be paraded not just in Ahmedabad but in other districts,

in carrying the funeral procession with sloganeering and hate speech, was also made to ensure the incident was no more confined to Godhra and was to be displayed in all districts of the State.

74. Repeated and several phone calls between A-5 and A-21 continue through the night preparing for the diabolical conspiracy that was hatched.

Type	Secs	Date-Time	Dialed / Received No Name	Cell-Name
Out	55	27 th Feb. 2002 20:02:01	796631365 VHP Office	9825049145 Zadaphia
Out	158	27 th Feb. 2002 20:03:25	9825023887 Mr Jaideep Patel	9825049145 Zadaphia
In	48	27 th Feb. 2002 20:39:36	9825023887 Mr Jaideep Patel	9825049145 Zadaphia
In	87	27 th Feb. 2002 21:11:20	9825049198 DCP (ZONE 5)	9825049145 Zadaphia
In	204	27 th Feb. 2002 21:13:11	9825023887 Mr Jaideep Patel	9825049145 Zadaphia
In	138	27 th Feb. 2002 21:16:54	9825049198 DCP (ZONE 5)	9825049145 Zadaphia
In	186	27 th Feb. 2002 21:20:19	9825023887 Mr Jaideep Patel	9825049145 Zadaphia
In	97	27 th Feb. 2002 22:08:24	9825000836 Omprakash Singh, CMO, (PA to CM)	9825049145 Zadaphia

75. *The SIT has deliberately ignored all these phone contacts and their criminal intent. There appears no desire on the part of SIT to conduct an investigation that has probity. In the SIT report it is admitted that the dead bodies which were sent to Ahmedabad, Mr Jaideep Patel of the VHP accompanied them. Not only this, it is clear from the letter of Mr Nalvaya, Mamlatdar, Godhra dated 27.2.2002 which was not addressed to any government official but to Mr Jaideep Patel/ Hasmukh Patel in which it was mentioned that 54 dead bodies were being sent to Ahmedabad in five trucks. Despite the fact that the SIT report mentions that it was A-21 Mr. Mr Jaideep Patel and none other who handed over the dead bodies to*

Deputy Collector in the presence of Medical Superintendant (Sola Hospital), DCP Zone I and several other police and administrative officials, the SIT is keen to absolve A-21 Mr. Mr Jaideep Patel and through him, A-1 Mr. Modi of this irregular and illegal action. There is no reason why the dead bodies will be given to a VHP general secretary unless there was a clear instruction by chief minister A-1 to do so. Mr Jaideep Patel was carrying these dead bodies under his charge along with VHP workers who were shouting slogans throughout the way stopping at a number of places where subsequently bitter violence broke out.

76. *The SIT in its bid to protect the accused has not made any comment on the illegal action of handing over bodies to a front man of VHP (a decision taken by Accused No. 1) but in the portion of its report where it deals with the various allegations contained in the complaint dated 8.6.2006, this decision has been criticized.*
77. *Fact however remains that dead bodies were handed over to Mr Jaideep Patel/Hasmukh Patel for transporting in a cavalcade with VHP workers to Ahmedabad. With such high level political functionaries present at Godhra when the decision was taken it is extremely improbable and highly unlikely that a Mamlatdar-level officer would take such a decision.*

2200 – 2400 hours 27.2.2002

78. By 2220 hours DM Jayanti Ravi had already sent a fax to her superior Mr Ashok Narayan, ACS Home (A-28), stating that she has already despatched the bodies. There were five truck loads of persons and several vehicles with VHP workers apart from the 54 dead bodies. Basically, for a two and a half to three hour road route it took Mr Jaideep Patel and the motor cavalcade 5 hours to reach from Godhra to Ahmedabad. The route from Godhra to Ahmedabad (see Map) traverses Sevalia, Ambav, Thasara, Dakor, Umreth, Lingda, Alindra, Nadiad, Salun, Vanthvadi, Mahatma Gandhi Expressway, New Maninagar, Ghodasar, Isanpur, Juhapura, Sarkhej-Gandhinagar Highway, Isckon Flyover, Thaltej circle, Gujarat High Court and Sola Civil Hospital.
79. Subsequently there was brutal violence at Nadiad in Kheda district, where 2 persons died in police firing, there was not a single Muslim

shop left untouched. 15-20 shops selling TVs, electronic goods, watches, a bakery, a kerosene dealer and a timber mart right next to the police station and the bus stand (which means they were close to the highway) were destroyed on 28.2.2002 itself. The Concerned Citizens Tribunal that records this violence in Vol. 2 states that the RSS, the VHP, the Bajrang Dal, Pankajbhai Vinodbhai Patel of the BJP, sarpanch of Kheda town were responsible. Policemen who did not intervene were also indicted by the tribunal. The trail of violence affected Ghodasar much more significantly where the bodies of 13 persons in a dismembered condition were discovered on 3.3.2002).

80. Within hours of the rowdy and bloodthirsty crowd arriving at Sola Civil hospital at 4 a.m. where a 3,000 strong crowd of RSS workers had gathered and even started attacking the Zaphia of the hospital (*See Narrative below with evidence from PCR messages*), a High Court judge of the minority community travelling in his vehicle was attacked.
81. *The assertion by A-29 P. C. Pande at **Pg 34 of the SIT Report (8.2.2012)** stating that there “was no parading of dead bodies” in as much as the bodies arrived between 3-4 a.m. is belied by the records of the PCR Wireless Vans provided by him after 15.3.2011 when the Hon’ble Supreme Court of India ordered further investigation by the SIT*

2230 meeting at the Residence of A-1

27.2.2002 Conspirators Meeting

Before and After

82. Until the Conspiratorial Meeting on the night of 27.2.2002 at the chief minister’s residence, the police bureaucracy appeared to be taking the immediately required precautionary measures. Former DGP Gujarat state, RB Sreekumar in his statement before the SIT on 11.9.2009 states that “on 27-2-2002 forenoon, when I was posted as Addl. DG (Armed Units) Mr. K. Chakravarti, the then DGP, Gujarat called me to his office and informed about the incident relating to the burning of a train bogie at Godhra which resulted in the death of 59 persons including some *karsevaks*. He directed the total mobilisation of SRP personnel for immediate

deployment...”

83. But following the so-called Law and Order Meeting called at the residence of Accused No 1 after he reached Gandhinagar residence at about 10.30 p.m. that clear-cut instructions to intimidate and neutralize the bureaucracy and the administration were given. It is after his return that the above mentioned meeting took place. Regarding this meeting, the following aspects are important. At the infamous meeting on 27.2.2002 he made a statement is corroborated by Four Sources:

- (i) Statement of Mr. Sanjiv Bhatt, then DCP (S) Intelligence, who was present in this meeting: *“The chief minister Mr Narendra Modi said that the bandh call had already been given and the party had decided to support the same, as incidents like the burning of the kar sevaks at Godhra could not be tolerated. He further impressed upon the gathering that for too long the Gujarat police had been following the principle of balancing the action against the Hindus and Muslims while dealing with the communal riots in Gujarat. This time the situation warranted that the Muslims be taught a lesson to ensure that such incidents do not ever recur again. The chief minister Mr Narendra Modi expressed the view that the emotions were running very high amongst the Hindus and it was imperative that they be allowed to vent out their anger”.* (Annexure IV, File X, Sr No 302).
- (ii) Statement of Mr. K. Chakravarti to Mr. Sreekumar. **(Para 84, Fourth Affidavit dated 27.10.2005, Annexure III File III D-24.** On February 27, 2002 evening the Chief Minister in the presence of some of his cabinet colleagues held a meeting with ACS Home, Mr. Ashok Narayan, DG of Police Mr Chakravarti and Commissioner of Police Ahmedabad, Mr P C Pande. The Chief Minister stated that “in communal riots the police took action against Hindus & Muslims on one to one basis and that this will not do now. He instructed the DG & the CP to “allow Hindus to give vent to their anger”. This was

communicated by Mr. Chakravarti to Additional DGP SIB Mr. Sreekumar on February 28, 2002. Accused No. 25, then DGP K Chakravarti also told Sreekumar that this posture of the CM was a major obstacle to police officers initiating action against Hindu Communal elements, who by the February 28th 2002, were on a rampage against the minority community. This has been recorded by Mr. Sreekumar in his 4th Affidavit filed before the Nanavati-Shah Commission.

- (iii) Statement of Mr Haren Pandya to the Concerned Citizens Tribunal in May 2002. Pandya stated that he was present in the meeting. He was killed on 26.3.2003. News that he was the Minister who spoke to the Tribunal was first published in the *Outlook* magazine on June 3, 2002. The Concerned Citizens Tribunal (comprising retired Supreme Court Justices V Krishna Iyer & P.B Sawant retired High Court Justice H Suresh & others have in their Report recorded that they had received direct information through a testimony from a highly placed source of a meeting where the chief minister, two or three of his cabinet colleagues, the CP of Ahmedabad an IG of Police of the state were present. This meeting took place on the late evening of Feb 27th 2002. This meeting had a singular purpose: the senior most police officials were told a “Hindu reaction was to be expected and this must not be curtailed or controlled.” *(Para 1,1.14 at Page 56, State Complicity, Volume II, Concerned Citizens Tribunal Report at Annexure III File I)*
- (iv) Statements of Justice P.B. Sawant and Justice Hosbet Suresh to SIT dated 28-8-2009 confirming that Haren Pandya had made the above statement regarding his presence in the meeting. Both senior retired Judges, one of the Hon'ble Supreme Court and the other of the Bombay High Court clearly stated: “Mr. Haren Pandya further deposed that in the two hour long meeting Mr. Narendra Modi, CM, made it clear that there would be backlash from the Hindus

on the next day and that the police should not come in their way. Mr. Modi also instructed the police officers and civil servants that a Hindu reaction was expected and this must not be curtailed or controlled.” The meeting at Modi’s residence, according to the SIT, lasted for half-an-hour, i.e., 11.00 p.m. to 11.30 p.m.

84. *There are significant discrepancies in the two SIT Reports about this meeting but what is the piece de resistance by the SIT is its conclusions in the report filed by DCP Crime Branch, Mr Himanshu Shukla stating (SIT at pg 241-242 of its conclusions submitted before this Ld Court dated 8.2.2012): “Even if such allegations (against Modi) are believed for the sake of argument, mere statement of alleged words in the four walls of a room does not constitute any offence”.*

- i) *There is no dispute from any quarter that such a meeting was called by accused number 1, the chief minister, Mr. Modi at his residence late in the night on February 27. There is also no dispute that no minutes were recorded of a meeting as critical as this one. The reasons for this, according to the 2012 report by the SIT, is at page 13, “No record/documentation/ minutes of the crucial law and order meetings held by the government during the riots had been kept”. Maintenance of minutes are statutory functions that police and administrative officers have to fulfil to ensure ‘standard operational procedures’ that are required specially when crisis of the kind that must have been looming in Gujarat post-Godhra, happen. The SIT has simply not bothered to probe this lapse.*
- ii) *There is a clear contradiction on who was present at the meeting in the two reports. The SIT Report dated 2010 states that the following were present:*

- Mrs Swarna Kanta Varma, acting chief secretary.
- Mr Ashok Narayan, additional chief secretary (Home).
- Mr K. Chakravarti, DGP, Gujarat.

- Mr P C Pande, police commissioner, Ahmedabad.
 - Mr K Nityanandam, secretary (Home).
 - Dr P. K. Mishra, principal secretary to CM.
 - Mr Anil Mukim, secretary to CM.
- (ii) During the SIT Investigation, it transpired that DCP-Intelligence (Security) Mr Sanjiv Bhatt too could have been present at this meeting since his colleague DCP-Int. (Communal) was on leave and his senior GC Raigar (Accused No 60) was also on leave.
- (iii) Two years later, the SIT's conclusions on its investigations following the order of the Hon'ble Supreme Court dated 12.9.2012 there are significant changes. Himanshu Shukla's conclusions submitted before this Hon'ble Court dated 8.2.2012 says that the following were present:
- Mrs Swarna Kanta Varma, acting chief secretary.
 - Mr Ashok Narayan, additional chief secretary (Home).
 - Mr K. Chakravarti, DGP, Gujarat.
 - Mr P. C. Pande, police commissioner, Ahmedabad.
 - Mr K. Nityanandam, secretary (Home).
 - Mr Dr P. K. Mishra, principal secretary to CM.
 - Mr Anil Mukim, secretary to CM.
 - Mr Prakash S. Shah, additional secretary (law and order).
- (v) Mr Prakash Shah makes a sudden appearance in the closure report. It is unclear how Mr. Modi and the seven others named in the preliminary report in 2010 "forgot" to mention his presence during the inquiry/investigation conducted by A. K. Malhotra. During the recording of Mr. Modi's statement before A. K. Malhotra on 23.3.2010, the accused number 1 had volunteered the "information" during his

deposition before SIT that IPS officer Sanjiv Bhatt was not present at the February 27 meeting, even when the question had not been put to him.

Other Discrepancies/Contradictions in the Depositions of Persons present at the crucial meeting of 27.2.2002 between the two versions of the SIT:-

85. *In 2010 the SIT Report states at pages 16-17 that:*
Mrs Swarna Kanta Varma: “She has stated before (SIT) that she *does not recollect* as to whether CM instructed the police officers that the police should not come in the way of the Hindu backlash... She has pleaded loss of memory due to passage of time.” (There is no reference to whether Bhatt was present or not).
86. **Mr Ashok Narayan:** “He does not recollect as to whether Nityanandam and Bhatt attended... The chief minister said that the people were outraged by the heinous incident of Godhra and therefore effective steps should be taken to control the communal riots if any. He does not recollect any other words uttered by the CM”.
87. **Mr K Chakravarti:** (A statement similar to Narayan’s)... “He has denied to have told RB Sreekumar (as claimed in an affidavit before the Nanavati Commission by the then ADGP) that the CM had said in the meeting held on February 27 night that in communal riots police takes action against Hindus and Muslims on one to one basis and this will not do now and allow Hindus to vent their anger. He has also stated that as per his recollection, Bhatt did not attend this meeting”.
88. **Mr PC Pande:** “Has denied that the CM said... (let) Hindus vent their anger...” (There is no reference to whether Bhatt was present).
89. **Dr PK Mishra:** “Has denied that the CM said... (let) Hindus vent their anger... He does not recollect whether Bhatt attended the meeting...”
90. **Mr K Nityanandam:** “Has denied that the CM said that police should not stop (Hindu retaliation)...” (There is no reference to whether Bhatt was present).

91. **Mr Anil Mukim:** “Denied to have attended this meeting but all other participants have confirmed his presence in the meeting...”
92. *The preliminary report’s general observation:* “Though Bhatt claims to have attended the meeting, yet none of the participants of the meeting have confirmed this fact”. *The preliminary report then concludes:* Since none of the officers present at this meeting have confirmed the alleged statement of Modi, Sreekumar’s statement is hearsay, and since no minister was present at the meeting therefore late Haren Pandya’s statement before the Concerned Citizens Tribunal is unreliable, the allegation “is not established”.
93. In his chairperson’s comments submitted to the Hon’ble Supreme Court along with Mr AK Malhotra’s preliminary report, Raghavan observes: “The three officers (PC Pande, PK Mishra and Ashok Narayan) had been accommodated in post-retirement jobs, and are therefore not obliged to speak against the chief minister or the state government”. In other words, even while conceding that these officers were obligated to Mr. Modi because of his largesse, SIT had treated their statements and excuses about lapse of memory as adequate evidence of Mr. Modi’s innocence.

SIT’s Conclusion in 2010:

94. “The statement made by Mr RB Sreekumar is hearsay which has not been confirmed by Mr K Chakravarti. The participation of Bhatt has not been confirmed by any of the participants at the said meeting”.
95. The SIT further goes on to dismiss the statements of retired Supreme Court and High Court judges of the Concerned Citizens Tribunal preferring to accept the versions of the co-accused who are also co-conspirators in the complaint. “In view of the version of all the senior officials of the home and police department, the testimony of the late Haren Pandya before the Concerned Citizens Tribunal becomes unreliable. No minutes of the meeting of February 27 were prepared”.
96. *“In the light of the above, a law and order meeting was in fact held by Modi at his residence late in the evening of February 27. However, the allegation that chief minister instructed the chief*

secretary, DGP and other senior officials, to allow the Hindu community to give vent to their anger on the minority Muslims in the wake of Godhra incident is not established.” (Page 19, SIT Report dated 12.5.2012).

Comments of SIT chairman, Dr Raghavan, 14.5.2012

97. “Bhatt is considered an unreliable witness, especially because no official who is known to have definitely attended the meeting has spoken of his presence there. Also he was considered too junior to have been invited to such a high-level meeting... The three officers (Mr PC Pande, Mr PK Mishra and Mr Ashok Narayan) had been accommodated in post-retirement jobs, and are therefore not obliged to speak against the chief minister or the state government.” **(Page 4 of Chairman’s comments, 14.5.2012).**
98. Dr. Raghavan is forced in his comments on the preliminary report to conclude that the officers thus lucratively promoted would have personal reasons to conceal the truth. Despite reaching this conclusion however SIT is happy to leave the crucial issue of whether those accused who were being asked to corroborate the illegal instructions could be actually believed when they denied what the chief minister said, un-investigated. Their views are taken as gospel truth even though they are seen as motivated by rewards from a culpable establishment.
99. In any case, contrary to the inferences of SIT, as is clear from the reports of the Amicus Curiae who’s Interim and Final Reports dated 20.1.2011 and 25.7.2011 have been made available to the petitioner (Annexure IV, File IV, Serial Nos 91 and Annexure IV File X Sr Nos 306), he has arrived at an independent assessment that there is a *prima facie* case for Modi’s prosecution, observing that whether Bhatt or the others are telling the truth can only be determined through the examination and cross-examination of each of them during the trial.
100. The lapse of memory by certain officials has according to the opinion/conclusions submitted by the SIT to this Ld Court dated 8.2.2012 changed/shifted to complete remembrance/recall within a gap of two years. It is not insignificant that by now a Gujarat police official, DCP-Crime, over whom Accused No. 1 has serious control

(given the fact as Home Minister he assesses his career and CRs).
The SIT conclusions dated 8.12.2012 state at pgs 26-28 that:-

- (i) **Mrs Swarna Kanta Varma:** “She cannot recollect as to whether any minister was present there... On being shown a photo of Bhatt she has stated that she cannot recollect having met or seen him in this meeting... She has denied that there was any mention by the chief minister (that) Muslims be taught a lesson or Hindus be allowed to vent their anger...”
- (ii) **Mr Ashok Narayan:** “Bhatt did not attend the meeting... He has further stated that no minister was present at the meeting... He has denied any utterances by the chief minister (that) Muslims be taught a lesson or Hindus be allowed to vent their anger...”
- (iii) **Mr K Chakravarti:** “He has categorically stated that Bhatt did not attend the meeting at CM’s residence and no such instructions as alleged were given... He has further stated that none of the ministers/politicians had attended the meeting...”
- (iv) **Mr P. C. Pande:** “Has out rightly denied the presence of any minister or Bhatt in the meeting... Pande has categorically stated that no instructions to allow any freedom to any law breaker were given by the chief minister...”
- (v) **Dr P. K. Mishra:** “Has categorically denied the presence of Bhatt at the meeting. He has also denied the presence of any minister at the meeting... Mishra has stated that it was not true that the chief minister talked in terms (like) let Muslims be taught a lesson and Hindus be allowed to vent their anger...”
- (vi) **Mr K. Nityanandam:** “He has denied the presence of any minister or Bhatt at the meeting... He has also denied any such alleged observations made by the chief minister about Muslims being taught a lesson etc and Hindus be allowed to vent their anger”.

- (vii) **Mr Anil Mukim:** Has stated that he attended the meeting for some time and then left after taking permission of Mishra... Has out rightly denied any utterances/instructions about Muslims being taught a lesson and the Hindus allowed to vent their anger, in his presence...”
- (viii) **Mr Prakash Shah:** “Has confirmed to have attended the meeting. He has denied the presence of any minister or Bhatt in the said meeting...”

SIT Conclusions dated 8.2.2012:

101. “The statement made by Mr RB Sreekumar is hearsay which has not been confirmed by Mr K Chakravarti. It can be inferred that Bhatt is facing a lot of problems in service matters and, therefore, his evidence is ill-motivated and cannot be relied upon. In view of the versions of all the senior officials of the home and police department the alleged testimony of late Mr Haren Pandya before the Concerned Citizens Tribunal cannot inspire confidence”.
102. “In the light of the aforesaid discussions, it can be concluded that a law and order review meeting was in fact held by Modi at his residence late in the evening of February 27. However, the allegation that the chief minister instructed the chief secretary, DGP and other senior officials to allow the Hindu community to give vent to their anger on the minority Muslims in the wake of Godhra incident is not established”. (*Page 58 of SIT Conclusions dated 8.2.2012*).
103. While a significant portion of the SIT’s final conclusions submitted before this Hon’ble Court on 8.2.2012 is concentrated on ensuring that some crucial witnesses are discredited (***Pages 408-428***) and despite the fact that the SIT has itself earlier (2010) expressed apprehensions that officers like Pande, Narayan, Mishra and Nityanandam had no reason or motivation to speak the truth about the instructions given within the four walls of the chief minister’s residence, there have been no similar or rigorous efforts made by the SIT to discredit the testimonies of senior police and administrative officials who have actually benefitted from being accomplices with the illegal and anti-Constitutional actions of the Mr Narendra Modi regime.

104. To date, no action is recommended against former Commissioner of Police, P. C. Pande who had first concealed and then produced evidence, both acts which are serious criminal offences under the IPC. Senior government official Anil Mukim too escapes any action for first denying (2010) then confirming (2012) his presence at the meeting.
105. The worst conclusion is the one drawn by the SIT at pg 241-242 of its conclusions submitted before this Ld Court dated 8.2.2012: “Even if such allegations (against Modi) are believed for the sake of argument, mere statement of alleged words in the four walls of a room does not constitute any offence”.

(1) The mindset of A-1 displayed in this meeting became clear from the events that unfolded subsequently.

(2) The claim of Mr RB Sreekumar that Mr Chakravarti had spoken to him on 28.2.2002 about CM uttering these words, Mr Chakravarti denied this conversation. SIT says that it is “hearsay evidence” and cannot be considered as evidence for any action. The duty of SIT was to put the statement of Mr RB Sreekumar and Mr Chakravarti for appreciation before the Ld Court. It is for the Court to decide whether it is hearsay evidence or worthless evidence and not for the Investigating Agency.

(3) The statement made by Mr Haren Pandya before CCT that he was present in the meeting called By A-1 has been refuted by SIT on the ground that Mr Pandya was only a Minister of State for Revenue. His call records show that he was present till 2252 hours within the vicinity of Ahmedabad and could have easily reached Gandhinagar by 2320 hours. The CCT states that the meeting went on for almost two hours. The SIT further says that since there was a strained relationship between A-1 Mr. Modi and Mr. Pandya, he would not/could not have attended the meeting. These conclusions drawn by the SIT are inconclusive and unconvincing. The duration of the meeting can only be established after evidence is led. The itinerary of A-1 shows that he returned to Ahmedabad only at 2230. Mr. Haren Pandya’s call records do not in any way disprove the possibility that he was at the meeting at Gandhinagar. The last call shown for his

mobile number 98240306259 on 27.2.2002 is at 21:11:27 hrs. The duration of the meeting can only be finally determined after detailed deliberations during trial when evidence is led and witnesses are examined and cross examined; it cannot be simply truncated//reduced/pre-judged by the SIT. Each time any evidence has come forward to prove the direct involvement of A-1 Mr. Modi, instead of evaluating it objectively, the SIT has simply recorded the statements of co-conspirators to negate the evidence at the threshold. This is over-stepping the bounds and the role of an investigating agency.

(4) The evidence of Mr. Sanjiv Bhatt has been rejected on the ground that he is a tainted witness and also on the basis of his background in the police department. This again was not within the domain of any Investigating Agency. Only a Court can/could have called a witness "tainted" one. In any case the SIT should not have commented on his personal service in order to reject his statement. While concluding the SIT says that even if these allegations are believed they are mere statements "in the four walls of a room" and therefore do not constitute any offence. Whether the statement under question will constitute an offence or not is for the Court to find out, not for the investigative agency, at this juncture to adjudicate whether a prima facie case is made out. In any case, evidence of a conspiracy, such as the sinister one alleged here is rarely direct evidence and a conspiracy is invariably hatched within the four walls of a room and in secrecy. Moreover the statement of the SIT shows once more the shocking and clear-cut bias of the SIT.

106. The unholy and questionable contact between A-1 Mr Modi and A-21 Mr Jaideep Patel continues right through till 28.2.2002 when the massacres are being masterminded at Naroda Patiya and Gulberg society. At 15:25:06 hours, A-21 Mr Jaideep Patel calls A-1 at his office number (079-32263350) and speaks for 141 seconds. On that day A-1 Mr Modi who is chief minister gets just three calls on this number including this one making a mockery of his claims for prompt action and good governance. On his other official landline numbers, on 28.2.2002, he gets just three calls (0793232611) and on his residence number he gets just two calls (079-3229085). This is while Ahmedabad and Gujarat are burning. The day before on, 27.2.2002 on neither of

his office numbers (07932263350 & 0793232611) he has received not a single call and on his residence number

Non examination of the Role of Accused No 1 as Chief Conspirator
by the SIT

107. There is a statement recorded of Mr. Shankar Menon, retired I.A.S., on 11.5.2010 by IO, SIT, A.K. Malhotra that contains valuable bits of information that have not been investigated further by the SIT. This can be read at **Sr.no.179 Annexure I, Vol.I** in the investigation paper. Mr. Menon who had volunteered his statement before the SIT states that he used to regularly write articles in the newspapers after his retirement, including in *The Asian Age* from 1999 till 2004 to 2005. He states that he used to write on matters related to public services and also related to bureaucracy. He states in his statement before Malhotra after the Godhra train burning incident of February 27, 2002, he hired a taxi from Bombay and visited Godhra around end of March 2002 or beginning of April 2002 to try and get a first-hand account of the whole episode for his weekly column. He states that he went straight to the office of the Collector and met Mrs. Jayanti Ravi. He states that as per his recollection he had fixed up an appointment with her through one of her relatives placed in Mumbai. He states that being of the same class and a junior colleague (IAS hierarchy) she was extensively forthcoming about the entire incident. Menon states that Mrs. Ravi told him in strictest confidence that the fire that led to the incident appears to have started from within the bogey. After the incident, the accused no.1 visited Godhra and the site of the incident and he had closeted himself in the Circuit House with his close political workers and colleagues. She says that though it was a confidential meeting from which she and other government officers were kept out, a recently transferred Dy. Collector who was not recognised by anyone locally found his way into the meeting. At this meeting, the Deputy Collector said he heard accused no.1 say that for every person killed in the train incident, his workers should avenge the death with at least 3 times the number of Muslims. According to the statement of Mr. Shankar Menon, Mrs. Ravi told him that this Dy. Collector who had observed the meeting closely heard the accused no.1 saying that the law and order force would be suitably kept away until the deaths of the killings have been avenged. Mr. Menon states that Mrs. Ravi did not disclose the name of the Dy. Collector,

nor did he ask for the name. It appears clear that the agitation and discomfort felt by DM & Collector has been neutralised or mellowed over time.

108. Mr. Menon also states that after meeting the Collector he made his way to Godhra railway station where he made enquiries about the incidents from the vendors and others available not the platform. Accordingly, Mr. Menon states that the information he gained about the incident was as follows – the train arrived at Godhra station at about 5 hours late being very early in the morning the *karsevaks* got down to the platform for tea and snacks. They aggressively seized tea and snacks and even assaulted a Muslim vendor by pulling his beard. There was a lady waiting with two daughters to board the train. One of the daughters called Sofia aged about 14 years was being dragged into the train by few of the *karsevaks* but she lunged to get away (the railway police recorded the statement of Sofia and her mother but it appears that SIT has not taken this into consideration). Mr. Menon continues his narration by stating that though the train had started it was stopped by pulling of the chain around Signal Falia. A crowd had gathered there and started pelting stones on the train. Meanwhile an explosion from within the bogey no.S-6 resulted in a fire inside the bogey. Mr. Menon also states that his enquiries at Godhra railway station indicated that no one in the Godhra knew that *karsevaks* were passing through Godhra. He states that on his return to Bombay he immediately wrote an article with the caption “Road to Godhra’ in the next Friday issue of *The Asian Age*. He states that some of these facts were published in the said article, but a lot was left out to avoid any legal problems for the publisher. Mr. Menon states in his statement that a copy of this article could be made available from the office of the *Asian Age*. He further states that though he knew about the formation of the SIT he had not volunteered to give a statement earlier since it was a detailed investigation being monitored by the Hon’ble Supreme Court and he expected that all facts related to incidents would emerge in the natural course of investigation. However, a few days before the recording of his statement, he saw reports in the electronic media that some of the despatches of the investigation had been leaked to the media and the Chief Minister, accused no.1, had not been held responsible. He therefore felt that it was important that information that had been divulged to him soon after the incident at Godhra by Mrs. Ravi and others collected

by him when he visited Godhra railway station should be put on record.

109. *It is important to note that the SIT has placed no importance on this statement even though it further corroborates the conspiratorial role of the accused no.1 in ensuring that the Godhra tragedy results in State sponsored violence and should have made the SIT to go into these aspects further. However, in the final statement of Ravi recorded by the SIT (statement dated 13.12.2010, Annexure I, Volume II), she is asked to answer on some of the details. Her replies are vague stating that “She does not recall” if Accused No. 1 had had a meeting with political workers and neither did she recall if he went to the Circuit house at all. Given the seriousness of the allegations, the SIT should have sought out the Deputy Collectors at the time and at least recorded the statement of Vipul Vijay, ATS chief who had been sent by Accused No. 25 then DGP Chakravarti especially to Godhra given the seriousness of the situation. The SIT has not recorded Mr Vipul Vijay’s statement at all. These are serious lacunae in the investigation that need to be rectified through a further investigation.*

Conclusion:

110. Detailed and meticulous planning of a sinister conspiracy to manipulate and use the tragedy at Godhra was hatched from the early morning of 27.2.2002 soon after news of the train burning reached Gandhinagar when Accused No. 1 Modi established contact with co-conspirators, a hasty post-mortem of the bodies of the victims was ordered at the railway yard itself in violations of law and procedure, with Accused Nos 1, 2 and others taking the decision. After which the Bandh Call called by the VHP was formally backed by the chief minister (Accused No. 1) and the party in power. Hate speech by leaders which provoked violent incidents went unchecked. And finally with the bodies, including unidentified ones, being handed over to co-accused Mr Jaideep Patel of the VHP, a well-oiled plan to allow blood thirsty funeral processions in Ahmedabad, Khedbharma, Mehsana and Anand was furthered. Finally the culmination of the sinister conspiracy that was hatched even earlier by the co-accused who had been in close touch with each other took place at the meeting which was held on 27.2.202 at 10.30-11.00 p.m. at C.M. (Accused No. 1) residence at

Gandhinagar, the capital of Gujarat when unlawful instructions were given to intimidate and neutralize the police and administration into criminal inaction. This meeting was attended by Mr K. Chakravarti, DGP Gujarat State (Accused No. 25), Mr Ashok Narayan, Additional Chief Secretary, Home (Accused No. 28), Additional Chief Secretary, Mrs Swarana Kanta Verma, (Mr P.K. Mishra, P.S. to C.M. (Accused No. 31), Mr K. Nityanandam, Secretary, Home (Accused no. 34), Mr Anil Mukim, OSD to the Chief Minister, Mr P.C. Pande, Commissioner of Police, Ahmedabad City (Accused No. 29), Mr Sanjiv Bhatt, then DCP (Security) deputing for his senior ADGP Intelligence GC Raiger and colleague Mr PB Upadhyay (DCP-Communal) who were on leave that day. No minutes for this urgent and controversial meeting that has been called a law and order review meeting were maintained precisely because of its criminal intent. The meeting took place after 2230 hours when Accused No. 1 returned from Godhra.

Accused No. 1, Mr. Modi

111. Evidence of Masterminding the Conspiracy through the *Tehelka* Tapes. A Sting Operation was carried out by the *Tehelka* magazine in October 2007. Since matters were pending before the Hon'ble Supreme Court and co-petitioners in SLP 1088/2008 were unable

to get the tapes validated, the NHRC had in a *suo moto* move ordered their validation/authentication. Mr. Ashish Khaitan, senior journalist had conducted the Sting Operation and has been made a prosecution witness in three of the trials dealing with reprisal killings post Godhra. (Order dated 5.3. 2008 annexed here too as Annexure ----).

112. The tape recorded conversations of several of the masterminds and executors of the state wide conspiracy that was hatched in Gujarat. The conversations in these tapes have made serious revelations. Seven of these interviews point to the direct role of Accused No 1 (A-1, Mr. Modi) in the masterminding of the conspiracy.
113. Sessions Judge Mrs. Jyotsna Yagnik in her Order dated 29.6.2012 in the Naroda Patia trial has relied on this 'Sting Operation' as corroboratory evidence in that case. Mr. Khaitan recorded his statements before the SIT on 27.8.2009 (Annexure I, Volume I, Serial No. 15,) in this complaint. Besides, Mr. Khaitan has been examined so far in three of the criminal trials that are being supervised by the Hon'ble Supreme Court. While two of these are still ongoing it is relevant here to quote from the judgement of the Sessions Court verdict delivered on 29.8.2012 (Chapter II, Sting Operation, page 750 – 839). The relevant paras from page 769 onwards, where the interview of PW 322 Ashish Khaitan in the Naroda Patiya case, with one of those convicted for rape and murder at Naroda Patiya on 28.2.2002, is discussed. In this entire chapter the Judge finds that the *Tehelka* tapes and *Operation Kalank* (the name of the Sting Operation) have been validated and are authentic and while such evidence cannot be the primary evidence against the accused, it certainly can be fortifying, or strong corroboratory evidence.
114. Accused No. 22 in the Naroda Patiya case, Suresh Langda (Richard) Chara, who's claim of murder and raping of women in the said Sting Operation related to the Naroda Patiya massacre also stated that Accused No. 1 (Mr. Modi) had visited Naroda Patiya on the evening of 28.2.2002 around 7.00-7.30 p.m. and congratulated him and others who had executed mass murders and rapes. Quote from the *Tehelka* Sting Operation: "*He (Mr. Modi) went around to all the places...he said our tribe was blessed...he said our mothers were blessed (for bearing us)...*"

115. In another section of the *Tehelka* tapes, Haresh Bhatt, a Bajrang Dal leader in 2002 and thereafter an MLA of the ruling Bhartiya Janata Party (BJP) said, *"I can't give a statement... but what he did, no chief minister has ever done...he had given us three days to do whatever we could. He said he would not give us time after that...he said this openly...after three days he asked us to stop and everything came to a halt..."*
116. A third person on the *Tehelka* tapes, Rajendra Vyas who had been travelling on the Sabarmati express train stated in the sting operation, "He (Mr. Modi) first said that we would take revenge...the same thing I myself had said publicly...I hadn't even eaten anything then...hadn't even had a drop of water...I was in such a rage that so many people had died, tears were flowing from my eyes but when I started using my strength...I started abusing...he (Mr. Modi) said, Rajendrabhai, calm yourself, everything will be taken care of...what did he mean when he said everything would be taken care of?...all those who were meant to understand, understood.."
117. In another section of the *Tehelka* tapes, Arvind Pandya, government counsel before the Nanavati Commission until 2007, when the Sting Operation became public says, "Thereafter, the second hero by the name of ...Narendra Modi...came and he gave oral instructions to the police to remain with the Hindus because the entire kingdom is with the Hindus."
118. Yet another such confession can be found in the *Tehelka* tapes through which A-1 (Mr. Modi) gets directly indicted. Ramesh Dave, a VHP member and strongman says, "We went to the (VHP) office that night...the atmosphere was very disturbing...everybody felt that (we had taken it) for so many years...Narendrabhai gave us great support...in Godhra he gave a very strong statement...he was in a rage...he's been with the Sangh from childhood...his anger was such...he didn't come out

into the open then but the police machinery was turned totally ineffective...”

119. Finally, a former MLA and chief auditor of MS University of Vadodara, Dhimant Bhatt has also stated in the *Tehelka* tapes, “After Godhra, there was this reaction and a certain climate was created in the *parivar* by the top leaders, meaning the RSS, the VHP, the Bajrang Dal, the BJP and the Durga Vahini...and in that we had Mr. Narendra Modi’s support...let people say what they like (we had) support in the sense that if Hindus are going to be burnt like this....if conspiracies are going to be hatched to burn Hindus...they wanted to burn the whole train (the Sabarmati express)...and now if we don’t do anything, if we don’t generate an adequate reaction, another train will be set on fire...this was the idea, the thought that came from him (Mr. Modi)...I was present in the meeting...some 50 people like myself had special permission from the Police Commissioner (A-48, then Commissioner of Police, Mr. DD Tuteja) to move in curfew areas to help...in order to maintain the peace and law and order...that was just an excuse...I am very open...clear (about it)...but how we were to help the Hindus? At that time, there wasn’t even a stick of wood in Hindu homes. So what were we to do?...we took iron pipes...three feet each...iron bars, and if there were people from the Bajrang Dal, then *trishuls*...the Bajrang Dal people had a plan for putting together the *saamaan* (weapons) and we went and supplied them to key persons in various localities...it was very necessary...”

SIT Conclusions on the Sting Operation

120. *The SIT mandated with this sensitive and critical investigation was expected to probe every aspect of the charges against A-1 (Mr. Modi) thoroughly and objectively. Instead, the manner in which the SIT has dealt with the serious allegations made by a) an Accused (No. 22) in the Naroda Patiya case now convicted by a Judgement of the Sessions Court dated 29.2.2012; b) Haresh Bhatt a former MLA and Bajrang Dal leader; c) Rajendra Vyas, a worker of the RSS and VHP d) Ramesh Dave, Vadodara, a worker of the RSS*

and VHP and e) Dhimant Bhatt, an accountant with the MS University and f) Arvind Pandya, advocate for the state government in the Nanavati Commission until 2007 (when he was mysteriously removed following the Sting Operation being telecast) exposes the bias of the SIT. The SIT has not even linked Arvind Pandya's conduct here as an agent of the A-1 (Mr. Modi) in trying to intimidate witnesses and whistleblowers like Mr. R. B. Sreekumar from speaking the truth before the Nanavati Commission.

121. A general query is put to A-1 (Mr. Modi) when his statement was recorded on 27-28.3.2010 (Annexure 1, Volume II, Serial No. 113, Page 450-467) about the Sting Operation. Thereafter, this is what the SIT concludes: "He (Mr. Modi) has further stated that this issue was raised in November 2007, after about six years of incident and that too at the time of elections in December 2007. Further, these issues were again raked up in April 2008 when the SIT was appointed by the Supreme Court. Shri Modi has also stated that this issue was again raised on 22-02-2010, when he was to appear before the SIT for his examination. According to Shri Modi, the whole episode is motivated and stage-managed and that he had no personal knowledge about the authenticity of the said CD."
122. The SIT gives no importance or credence at all to the CBI authentication following the order of the NHRC on 5.3.2008. The CM's itinerary is part of the Investigation Papers at Annexure IV File IX at serial nos 250, pages 3502-3508. This itinerary shows a two and a half hour gap between the press conference at 1800 at Shahibaug Annexe Circuit house and a law and order meeting at the residence of A-1 Mr. Modi at 2030 hours on 28.2.2002. This does not preclude him making a trip to Naroda Patiya at the time mentioned by Mr. Chara, now convicted of rape and murder. Given the fact that the Tehelka tapes have not just been authenticated by the CBI but the Sessions Judge in the Naroda Patiya case has accepted them as evidence, SIT should have been much more thorough and exacting in validating, or rejecting this corroborative evidence against Mr. Modi's direct involvement in the conspiracy.
123. Besides, he did go to Godhra immediately on hearing of the tragedy on 27.2.2002, where the evidence of DM Mrs. Jayanti Ravi and others given to the SIT states that he among others also met

people at the railway yard where he could well have met both Mr. Vyas and Mr. Bhatt.

124. *SIT should have co-related the evidence on the ground – large-scale, planned attacks perpetrated on the minorities while the police in many cases just watched – and thereafter closely cross-questioned police authorities including A-29 (Mr. PC Pande, then Commissioner of Police Ahmedabad), A-48 (Mr. DD Tuteja, then Commissioner of Vadodara) etc. The SIT ought to have made a thorough and exacting analysis of districts like Bhavnagar, Surat and Kutch where similar attacks were planned and attempted, but exemplary conduct from the men and women in charge, Superintendants of Police and others, prevented this violence from escalating and becoming macabre dances of death as they were allowed to in Ahmedabad, Panchmahals district, Mehsana, Kheda, Vadodara, Sabarkantha, Banaskantha and Patan.*
125. *The SIT, by not taking the Sting Operation seriously, moreover a sting operation that had generated vital evidence of conspiracy and the involvement of top accused have shown both unprofessionalism and bias. The Sting Operation has now even been validated by a Sessions Court in the Naroda Patiya case, no thanks to the SIT but thanks to an independent suo moto act of the NHRC in ordering the authentication and thereby the preservation of this crucial evidence.*

Conspiracy and Its Objectives fulfilled through the Free Abuse of Hate Speech

126. The deliberate inaction of the Gujarat government's Home Department under A-1 (Mr. Modi) for the effective control, arresting and stoppage of hate speech and writing was integral to the conspiracy hatched by him. Not only did he abuse his Constitutional position by indulging in speech violative of the law himself (*Amicus Curiae Mr. Raju Ramachandran at Annexure IV, File IV, D-91 dated 20.1.2011 and Annexure IV file X, D-306, dated 25.7.2011*) has recommended his prosecution, but freely allowed his position as chief minister to spread hatred, lawlessness and an atmosphere that was conducive to the most venal attacks on children, women and men. See also *Tables as Annexures-from Annexure III File XIX, D-161* which contains a list of intimations of the State Intelligence Bureau on and before 27.2.2002 warning the

headquarters about the deleterious effects of aggressive and incendiary speech and writing.

Hate Speech by Accused No.1, Mr. Modi
The official press release of the Gujarat Government
at Serial No. 131.

127. Annexure IV File VII of the SIT Record reflects the unashamedly partisan nature of A-1's mindset at a critical juncture when statewide violence has already broken out (from the afternoon of 27.2.2002). *"An unforgiveable, inhuman heinous act has been committed on the soil of Gujarat. This act is an act which no civilized society can forgive. I wish to assure all citizens of Gujarat that Gujarat will not be able to stomach/tolerate/live with such an act. Not only will the guilty get exemplary punishment but such examples will be set that none will ever venture to commit such acts in future."* After this clear and veiled intent that can only be judged by what had been conspired to be unleashed from 27.2.2002 onwards, carefully veiled platitudes continue.
128. *The SIT has failed to examine or evaluate the tenor of this press release nor the others attached in this file though they have been made available and further demonstrate the discriminatory mindset of A-1 Mr Modi.*
129. *Speech of Mr. Modi on 27-28/02/2002 on Doordarshan's Gujarati channel concerning the Godhra incident: (Mr. Modi steps out from the coach and sitting in the conference room): Sarkar taraf thi..... samuhik hinsa ka trasvadi krutya hua. Itni bhayanakta itni krurata jiske liye shabd nahi hai. Sarkar ne mrutakon ke parivar ko 2,00,000 rupaye dene ka nirnay kiya hai. Sarkar koi bhi kadam uthane se hichkegi nahin aur gunehgaro ko puri saza milegi. (Tr: The government.....a collective terrorist act was perpetrated There are no words for such cruelty, such barbarism. The government has decided on a compensation of Rs 2 lakh for each of those who have lost their lives. The government will not hesitate to take any necessary step and the culprits will be severely punished).*
130. The Editor's Guild Report of 2002 also mentions the transcript of the March 1, 2002 interview of the Chief Minister on Zee television

wherein he openly speaks of the “Action-Reaction” theory, to a substantive extent justifying the post-Godhra Violence. This Report also speaks of congratulatory letters written officially by the Chief Minister’s Office to newspapers like the *Sandesh* praising them for a certain kind of writing. Incidentally, those Gujarati language newspapers that were critical of the state government and had even reported about distribution of alcohol and arms in areas on the night of February 27, 2002 were “not congratulated by the CM or the CMO.” (Annexure III, File II, D-5 pages 1-251 of the SIT papers)

- a. On 1 March 2002, while violence had broken out all over Gujarat, in an interview to *Zee News*, Mr. Modi made the following remark: “*Kriya pratikriya ki chain chal rahi hai. Hum chahte hain ki na kriya ho aur na pratikriya* (The process of action and reaction is on. I would say if action doesn’t happen there would be no reaction).” In the same interview, Mr. Modi also stated that Godhra Muslims had criminal tendencies and they were behind the gruesome Sabarmati train fire incident. He added that the riots in Gujarat were a natural reaction to that. “*Godhra ke is ilake ke logon ki criminal tendencies rahi hain. In logon ne pahle mahila teachers ka khoon kiya. Aur ab yeh jaghanya apraadh kiya hai jiski pratikriya ho rahi hai*” (Tr: “People in this area of Godhra have criminal tendencies. First, these people killed a woman teacher. And now they have committed this heinous crime”).

Hate Speech by A-1 (Star News: News) Sunday, 10. 03. 2002

131. Zakia Naseem Jafri (wife of late Ehsan Jafri): “*Woh is aas mein hi reh gaye ki police aayegi. Lekin police ko na aana tha, na aayi.*” (Tr: He perished in the hope that the police would arrive. But the police was not going to come and it did not come.
132. A-1 Mr. Modi’s statement of 01. 03. 2002: “*Vaise aaj ke akhbaaron ne purani ghatanaon ko quote kiya hai, Gujarati akhbaaron ne, ki pehle bhi kis prakar se vahaan se private firing hue hain. Aur kis prakar se logon par aatank phailane ka prayaas bhootkal mein hua hai, is society se. Iska, jo purani ghatanaon se Gujarat ke log jaankar hain, woh saara report hua hai. Lekin is bar bhi, jo Gulberg society hai, vahaan par private firing hua, private firing ke baad*

mamala bigada.” (Tr: “Today’s papers have quoted previous incidents, Gujarati papers, of how there have been earlier incidents of private firing there too. And how, an effort was made from this society, in the past, to spread terror among the people. People were familiar with the earlier incidents, all this has been reported. But this time also, there was private firing at the Gulberg Society, after the private firing, things went out of control”).

133. Narendra Mr. Modi: *“Pehli baat hai yeh jhootha statement hai jo mere munh me dala gaya hai. Maine hamesha yeh kaha hai ke jab main Godhra pahuncha, wahan ka drush dekha aur mujhe laga sthiti bigad sakti hai aur tatkal maine police department ko suchna di, home department ke sabhi logon ko, ki tatkal poore pradesh mein logon ko arrest kar liya jaye, jo is prakar ki mansikta wale hain, aur 27 tarik raat ko hi 800 se adhik logon ko round up kar liya gaya. Main kisi bhi - chahe ghatna Godhra ki ho ya Godhra ke baad ki ho- kisibhi sabhya samaj ko yeh ghatna shobha dene wali nahin hai. Aur na hi koi susanskrit manav samaj mein aisi ghatnaon ke liye koi sthan ho sakta hai. Mera poora vakya sun lijiye, maine yeh kaha hai ki gussa kitna hi gehra ho, chot kitni hi gehri ho, lekin lok tantra mein kanoon apne haath mein lene ka adhikar nahin hai. Maine yeh kaha ki democratic way main kisi ko apna gussa jataane ke raaste hamare samvidhan mein hain...Dekhiye, main koi bhi shabda bolta hoon, agar aapne mujhe crucify karna tai kiya hai to aap case banaa sakte hain. Mujhe aap batayenge ki 24 tarikh ko ghatna kyon nahin ghati, 25 ko kyon nahin ghati? 28 ko kyon ghati? To sidhi baat hai, Godhra ki ghatna thi. To is baat ko bhul kar ke aap stories nahin kar sakte hain. Aur sahi baat yeh hai ke mukhyamantri ke nate mera dayitva banta hai ki logon ko kahna ki kanoon haath mein lene ka adhikar aapko nahin hai. Maine baar baar kaha hai ki kanoon ko mazboot kijiye. Agar kanoon ko mazboot karenge to gunahgaaron tak pahunchne ki suvidha badegi. ... Aap dekhiye, Gujarat mein 4,000 log arrest hue hain, 4,000 log. Aur aap ko yeh malum hona chahiye ki jab Gujarat mein communal violence hoti hai to 3-3, 6-6 mahine chalti hai – Gujarat mein communal violence hote hain to (ignores question about how many of the arrested are VHP/BD members) logon ko kitni pareshani uthani padthi hai. Yeh pehli baar communal violence hai, jo 72 hours mein control kiya gaya hai. Aur pehle din 1,000 rounds fire kiya gaya hai, 15 se adhik logon ko police firing mein mara gaya hai... to 72 hours mein communal riots control kaise hui hain,*

yeh mujhe samjhaiye. Agar control nahin kiya hota to 72 hours ke andar yeh communal riots control kaise hote?...dekhiya koi figure badh nahi raha hai, yeh pehle, dusre din ki ghatnaon ki jankari jud rahi hai. Yeh pehla communal riot hai, jo 72 hours main control hua hai. Yeh pehla communal riot hai jis mein police ne firing karke 100 logon ko maara hai, Yeh pehla communal riot hai jis main tear gas se zyaada goliyan chalayi gayi hain. Yeh pehla communal violece hai jiske andar 4,000 se adhik logon ko round up kar diya gaya hai. Police ka agar action na hota to yeh sab kaise bantaa?"

134. (Tr: "For one, these are false words, which have been put in my mouth. I have always said that when I reached Godhra, saw the sight there, I thought that the situation could get out of hand and I immediately informed the police department, all the people at the Home department that people throughout the state should be arrested, whoever has this kind of mentality, and on the night of 27.2.2002 itself, 800 people were rounded up. Whether it is the incident at Godhra or the incidents post-Godhra, it does not befit any civilised society. And nor can there be any place for such incidents in a cultured human society... (about understanding the anger) Listen to my complete sentence. I had said that however deep the anger, however deep the hurt, democracy does not give the right to anyone to take law in his hands. I said that there are ways in our constitution to express our anger in a democratic manner... See, whatever I say, if you have decided to crucify me, then you can build up a case. You tell me, why did this incident not occur on the 24.2.2002, nor on the 25th? Why did it happen only on the 28th? It is simply because of the incident at Godhra. So you cannot ignore this fact and make stories. And the real thing is that as Chief Minister, it is my duty to tell the people that you do not have the right to take the law in your hands. I have repeatedly asked them to strengthen the law. If you strengthen the law, then it will become easier to reach the criminals... Please note that 4,000 people have been arrested in Gujarat, 4,000 people. And you should be aware that whenever there is communal violence in Gujarat, it lasts for 3-6 months, whenever there is communal violence (ignores a question about how many of those arrested are VHP/BD members) people have to face hardships. This is the first time that the communal violence has been controlled within 72 hours. And on the first day, 1,000 rounds were fired, more than 15 people were killed... So please tell me, how were the communal

riots controlled within 72 hours? If we did not control, then how were the communal riots controlled within 72 hours? ... Look here, casualties are not increasing. These are just the information (on the incidents) of first and second day, adding up. This is the first communal riot to be controlled within 72 hours, this is the first communal riot where the police has killed 100 people in firing, this is the first communal riot where more bullets have been fired than tear gas shells, this is the first communal violence where more than 4,000 people have been rounded up. If there had been no police action, then how was all this made possible?”)

135. *It is worth reproducing here the contents (English translation) of the speech made by A-1 Mr. Modi at Becharaji on 9.9.2002. (Speech on the occasion of Gaurav Yatra Page 272)*

Verbatim of Public Speech delivered by the Chief Minister, Shri Narendra Modi, at Becharaji (Mehsana district of Gujarat State) on 9.9.2002, as part of Gaurav Yatra:

136. “The procession of prestige (Gaurav Yatra) has now reached the holy land of Becharaji, from Fagwel, by blowing the bugle of self-respect of Gujarat. This is the holy place of power (Shakti), the power for extermination of Ashuras. We have resolved to destroy and stamp out all forces of evil who are a threat to the self respect of Gujarat. A set of people, who are not concerned about ordinary Gujarati citizens, are keen to impede progress of Gujarat State and its future, are out to defame Gujarat State. In this holy land of Becharaji, let the 5 Crores Gujaratis acquire such power and energy, which will build tomorrow’s prosperous Gujarat. There is allegation against us that we are Hinduwadis. Oh! brothers, for the development of Becharaji Devi temple, our Govt. has allotted 8 Crore Rupees. Is it a crime done by us? Have we become communal by allotting 8 Crore Rupees for the development of Becharaji? Our Congress friends have come out with another charge. They say, this Narendrabhai has brought Narmada water to Sabarmati river and this man is so much clever that he brought the water in the month of Shravan (a holy month for Hindus). My dear brothers, we built the dam and so water is available. Let me ask a question to my Congress friends, if water is brought during Shravan month, those mothers / ladies residing on the banks of Sabarmati river can take bath in Narmada water and feel holiness and

blessedness. Then what is painning them? Since, we (means BJP) are here, we brought water in Sabarmati during the month of Shravan, when you are there, you can bring it in the month of Ramdan (the holy month of Muslims). When, we brought water in the month of Shravan, you feel bad. When we spend money for the development of Becharaji also, you feel bad. What brother, should we run relief camps? (referring to relief camps for riot affected Muslims). Should I start children producing centers there, i.e., relief camps? We want to achieve progress by pursuing the policy of family planning with determination. We are 5 and our 25 !!! (*Ame panch*, *Amara panch*, referring to Muslim polygamy). On whose name such a development is pursued? Can't Gujarat implement family planning? Whose inhibitions are coming in our way? Which religious sect is coming in the way? Why money is not reaching to the poor? If some people go on producing children, the children will do cycle puncture repair only? "If we want to develop Gujarat, every child born in Gujarat should get education, enlightenment, livelihood and the economic order should be built up accordingly. For this purpose, there is a need for teaching a lesson to those people, who are expanding their population (hinting at Muslims). If we object to the explosion of population, they feel bad. Can somebody tell me, is there any nation like ours? Is China ruled by BJP? Still China had enacted a law to curb population explosion. Here some people say no no, are we religious fundamentalists. Brothers, in this matter, how religion is involved? In Gujarat, Madrasas are coming up in large numbers. The children have right to get primary education. But, Madrassa going child are deprived of primary education. What will such a child do, when he grows up? Suppose, normal education is not available and only religious education is available, will it not be a burden on Gujarat. We are scrutinizing Madrassas from Kutch (district) onwards. Now these people may say that we are communalists. If West Bengal Govt. puts restrictions on Madrassas, it is secular, but when it is done in Gujarat, how do we become communal? Any institution needs regulation. If we want peace in Gujarat, we have to make long term plans. We cannot permit merchants of murder to freely operate in Gujarat. I am sitting in the holy place of *Shakti* (energy), at the lotus feet of Becharaji Mata. I want to assure you that I may lose the chair tomorrow or today. But, I will not allow those plotting to destroy Gujarat and harm the innocent, to carry out their plans. Gujarat wants happiness, Gujarat wants peace, 5 crore Gujaratis

are united and progressing. The days of somebody like Dawood Ibrahim sitting in Karachi and playing games of murder and destruction are over. We will not permit it. For what purpose is all this done? My chair may go today or tomorrow. We are not sticking to the chair with fevicol. Brothers, we are sitting at the feet of the Gujaratis. If the people feel that this person (referring to himself) will work, then they will put him as their head. And if the people don't feel, then they will kick us out. Brothers, we are a set of people, who are always at your service. The Congress is afraid of going to the people; they do not want the election. Oh brothers, if you do not want the election because you are going to be defeated and so you want to delay the holding of election? Smt. Indira Gandhi was afraid of going to the election. Therefore, she extended the tenure of the Parliament to 6 years. Why don't you do the same thing? But you are afraid of doing that. What do you talk? There are disturbances in Gujarat. The people of Gujarat indulge in riots. If you don't want to face election you have no right to abuse 5 crore Gujaratis. This is not acceptable to us. If you have courage, brothers, why don't you bare your chests and face us in the battle field of election? Why do you run away? If one has to run away, we have to do it. There is propaganda is against me throughout the world. It is done by you (Congress men). We are willing to go to the people and you are running away from the people. Why don't you go to Italy? Go, and offer *aarti* (offering by holy flame) to the Election Commission. You are shouting, stop elections, stop elections! Oh mother! Stop elections! Oh Congress friends! We have put the dust from the feet of 5 crore Gujarati on our head. We are one with them and we are proud of telling that. We are not cheats. If you go to collect the dust from the feet of the people of Gujarat they will kick you. We have no selfishness. This daughter of Italy (Sonia Gandhi) had given us open certificate that we had insulted the land of Mahatma Gandhi and Sardar Patel. We have to demand your answer in this matter. How much did you insult Sardar Patel? The Nehru dynasty of Congress people, develop fever hearing the name of Sardar Patel. You may feel sad, but Sanjay Gandhi was no great man other than being the husband of Maneka Gandhi. But, there is *samadhi* of Sanjay Gandhi at Rajghat. Oh my Brothers and Sisters of Gujarat! Sardar Patel does not have a *samadhi* (in Delhi). We feel very sad about it. You Congress people, you are toiling for effacing out the name and image of Sardar Patel, but I warn you. Beware, if you try to wipe out the fame and name of Sardar, we are here to sacrifice

our lives for keeping the flag of Sardar at high pedestal. We believe that, if we have to do good of the Nation, we have to adopt the path of Sardar Patel. If you want to save Kashmir, you have to walk in the path of Sardar Patel. If you want to bring unity in Gujarat, you have to adopt the path of Sardar Patel. If you want to contain and check the merchants of murder, we have to follow the path of Sardar Patel. Our motto is to pursue the path of Sardar. There are people bent upon destroying Gujarat. We have come out for awakening the self-respect of Gujarat. If we raise the self-respect and morale of 5 crore Gujaratis, the schemes of Alis, Malis and Jamalis (referring to Muslims) will not be successful to do any harm to us. These 5 crore Gujaratis will decide about their future. The buffoons of Delhi will not decide the future of Gujarat. In Delhi, there is a crowd of Ex. Prime Ministers, who are sitting idle. In the evening, these Ex. Prime Ministers meet. They issue Fatwa (royal proclamation) that in Gujarat the Rathyatra of Jagannathji should not be taken out. We asserted that it will be taken out. In Gujarat, if the Rathyatra of Jagannathji is not taken out, whose Rathyatra should come out? People sitting in Calcutta (referring to the communists) do not want the Rathyatra to come out. It will be better to go out of the Govt. instead of not taking out Jagannath Rathyatra. I don't care if I lose political power and authority. We have decided that Jagannath Rathyatra will be taken out. Then, the whole crowd of Congress people rushed to Delhi, to Madam (Sonia Gandhi), appealing. Madam, save us! This Narendra Modi is a mad man, and we cannot compete with him. Save us, solve the problem of Narendra Modi. Madam said, what happened? Stop Jagannath Rathyatra, if the Rathyatra of Jagannathji is taken out Gujarat will burn, Muslims will be massacred, there will be wide spread hue and cry, stop the Rathyatra of Jagannathji, stop the Rathyatra of Jagannathji, stop the Rathyatra of Jagannathji. When Congressmen told this thing to Madam, finally she asked, brothers, tell me this Jagannathji is belonging to which political party? Is this Jagannath Rathyatra like Advani's Rathyatra? (The Congress men replied), Oh Madam, this Jagannath is not worker of any Party. Jagannath is God (Bhagwan). Does Bhagwan Jagannath belong to any Party? See, such (ignorant) people are set out for serving the Nation !!! Mahatma Gandhi used to say "Drive away these white men", "Oh white men, quit our Country". But, what did Congress do? Oh white people, please come, be our Congress President, Oh white people, please come, be our Congress President. Congress

is like a Dharmashala. They (Congress men) are set out for destroying Gujarat. Therefore, there is a need for awakening the self-respect of Gujarat. In this holy place of Mother Goddess, let us pray to God to bestow us fresh energy, let there be new ideas. By serving Mother India, let us make Gujarat also proud. We should enhance and brighten the image and identity of Gujarat. Hail Mother India! Hail Mother India! (Bharat Mata Ki Jai!), Vande Matram, Vande Matram, Vande Matram (Salutation to the Mother).

137. *Note:- From perusing the above there is a clear cut design behind the deliverance of such a speech by the chief minister, who swears an oath of allegiance to the Indian Constitution. It is clear from a close perusal of the speech that there is a desire to create hatred and ill-will towards the minority. For example:*

--- *We have resolved to destroy and stamp out all forces of evil, who are a threat to the self respect of Gujarat. (Comment- This is clearly an indirect justification of a policy of carnage against the minorities after the tragic Godhra incident).*

--- *Let me ask a question to my Congress friends, if water is brought during Shravan month, those mothers / ladies residing on the banks of Sabarmati river can take bath in Narmada water and feel holiness and blessedness. Then what is paining them? Since, we (means BJP) are here, we brought water in Sabarmati during the month of Shravan, when you are there, you can bring it in the month of Ramdan (the holy month of Muslims). (Comment- The Holy Month of Ramzan and observance of Roza are one of the Five Pillars of Islam hallowed in the Holy Koran. The mens rea (motive) behind making this reference in the speech can be clearly deduced.*

--- *What brother, should we run relief camps? (referring to relief camps for riot affected Muslims). Should I start children producing centers there, i.e., relief camps? We want to achieve progress by pursuing the*

policy of family planning with determination. We are 5 and ours are 25!!! (Ame panch, Amara panch, referring to the claim that every Muslim family produces five children).

138. *These remarks from the highest elected representative in a state are nothing short of an attempt to ridicule the plight of refugees from the minority community who were dis-housed because of widespread violence that was not contained. Refugees in relief camps included victims of mass massacre, rape and arson. State complicity at the highest level has been judicially held responsible for the sustained spread of the violence. Therefore, ridiculing the camps and thereafter lacing the statement with the poisoned stereotype of the alleged Muslim aversion to family planning during an election campaign clearly has a motive. This statement also projects the Muslim minority as a stumbling block to progress and patronises an 'us versus them' mindset among the populace that then becomes easy fodder for incitement and the outbreak of communal violence). On the whole, the speech displays a definite communal bias, denigration of the minority community, ridiculing and belittling of the Holiest Scriptures of the minority community particularly the Five Pillars of Islam, the Holy Month of Ramzan and observance of Roza. These references will certainly germinate a sense of hatred, ill-will and exclusivism towards the Muslim minority in the minds of the majority community. The claim that nothing happened in the form of riots after the speech is irrelevant, dangerous and untenable because the sense of exclusivism and sectarianism obvious in the tone and tenor of the speech not only goes against the concept of emotional integration of the Indian people but also engenders an intense feeling of alienation among the Muslims towards the Hindu community.*
139. *In this perspective the speech of the chief minister is injurious to the Preamble of the Indian Constitution and Particularly Article 51-A that is the Chapter on Fundamental Duties and a Violation of Indian criminal law.*
140. Available at Annexure III, File III, D-2, pages 1- 4 of the SIR papers are the critical notings of the State Intelligence Bureau under ADGP, RB Sreekumar showing the correspondence with the National Commission for Minorities (NCM). The field officers of the

SIB notings on the speech clearly find it can incite hatred and violence.

141. *SIT viewed that there was no criminality in the CM speech. SIT has turned a blind eye to the unethical and objectionable efforts of the state government in suppressing the reporting of this speech to a statutory body like the National Commission for Minorities (NCM). Former ADGP, Mr. RB Sreekumar had sent the copy of the speech and the State IB's comments on it to the NCM. This report of the SIB, based on the field officers of the SIB who were present when the speech had been delivered, had commented that the tone and tenor of the CM's speech could vitiate the prevailing atmosphere and adversely affect social harmony. Please see the following documents (1) Third Affidavit Page 14-15 para 12 of Mr. RB Sreekumar's (2) Annexure F of Third Affidavit (Register) entry against dates 10 to 18 Sep 2002. (3) Fourth affidavit page 50 para 4 entry against date 17/9/2002. (4) Former DGP RB Sreekumar's appeal letter to SIT dated. 30.11.2010 Page 22 para 9 sub para I, V.*
142. *The copies of message from the National Commission for the Minorities (NCM) containing contradictory orders from A-25 then DGP Mr. K. Chakravarti were also submitted to SIT. However, without professionally assessing the facts narrated by Mr. Sreekumar and giving any reasons, SIT has simply rejected this evidence. The motive of the SIT has clearly been to reject any bit of substantive evidence that validates the serious charges against A-1 Mr. Modi. SIT has gone further and accepted the CM's version and exonerated Mr. Modi from any liability for his speech containing communal prejudice. The conclusions that the SIT arrives at are unconvincing as the speeches are aggressive and full of mal-intent.*
143. *However, SIT commits another round of prevarication and vacillation when it at one point states that: "It is to be stated that Mr. Modi has clearly stated in his Zee TV interview that it was late Ehsan Jafri, ex- MP, who first fired at the violent mob and the provoked mob stormed the society and set it on fire. In this interview he has clearly referred to Jafri's firing as 'action' and the massacre that followed as 'reaction'... It may thus be seen that in spite of the fact that ghastly violent attacks had taken place on Muslims at Gulberg Society and elsewhere, the reaction of the*

government was not the type that would have been expected by anyone. The above discussion also shows that the chief minister had tried to water down the seriousness of the situation at Gulberg Society, Naroda Patiya and other places by saying that every 'action' has an equal and opposite 'reaction'.... (Mr. Modi's remarks) implied justification of the killings of innocent members of the minority community... in spite of the fact that ghastly and violent attacks had taken place on Muslims at Gulberg Society and elsewhere, the reaction of the government was not the type that would have been expected by anyone. The chief minister had tried to water down the seriousness of the situation at Gulberg Society, Naroda Patiya and other places by saying that every action has an equal and opposite reaction." (Page 69 of Malhotra's Report, dated 12.5.2010).

144. *"Mr. Modi's statement accusing some elements in Godhra and the neighbourhood as possessing a criminal tendency was sweeping and offensive coming as it did from a chief minister, that too at a critical time when Hindu-Muslim tempers were running high." (Page 13 of SIT Chairman's comments on Malhotra's Report, dated 14.5.2012).*
145. *"His (Mr. Modi's) implied justification of the killings of innocent members of the minority community read together with an absence of a strong condemnation of the violence that followed Godhra suggests a partisan stance at a critical juncture when the state had been badly disturbed by communal violence." (Page 153 of Malhotra's Report, dated 12.5.2012)*
146. *While Shri Modi told the SIT his speech did not refer to any community; it was a political speech in which he highlighted the increasing population of India, the SIT had observed that "The explanation given by Shri Modi is unconvincing and it definitely hinted at the growing minority population." (SIT Malhotra's Report, dated 12.5.2012).*
147. *The Amicus Curiae, Mr. Raju Ramachandran finds the words spoken by the chief minister an offence, an incitement to violence and hatred against a particular section of the Indian people. But in its final report dated 8.2.2012, the SIT finds that no criminal offence*

has been committed and recommends a closure on these allegations.

148. *The SIT does a turnaround in its final report dated 8.2.2012. It is strange and inexplicable that in its Conclusions submitted before the Learned Magistrate dated 8.2.2012, the SIT now states that “As per Mr. Modi’s version, he had not and would never justify any action or reaction by a mob against innocents. He had denied all allegations in this regard.” Zee TV never sent a copy of the interview, says the SIT. Zee TV correspondent, Chaudhary told the SIT the Editors’ Guild report contained only excerpts and he did not have the original CD. He did recollect Mr. Modi’s reply that a mob “had reacted on account of private firing done by Jafri”, the SIT says. Chaudhary told the SIT Mr. Modi was of the view that he wanted neither action nor reaction. Mr. Modi reportedly said, “Godhra mein parson... pratikriya ho rahi hai,” but Chaudhary could not recount the exact sequence. (Pg 482-483, SIT Conclusions submitted before the Learned Magistrate on 8.2.2012).*
149. *SIT however comes to an objectionable conclusion. “As regards the public speech delivered at Becharaji, Mehsana district on September 9, 2002, as a part of Gaurav Yatra, Mr. Modi has explained that the speech did not refer to any particular community or religion. According to Mr. Modi, this was a political speech in which he has pointed out the increasing population of India and had remarked that ‘can’t Gujarat implement family planning?’ Mr. Modi has claimed that his speech has been distorted by some interested elements, who had misinterpreted the same to suit their designs. He has also stated that there were no riots or tension after his election speech. No criminality has come on record in respect of this aspect of allegation. (Page No. 272 of the SIT Conclusions submitted to the Learned Magistrate dated 8.2.2012).*

Inaction on Hate Speech as Part of the Conspiracy, Self-Confessions and Hate Speech Un-investigated by SIT

150. In a shocking interview given by him, Accused No. 23 Professor KK Shastri publicly confirmed the VHP’s diabolical plan hatched with the full inspiration and masterminding by A-1 Mr. Modi. (See Annexure of Interview that is also available at

[\[http://www.rediff.com/news/2002/mar/12train.htm\]](http://www.rediff.com/news/2002/mar/12train.htm). Conducted by Sheela Bhatt it was an interview with K.K. Shastri, the 96-year-old President of the Gujarat unit of the VHP, on the rediff.com portal. It makes chilling reading. According to Mr. Shastri, the list of Muslim-owned shops was prepared on the morning of February 28. It was done as *“we were terribly angry (over Godhra). Lust and anger are blind”*. *“Hindutva was attacked. This is.... a tremendous outburst that will be difficult to roll back”*. Further, *“we can’t condemn it because they are our boys”*. Shastri added, *“The VHP has formed a panel of 50 lawyers to help release the arrested people accused of rioting and looting. None of these lawyers will charge any fees because they believe in the RSS ideology”*. (See Annexure III, File II, D-5, Report of the Editor’s Guild of India).

151. According to this Report, Mr. Shastri is said to have denied making these remarks. The two VHP Joint General Secretaries, Dr. Jaideep Patel and Dr. Kaushik Mehta also contradicted the report, making out that Mr. Shastri was old and hard of hearing. They rejected the theory that Muslim premises were targeted. However, journalist Sheela Bhatt has the tape and the SIT instead of investigating this clear evidence of the conspiracy that was hatched between Mr. Modi, the RSS, VHP, BJP among others simply dismisses these charges with a line *“Prof. Shastri is now dead.”*

152. *However the SIT made no effort at all to record Sheela Bhatt’s statement. The text of the rediff.com story as reproduced by “Mainstream”, Delhi, is at Annexure 3 of the Editor’s Guild Report, Annexure III, File II. The Editor’s Guild Report adds that the tenor of the April issue of “Vishwa Hindu Samachar” published by Rashtra Chetna Prakashan and edited by Mr. K.K. Shastri lends credence to what he told rediff.com. A two-page article therein praises “Chhote Sardar” Mr. Modi for his handling of Godhra and its aftermath. Shastri had among other things told Bhatt that, “that the list of shops owned by Muslims in Ahmedabad was prepared on the morning of February 28 itself. Mr. Shastri was replying to an allegation that shops in Ahmedabad were looted on the basis of a list prepared by the VHP in advance and that the violence was not a spontaneous outburst against the carnage in Godhra. “...A scholar of the Mahabharat and a highly respected literary figure of Gujarat”, Mr. Shastri said in a tape-recorded interview, “In the*

morning we sat down and prepared the list. We were not prepared in advance."

153. *Lacunae in SIT Investigation: SIT ought to have analysed professionally all the statements, interviews delivered by powerful leaders of the above-mentioned organizations at the time, any magazines (including Hotline and Vishwa Hindu Samachar, pamphlets etc used widely by the VHP and RSS and thereafter arrived at a professional conclusion as an investigating agency. Mr. RB Sreekumar had provided a bunch of the most incendiary pamphlets distributed by the VHP at the time. These have not only been deliberately ignored by the SIT but do not find a space in the investigation papers. They are being filed as Annexure This aspect is also a matter for the further investigation that should be ordered by this Ld Court.*

SIT Avoid Exploring the Mens Rea of Mr. Modi (A-1)

154. *The non-seriousness of the SIT investigation despite the fact that a unique and responsible duty had been put on it by the Hon'ble Supreme Court is evident when the investigating agency makes no effort at all to interrogate the mens rea of Accused-1, Mr. Modi. As elaborated above, A-1 Mr. Modi had won from the Rajkot Assembly seat only 35 days before 27.2.2002. Newspaper reports mentioned above and Annexed hereto show that A-1 Mr. Modi won by a slender margin. Among the vigorous campaigners at Rajkot was former CPI leader and Congress MP, Ahsan Jafri who had warned of the "evil and Machiavellian character of A-1 Mr. Modi that boded ill for the state." Mr. Modi's cold and calculated actions in deliberately not allowing any protection to reach Gulberg Society at Meghaninagar stemmed from the deep seated vendetta sentiment he held because of his narrow electoral victory that could as well have meant a defeat. Moreover, the fact that as reported in the newspapers, it was Rajkot's Muslims that ensured a slim margin for a man with a megalomaniac attitude is the mens rea of vindictiveness towards Muslims of Gujarat whom he clearly wanted to teach a lesson. SIT if its probe had been thorough and non-partisan would have surely explored the mens rea behind the serious crimes A-1 Mr. Modi is accused of. (See attached clipping of Gujarat Today dated 22.2.2002 at)*

Statement of A-1 Mr. Modi recorded on 27/28.3.2010

155. *The SIT recorded the statement of A-1 Mr. Modi on 27/28.3.2010. He was not questioned more than once, that too casually about the decision to transfer of bodies of those who died in the train fire in a motor cavalcade to Ahmedabad.*
156. *SIT does not put any questions to A-1 about his immediate calls to A-21 Jaideep Patel soon after he learned of the Godhra incident. He is not asked or questioned about the illegality and irregularity of the state government and party in power supporting the Bandh called by the VHP on 28.2.2002 and 1.3.2002.*
157. *No questions are put to him about the hasty decision to hold a post-mortem out in the open in the railway yard in full view and in the presence of an aggressive crowds of VHP workers; SIT does not pose any questions on the illegality and haste with which the bodies were disposed off in violation of laws and rules simply with a view to enable communal mobilisation and the parading of dead bodies in aggressive and violent funeral processions.*
158. *No question is asked regarding the first information of the Godhra incident that had clearly indicated provocative slogan shouting of the kar sevaks and why the state home department headed by him had manipulated the version thereafter blanking out any reference to provocation caused;*
159. *SIT's questions on the build-up prior to 27.2.2002 are benign and not probing enough, especially given the indications and evidence of arms distribution etc. even before 27.2.2002; A-1 Mr. Modi was also Home Minister and was therefore bound to have seen all important messages and communications on build-up, provocative behavior of kar sevaks, the VHP etc even before 27.2.2002. In fact, he was legally obliged to know and answer. But to his great convenience SIT simply does not pose these questions to him.*
160. *DM and Collector Jayanti Ravi has clearly asserted that Jaideep Patel was present at the official meeting at the Collectorate. When SIT asks A-1 of this, he simply states "I do not remember" and that it was a "collective decision to take the bodies to Ahmedabad." He is not queried further on the legitimacy he gives the strongman of the VHP, a rabidly communal organization.*

161. *No serious questions about the brutality and daylight killings and rapes at Ahmedabad; the non-responsiveness of highly placed officers, the non-responsiveness of the Fire Brigade; the utter and abject failure of the police department under his charge. SIT poses no questions on the serious allegation that he conspired to intimidate and terrorise the bureaucracy and police.*
162. *No questions are put to him on the discriminatory mindset displayed by Mr. Modi in deliberately announcing less compensation for the victims of the post-Godhra reprisal killings and more to the Godhra train fire victims. No questions on the sharp criticism that his government had drawn from the National Human Rights Commission (NHRC) and the Supreme Court of India.*
163. *SIT puts no question to him on why until 2004 the scope of Inquiry for the Nanavati Commission was kept limited, excluding any exploration of the “role of the chief minister and cabinet.” It was only after a change of government that an additional term of reference was preemptively issued in response to change of government at the Centre.*
164. *In a slip that suggests a guilty mind, and certainly a leak in the manner in which the SIT has been functioning with relation to this probe, A-1 Mr. Modi, when asked about the meeting of 27.2.2002 denies that he had issued unlawful instructions but also volunteers without being asked, “Sanjiv Bhatt was not there”. SIT does not draw any adverse inference from this. The contradictions on the use of mobile phones are left non- confronted by the SIT as also the absence of any punitive action against IPS, IAS officers and other public servants for failing to perform their duty.*
165. *During further investigation, post-March 2011, SIT does not go back to A-1, Mr. Modi, to seek further clarifications!! The routine and non-probative nature of all the questions is revealing. No questions are put to A-1 on the vindictive targeting of all the whistleblower officers and rewarding of those who functioned unlawfully – after all, responsibility stopped with him as head of the Home Department who decides all matters related to their confidential records, service records, transfers, pensions etc.*

166. *Strangely, while A-1 Mr. Modi clearly reacts and denies his 'action – reaction' interview to the Times of India (1.3.2002), he claims memory loss at Sudhir Choudhary's interview on Zee TV that was very questionable. Choudhary also proves himself to be a useful ally by 'not recalling' the interview.*
167. *There are no inconvenient questions on transfers of officers who did a good job and the fact that the Ahmedabad transfers especially that of A-29 (then Commissioner of Police PC Pande) was only transferred after KPS Gill was sent to Gujarat by the Mr. Vajpayee-led NDA government in May 2002 simply because the violence was deliberately not controlled by A-1 Mr. Modi and his government. On 15.4.2002, A-29 (Mr. Pande) writes a revealing letter to A-28, (Mr. Ashok Narayan) and A-25 (then DGP, Mr. K Chakravarti), both co-accused in the present complaint, informing them of the criminal and provocative behavior of a minister in A-1 Mr. Modi's cabinet: minister for food and civil supplies Mr. Bharat Barot. No question is put to A-1 Mr. Modi on this, neither are any questions asked about the consistent and widespread rowdy behavior of the RSS, VHP, BJP, BD cadres obviously with his sanction. The explanation of the sickening speech made by A-1 Mr. Modi at Becharaji Mehsana on 9.9.2002 exposes the competence and bias of the SIT. Since April and right until August 2002, the State Intelligence department is pushing the state government to take lasting and corrective measures but A-1 Mr. Modi is adamant. SIT does not probe this satisfactorily nor the charge that he wished to order a spate of extra-judicial killings of sections of the minority post the reprisal violence of early 2002. Subsequent events have shown that such a sequence of events did unfold with a coterie of officers falling in line with the illegal instructions of A-1 Mr. Modi. Ironically some of them, including Mr. OP Mathur, are those the SIT uses to discredit key whistleblower and witness in the complaint, former DGP Gujarat Mr. RB Sreekumar. By June 2002, direct interference in the investigations of key 2002 carnage cases can be seen, the NHRC passes strictures as does the Chief Election Commission (CEC); powerful accused are being openly and brazenly saved but yet the SIT is protective of A-1 Mr. Modi during its much publicised questioning. A-25 (then DGP Mr. K Chakravarti) admits during his statements to the SIT that then ADGP, Mr. RB Sreekumar's transfer was directly because the State Intelligence Bureau under*

him had written strong comments on the video speech delivered by A-1 Mr. Modi at Becharaji in 9.9.2002 and the fact that this news got leaked to the media. SIT however sees no reason to draw any conclusions from the motivated actions of the government and home department under A-1 Mr. Modi. The blinkered approach of SIT is all too evident in how it chooses to discredit all those whistleblowers who have given evidence directly implicating A-1 Mr. Modi in serious crimes.

Please refer to the Annexure ----- with Detailed Records of Hate Speech of Dr. Praveen Togadia, Accused No. 20 (A-20)

168. “Incidents like this (Godhra) show the psyche of a community. What was the reason for the pilgrims who were attacked when they came from Amarnath? What was the reason? That is the psyche, I say...communal violence can be checked only (when we understand) why this incident happened, who did it, what is the psyche behind it? This should be studied”. — *Acharya Giriraj Kishore; (Newshour, Star News, 27 February 2002.)*

169. (Star News: Newshour) Friday, 01. 03. 2002) Dr. Praveen Togadia (Secretary General, VHP International): “In (a) democratic pattern we at the same time we must exercise all our democratic right to agitate..... It will be agitation till the completion of the construction of a Ram temple. It is the question of our faith and faith cannot be challenged by anybody. It is the duty of the political party to respect... and they are surrendering to blackmailing by Muslim vote-bank!I will quote Mr.. Vir Sanghvi, editor of The Hindustan Times – ‘We secularists are programmed to see Hindu–Muslim relations in simplistic terms. Hindus provoke, Muslims suffer. It is clear now that there are Muslim mob-murderers on Hindus...’ – and we are talking... (SN: How long do these murders carry on?) We must consider that it is *jehadi* terrorist activity, which is responsible for this violence... (SN: Dr. Togadia, an eye for an eye and a tooth for a tooth would make the entire world go blind and toothless...) I am not asking a tooth for a tooth. It is not tooth. Hindus are unarmed. And you secularist people are always defenders...”

170. (Star News: What's on the government's mind? That's what the country wants to know. Is it to restore peace and then talk to the VHP? What's the strategy that the govt. has up its sleeve?)

Co-Conspirators and Accused

171. Acharya Giriraj Kishore (Vice-President, VHP): (Panel Discussion) (Incidents like this (Godhra) show the psyche of a community):
“What is the reason for the pilgrims, they were attacked when they came from Amarnath? What was the reason? That is the psyche, I say!” “Communal violence can be checked only...why this incident happened, who did it, what is the psyche behind it? This should be studied.”

(AT: News) Wednesday, 27. 2. 2002)

172. Train burning at Godhra, Violence in Gujarat; VHP, Government in conflict on Ayodhya. Mr. Gordhan Zadaphiya (Home Minister, Gujarat): “*Ye ghatna subha 7.20 ko jo Sabarmati train aati hai Faizabad se, woh Panchmahal zilla ke Godhra head Quarters jo yahan hain capital vahan par aayi. Aur woh jaise hi vahan platform se thoda aage chali – aadha km. bhi nahi hoga – woh train ke uppar patharao hua. Patharao hone ke baad usme aag jani ke sare padarth jaise petrol, diesel, vagerah - Pehle se pre-planned lagta hai – aur immediately pura 5-6 number ka dibba hai woh jalaya gaya. Aur usme aabhi tak, ye jo dead bodies hum ko recover hui hain, yeh 57 hain. Usme 25 mahilayien aur 15 bachche hain aur 17 kariban purush hain in sab ko – yeh dead bodies yahan se recover kiye hain. Aur yahan se hum log Ahmedabad civil hospital ko bhej rahe hain... yeh danga nahi hai, dango mein aamne saamne jo sampradayik daange hote hain, usme retaliation hota hai. Isme to sirf pre-planned, organized aur pehle se hi saari chizen jaise ki tayar hoti hain. Aur ise hi shanonmen ghatna ban na – woh lagta hain ki organize prakar ka ek crime hai. Aur ye bilkul amanviya, aisi ghatna bacche aur mahilayon ke saath aisa drushya jo kiya gaya hai woh bahut gambhir hai.... (On arrest) haan ji, 30 – 40 logon ke kariban shanka ke adhar par hum log ne kiya hai. Aur yahan par aur karavahi chal rahi hai jiski aur jo naam kuch vagerah hain, woh log yahan par karvahi kar rahe hain ... tanavto hain saare rajya mein, lekin ghatna – apriya ghatna jo hai... Godhra mein to bilkul shanti bani hui hai aur rajya mein bhi shanti bani hui hai. 1-2*

chut-put ghatnaein koi Ahmedabad aur Anand vagerah mein, Baroda mein hui aur uske baad rajya mein vaisi stitithi tanav purna hote huye bhi abhi tak shant hai.” [Tr.: This incident took place when at 7:20 in the morning, the Sabarmati Express which arrives from Faizabad to the Panchmahal district Headquarters, Godhra, which is the capital – it arrived here. And as soon as it left the platform and moved a bit further, about half a kilometre or so, the train was stoned. After the stoning, all the inflammable material like diesel, petrol etc. were thrown in – looks like a pre-planned incident – and immediately the S6 coach was set on fire. And so far, the dead bodies recovered from there are 57. In that there are 25 women and 15 children and about 17 men. All of them, these dead bodies have been recovered from here. And from here, we are sending them to the Ahmedabad Civil Hospital... This is not a riot – in a riot there is a confrontation – in a communal riot, there is retaliation. This is simply pre-planned, organised and as though all things have been prepared in advance. And for the situation to develop in a matter of minutes – it looks like an organised sort of crime. And this is absolutely inhuman, to do this to women and children – this is very serious... (on arrests) Yes, we have (rounded up) about 30-40 suspects. And there is further action being taken here. Those who are suspected and some names – they are working on it... There is tension throughout the state, but Godhra, where this ugly incident took place, is completely peaceful. And the state is also peaceful. 1-2 minor incidents have happened in Ahmedabad or Anand etc., or in Baroda but by and large, the situation is tense but as yet peaceful.)

(SN: News) Sunday, 10. 03. 2002).

173. Dr.. Jaideep Patel (Joint Secy., Vishwa Hindu Parishad, Gujarat):
“Woh to swabhavik hai, jo log aaiye hain aur is mein lakhon, 15-20,000 log hain. To pakad ke le jaaye police 15-20,000 logon ko. Har ek jagah, harek police station mein 10-15,000, 10-15,000 logon ko pakad ke le jaaye.” (Tr.: The people came spontaneously (on the roads) and there were lakhs, 15-20,000 of them. So let the police arrest 15-20,000 people. Everywhere, at every police station, let the police arrest 10-15,000 people each.)

Call to Arms Other examples of Hate Speech on 27.2.2002

174. Terming the attack on Sabarmati Express at Godhra in Panchmahal district of Gujarat as a “pre-planned, violent act of terrorism”, chief minister Mr. Modi said the state government was viewing the incident “very seriously”. (*PTI, 28 February 28, 1:02:51 a.m.*)
175. “As soon the train left the platform and moved a bit further, about half-a-kilometre or so, it was stoned. After the stoning, inflammable materials like diesel, petrol etc. were thrown in – looks like a pre-planned incident – and immediately the S6 coach was set on fire... This is not a riot. In a riot there is a confrontation, in a communal riot there is retaliation. This is just pre-planned, organised and as though all things have been prepared in advance. And for the situation to develop in a matter of minutes – it looks like an organised sort of crime...” — *Gordhan Zadaphiya, minister of state for home, Gujarat (Aaj Tak, 27 February 2002.)*
176. Union home minister L K Advani on March 4, 2002 said the Godhra mayhem was a “pre-meditated attack” and described the arson that followed as “nothing but communal violence.” Mr. Advani told a crowded press conference here that while the Godhra incident was the result of a “pre-meditated” plan, the subsequent killing spree “was nothing but communal violence.” (*Daily Pioneer, 4 March 2002.*) “This has never happened in the history of independent India. Hindu society will avenge the Godhra killings. Muslims should accept the fact that Hindus are not wearing bangles. We will respond vigorously to all such incidents.”—Dr. *Praveen Togadia, international general secretary, VHP; in an interview to Hotline in Ayodhya.*
177. LUCKNOW: Chairman of the Ram Janmabhoomi Nyas, Mr. Ram Chandra Paramhans has warned of a possible Hindu backlash. “These unarmed *kar sevaks*, who were merely chanting Ram *naam*, were peacefully going back to their homes,” Paramhans said, adding that a reaction to this attack by “Islamic *jihadis*” could not be ruled out. (*The Telegraph, 28 February 2002.*)
178. “The violence during the bandh was a result of natural outpouring of anger and grief over the Godhra massacre.”— *VHP vice-president, Acharya Giriraj Kishore, on the morning of 28 February 2002; (in The Times of India.)*

179. “Whoever stays with us will benefit. You can see the results in UP. In this country whoever stays with the Hindu community and Hindutva, will benefit, or they will suffer.”— Dr. Jaideep Patel, *joint secretary, VHP Gujarat and an accused in the Naroda Patiya massacre in Ahmedabad; (Newshour, Star News, 27 February 2002.)*

Evidence Ignored by the SIT about A-1, Mr. Modi

180. Vital evidences provided by the Complainant and Co-Petitioners in SLP 1088/2008 were deliberately ignored by the SIT. Phone call records of A-1, whether it was the official mobile that he said he was assigned at the time (and which number he did not remember!!) or even the chief minister’s official landline and residential numbers were not analysed or provided. They provide a scandalous picture. A-1 Mr. Modi’s official landline numbers (Residence and Office – see below) show negligible phone calls on the critical days when Gujarat burned. (See attached Graphs). This simply could not have been possible given that 14-19 districts were seriously racked by violence. The only conclusion that this data forces is that it means that the man at the helm was, as part of the conspiracy at the helm masterminded by him, deliberately inaccessible to anyone desperate for help. In actuality, “*Nero fiddled while Gujarat burned.*” (*Supreme Court’s Justice Arijit Pasayat in the Best Bakery judgment, April 2004*).

Strange Story behind A-1 Mr Modi’s Call Records (27.2.2002, 28.2.2002)

181. A-1 Mr Modi has hardly any calls on any of his landline numbers. Office or residential. Given the acute emergency that a tragedy like Godhra must have caused and the post Godhra violence this is inexplicable, even suspicious, *SIT has simply avoided scrutiny or questioning altogether.*
182. The day of the Godhra incident A-1 Mr Modi receives precisely one incoming call from PA AP Patel (on 0793229085) but no calls at all on his other residence numbers : 0793232601, 0793232602, 0793232603, 0793232604. On his sixth landline number, 0793232605 there is one call from an unrecognized number. His office tells a similarly surprising story. No calls on numbers, 07932263350 or 0793232611 on 27.2.2002,

183. *There is no call record available which means that “no” calls were made or received or these records are being deliberately withheld. Or was the phone unavailable? SIT did not even think it worthy to go into this.*
184. On the next day, 28.2.2002, as the state burned and the massacres begin there are two calls received on his office nos, one of which is from Accused–21 Dr. Jaideep Patel. A-1 Mr Modi’s residence number records two incoming calls (0793229085) from his CMO, Tanmay Mehta & A. P. Patel. There are three unrecognized calls on his second residential number, 0793232601 on 28.2.2002, three calls on his third number, 0793232602 again unrecognized, two incoming calls at his fourth residence number, 0793232603 from unrecognized numbers, no call record on 0793232604. The sixth residence number of A-1, 0793232605 has no call record. For the same day, 28.2.2002, when former parliamentarian Mr Ahsan Jafri, husband of the Petitioner is said to have called him several times just to be abused and humiliated before he was hacked to death there are six pristine calls at his office number, 7932263350 and three more incoming calls including from A-1 Jaideep Patel and his CMO Sanjay Bhavsar (twice). There are three incoming unrecognized calls on the office number 0793232611 of A-1.
185. *A-21 Jaydeep Patel is a faithful caller to A-21 on the day the massacres are being carried out in Ahmedabad. He is an accused charged with incitement and murder in the ongoing Naroda Gaam trial. A-21 Jaideep Patel calls A-1 Mr Modi from 9825023887 at 15:25:06 when the massacres at Gulberg and Naroda have been largely completed.*
186. Establishing a Chain of Command Responsibility In cases of mass violence of this kind, where conspiracy and complicity have taken place, it is necessary to examine closely the failures of the state machinery right from the local area level to the zonal, divisional and state level. It is also imperative that this exercise is followed by the police, administration and the police hierarchy. *The SIT has simply not applied these principles treating all incidents as disparate and unconnected.*

187. From the records submitted to the SIT by co-petitioners related to analysis of data from phone call records of the Chief Minister's coterie that but for the fact that this data had been provided to the SIT, the investigating agency would have ignored it completely.

Chief Minister's Office (CMO)

Name	Designation	Phone No..
Tanmay Mehta	OSD To Chief Minister	9825000837
O. P. Singh	OSD To Chief Minister	9825000836
Sanjay Bhavsar	OSD To Chief Minister	9825037432 / 0795460888 (R)
Anil Mukim	Addl. Principal Sec To CM	9825049391 / 0796407739 (R)
A. P. Patel	PA To Chief Minister	9825037439
J.M. Thakkar	PRO To Chief Minister	9825037429
Harsh Brahmbhatt	General Administration Departments Dy. Secretary (Ser)	9825000620 / 0795464988 (R)
P. K. Mishra	PS To The Chief Minister	9825095142
A. K. Sharma	Secretary to CM	9825037435
Dinesh Thakore	PA to CM	9825000838

Co-Conspirators in Touch

188. Detailed phone call record analyses were prepared and supplied to the SIT by the co-complainant (Annexure IV, File V and VI of the SIT paper). It is only after the call records details provided to the SIT by the complainant and other sources that SIT put questions regarding the phone call records and the analysis. Mr. Zadaphiya admits that two calls had been received by him on his mobile phone on 2203 hrs and 2208 hrs from the mobile of Mr. Omprakash Singh, P.A. to the Chief Minister. He admits that it is possible that the Chief Minister could have spoken to him. Mr. Zadaphiya also

admits that his phone call records reveal that he had called and spoken to Dr. Jaideep Patel once on 27.2.2002 night and Jaideep Patel had called him on his mobile three times that night. The SIT has let the timings of these calls remain vague. Mr. Zadaphiya claims that he left Godhra by car on 28.2.2002 around 3 a.m. which was around when the motor cavalcade carrying the dead bodies was nearing Ahmedabad. He says he reached Gandhinagar around 5 a.m. He says that he recollected that he had attended the State Assembly proceeding from 8.30 a.m. to 8.40 a.m. when homage was paid to the victims of the Godhra incident. The house was thereafter adjourned to 1.3.2002. After going through the records of the Vidhan Sabha he clarifies that the assembly did not meet between 1.3.02 and 12.3.202 and he was unable to explain the reason for not holding the Assembly sessions on the critical days after Godhra as per the Standing agenda of the budget session. He could not answer why the Assembly did not re-convene until 14.3.2002.

189. The phone call records and analysis of MOS Home, accused no 5, Mr. Gordhan Zadaphiya clearly shows that he was in close touch with Dr. Jaideep Patel (*12 calls were exchanged between them on 28.2.2002*), two calls with Dr.. Maya Kodhani and 26 calls with Mr. R.J. Sawani, then DCP, Zone V, and 7 calls with Mr. Bipin Panchal. Mr. Bipin Panchal and Dr. Jaideep Patel have been accused and charged for fomenting rioting. There were also constant phone calls between various co-accused that included accused no.1 and his office (CMO), accused no. 29 (Mr. P.C. Pandey, then C.P., Ahmedabad), accused no. 33 (Mr. M.K. Tandon, then additional C.P.) and many to Mr. Zadaphia.

Discriminatory Mind-Set of Accused No. 1, Mr. Modi

190. It was not only that Accused No. 1 spewed barely veiled venom in his speeches. His actions have been no less discriminatory. He immediately announced Rs 2 lakhs compensation to the relatives of those who had been killed in the fire. From 27.2.2002 itself Accused No. 1 was charged with a discriminatory mindset that was violative of Article 14 and 15 of the Indian Constitution when a) he announced disparate amounts of compensation for the victims of the Godhra tragedy and the post-Godhra reprisal killings; b) when his police applied POTA on the Godhra case but determinedly

diluted the gravity of the large-scale genocidal killings perpetrated by mobs; c) the terms of reference of the judicial commission of inquiry appointed by the government deliberately excluded from its examination and purview “the role of the chief minister and the state cabinet in the violence”. This was expanded only in July 2002 after a change of government at the Centre.

191. A-1 Mr. Modi self-admittedly visited the hapless victims belonging to the minority community only on 5-6.3.2002 despite Ahmedabad being close to Gandhinagar while he went to Godhra 300 kilometres away the same day. No explanation was sought for him by the SIT.
192. *SIT: The Chief Minister showed a discriminatory attitude against one group of the victims of violence. (ii) In the SIT's first Investigation Report dated 12.5.2012 the SIT says: “Narendra Modi, chief minister, has admitted to visiting Godhra on 27 February 2002. He has further admitted to visiting Gulberg Society, Naroda Patiya and other riot-affected parts of Ahmedabad city only on 5 March 2002 and 6 March 2002... This possibly indicates his discriminatory attitude. He went to Godhra, travelling almost 300 km in a day, but failed to go to the local areas, where serious incidents of riots had taken place and a large number of Muslims were killed.” (Page 67 of Malhotra's Report, 12.5.2010).*
193. *SIT states that “Mr. Modi did not cite any specific reasons why he did not visit the affected areas in Ahmedabad city as promptly as he did in the case of the Godhra train carnage.” (Page 8 of Chairman's comments on the Malhotra's Report, dated 14.5.2010).*
194. When Accused No. 1 is charged with a discriminatory and unconstitutional mindset because he announced only Rs. 1 lakh to be paid to those innocents massacred all over Gujarat post-Godhra, he tried to justify the discrimination stating that there is difference between terrorist attacks and communal violence and the attack on Sabarmati express on February 27 fell in category of terrorist attack." (March 7, 2002, *The Times of India*). (See *Annexures.....*) As if the state-sponsored violence unleashed on innocents was in any way less an act of terror. The National Human Rights Commission had sharply criticized Accused No. 1 Mr. Modi and the government of Gujarat for this brazen display of a

discriminatory mindset. “(xii) The Commission has noted the contents of the Report on two matters that raised serious questions of discriminatory treatment and led to most adverse comment both within the country and abroad. The first related to the announcement of Rs. 2 lakhs as compensation to the next-of-kin of those who perished in the attack on the Sabarmati Express, and of Rs. 1 lakh for those who died in the subsequent violence... This decision, in the view of the Commission, should have been taken on the initiative of the Government itself, as the issue raised impinged seriously on the provisions of the Constitution contained in Articles 14 and 15, dealing respectively with equality before the law and equal protection of the laws within the territory of India, and the prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.” (See Annexure, the Report of the National Human Rights Commission, 2002).

195. Mr. Modi showed a hostile and discriminatory mindset when at several junctures between February 2002 (when violence was unleashed) and December 2002 (when elections took place) he tried to forcibly shut down Relief Camps and in a disgraceful episode even calling them “Baby Producing factories” during his election launch speech at Becharaji in Mehsana.

Co-Conspirators

196. There is a mysterious bit of evidence from the phone call records that could have some serious implications. Unfortunately despite being provided with it, the SIT has chosen to ignore it altogether. The phone call record analysis shows the Locations of Powerful Accused at Sites of Violence a Day Prior to their Outbreak:

LOCATIONS OF POWERFUL PERSONS AND ACCUSED AT NARODA

197. Locational details of key persons from the CMO and influential politicians who are found through the Locations of their Mobile Phones to have been located at the Narol, Naroda area on the day of the Godhra train burning while the Chief Minister was at Godhra. In all the depositions before the Nanavati Commission, senior policemen have averred that the reason why Naroda Patia was attacked and burned in broad daylight for several hours was the fact that this was *not a traditionally communally sensitive area and*

therefore was left under-manned. Yet, it transpires that key persons are found located here. Why?

NAROL, NARODA 27.2.2002

198. From about 09:52:53 Mr. Ashok Bhatt, cabinet minister for health accused (No. 2) of ordering the carrying out of hasty and illegal post-mortems at Godhra in an open railway yard and who was also sitting in the city control room and preventing policemen from doing their duty on 28-2-2002 was, from the locational records showing on his mobile phone, at Naroda-Narol. At 09:55:24 on 28.2.2002 around the time the massacre began, Mr. Bhatt was at Narol, Naroda. He received three calls there. Another key person from the coterie of the chief minister, Mr. Tanmay Mehta, PA to the Chief Minister who was also there at Naroda at 1602 hrs Mr. OP Singh, PA to the chief minister, was also there at 16:02:25 and the two were in touch with each other. Mr. Ashok Narayan, Additional Home secretary also accused in the Zakia Jafri Complaint (A-28) was also present at Narol, Naroda at 5:41:32, and so was Mr. IK Jadeja, minister (A-3) there at 17:35:25.

Analysis of Location of Key Persons at Meghaninagar 27.2.2002

199. Close members of the chief minister's cabinet and coteries were at Meghaninagar on 27.2.2002 where the Gulberg Society that was attacked the next day is located. Why were they there especially when the defense of top level policemen to explain the attacks on Gulberg and Naroda has been that these are not traditionally communally sensitive localities of Ahmedabad? What then were these people doing there? Since some of those here were also at Godhra (!) it appears that their mobiles were given for someone else's use. Why has SIT not probed this fact?
200. At 15:48:39 Mr. Ashok Bhatt (919825039877), minister for health was here and around the same time Mr. Anil Mukim, Additional Principal Secretary to the chief minister was also here at 15:33:40. Mr. Mukim was also here at 16:02:02 and then again that night at 22:01:18. Others present there at Meghaninagar which is the jurisdiction area where the Gulberg society is located the day the chief minister was in Godhra was Mr. OP Singh, PA to the chief minister at 15:48:16. Mr. PK Mishra, Personal Secretary to the chief

minister is also present at Meghaninagar at 15:48:11 on 27.2.2002 and so also is Mr. Tanmay Mehta, PA to the chief minister (at 15:35:01).

MEGHANINAGAR

201. What were six persons from the CMO, Mr. Anil Mukim, Mr. OP Singh, Mr. Tanmay Mehta, Mr. Sanjay Bhavsar, Mr. AP Patel and Mr. JM Thakkar doing in the Meghaninagar area between 1400 to 1700 hours on 27.2.2002 while the CM Mr. Modi was at Godhra? Had they left their mobiles behind? With whom? *Interestingly among policemen who are in the same area on 27.2.2002 are Mr. PB Gondia, DCP Zone IV who is there are 00:36:26 that is on the early morning of that day. The SIT has not even bothered to examine why so many of the powerful coterie around A-1 and many co-accused were at two locations where the worst violence happened the next day. At all stages, the defense for the lack of adequate control of marauding mobs in broad daylight when they attacked Naroda Patiya and Gulberg has been that these are traditionally not the communally sensitive parts of the city. Why then were so many persons located there? Why did SIT choose to ignore the leads provided by the petitioners?*

28.2.2010

202. Startlingly, on the day of the Gulberg and Naroda Massacres, i.e., 28.2.2002 persons from the CMO, Ministers Mr. Ashok Bhatt, A-2 and Mr. IK Jadeja, ACS Mr. Ashok Narayan, A-28 and even DGP Mr. Chakravarti are shown through an Analysis of the Mobile Phone Records to be Located in these areas of Ahmedabad City.

- Early Morning (5.10 a.m.) Ashok Bhatt, Narol, Naroda
- Afternoon (3.41 p.m.) Ashok Narayan, Narol, Naroda
- Afternoon (3.56 p.m.) Tanmay Mehta (CMO), Narol, Naroda
- Afternoon (3.56 p.m.) IK Jadeja , Meghaninagar
- Evening (5.10 p.m., 5.14 p.m., 5.57 p.m.) Ashok Bhatt Narol, Naroda

- Evening (5.40 p.m.) AP Patel (CMO)
Meghaninagar
- Evening 7.24 p.m. Harsh Brahmbhatt (CMO)
Narol Naroda
- Evening 7.26 p.m. Harsh Brahmbhatt (CMO)
Meghaninagar
(See Tables in Annexure --- --)

Phone Record Contact

203. There are a total of 35 records available for the Mobile Phone No. of A-25, then DGP, Mr. Chakravarti (9825048301) for 27.2.2002. Accused No. 5, MOS Home, Mr. Zadaphiya and he speak thrice (8:54:29 hours, 98 seconds; 9:10:18 hours, 121 seconds; 14:43:27, 106 seconds), with Accused 29, Mr. PC Pande at 0925048303 seven times (11:5:42, 131 seconds; 11:38:41, 74 seconds; 12:48:16, 48 seconds; 15:50:55, 65 seconds; 17:28:05, 107 seconds; 21:13:28, 52 seconds); and CMO to accused No. 1 at Anil Mukim, Addl principal secretary to CM at 09825049391 twice (15:33:40, 29 seconds; 15:37:57 seconds, 29 seconds). Mukim had accompanied Accused No. 1 to Godhra and this was the time the two were on their way. K. Nityanandam, Secretary, Home, (A-34) is actually in charge of law and order in the state at the time. Telephone calls made by him are as follows:

Phone Call Records Contact (27.2.2002)

204. Phone call records of Mr. Dinesh Togadia, brother of Accused No. 20 Dr. Praveen Togadia, international general secretary of the VHP show that of the 48 call records available for that day, he is in touch with DCP, RJ Savani (21:31:25 hours, 117 seconds) and also with Accused No. 16 Dr. Maya Kodhani, sitting MLA from Naroda convicted for 28 years to life imprisonment for being part of a conspiracy to distribute weapons, incite violence at Naroda Patiya (13:59:37 hours, 11 seconds, 14:38:49, 26 seconds). This establishes that key persons of the ruling BJP and VHP were in close touch around the time their compatriots were hatching and furthering the conspiracy to bring the bodies to aggressive processions, still at Godhra.

205. SIB messages dated 27.2.2002 state that many of those injured kar sevaks who reached Ahmedabad after the Godhra tragedy around 1600 hours by the same Sabarmati Express, were taken for treatment to the Dhanvantri Hospital run by the brother of A-20 Dr Praveen Togadia. Violence also broke out thereafter.
206. Accused No. 5 and co-conspirator, MOS Home, Mr. Zadaphiya had given several statements to the SIT. The first one is dated 24.9.2009, the second one is dated 24.10.2009, the third one is dated 28.10.2009 after which he gives a 33-page statement in writing. There is thereafter a further statement recorded by the SIT of Mr. Zadaphia on 21.2.2012. In his statement to the SIT dated 24.9.2009 he states that he has been a member of the RSS and remains one since 1975 and joined BJP as a district secretary at Bhavnagar in 1990. He states that he was first appointed as Minister of State for Home after Mr. Modi was brought in as chief Minister in 2001. Recounting the incident of 27.2.2002, the accused no 5 states that it was Mr. Ashok Bhai Patel, a VHP activist travelling by the same train who had informed him over the telephone from Godhra at about 7.30 a.m. and told him of the fire in the compartment in which Kar sevaks were killed. He states that he immediately spoke to Mr. Modi and informed him about the incident to which he said that he was already aware of the same. He further says that he did not do anything else. Zadaphiya then claims that he spoke to SP Godhra, Mr. Rajiv Bhargava (Accused No. 46), enquiring about the incident. He claims that Mr. Bhargava informed that the Sabarmati express train has been attacked at which point he told the SP to save Kar Sevaks and other passengers. The SP told him that he had very few policemen and asked for additional forces. Mr. Zadaphiya states that he told Mr. Bhargava that he would speak to the Range IG, Mr. Deepak Swaroop and arrange for additional forces as well as SRP from Godhra itself. He thereafter contacted Mr. Swaroop and directed that additional forces be arranged. Mr. Swaroop (Accused No. 40) told him that he himself had left for Godhra and had already made arrangements for additional forces to reach Godhra. He then left for the Assembly. On being shown a copy of the minutes of the Gujarat assembly on 27.2.2002, Mr. Zadaphia states that on 27.2.2002 a calling attention motion related to Godhra had been moved by Mr. Panjabhai Vansh, MLA which came up for discussions at 1 p.m. However, he was not present and therefore Dr. Maya Kodnani MLA from Naroda was

allowed to speak on the issue by the Speaker. Zadaphiya states that by this time he had received a note which he read in the Assembly. This was the Note prepared by the Home department (See Annexure III, File XLI, D-196, Sr. No. 5) He says that his statement was based on information available with the Home Department at that point of time. Zadaphiya also says that accused No.1 made a statement that government was considering a proposal to pay compensation of Rs.2 lakh to families of those killed.

207. Zadaphiya states that after making his statement in the Assembly, he went to his bungalow to collect his belongings and left for Godhra by road around 2 p.m. He states that his P.A., Mr. Ghanshyam Haripriya accompanied him in the car. He also requested that Vipul Vijay, then IG, ATS and his team to go to Godhra and he followed him a separate car. (SIT has not recorded the statement of Vipul Vijay). Zadaphiya states that he also requested the DGP to direct the jurisdictional officers all over the State to ensure that no untoward incident took place. Zadaphiya claims that he reached Godhra at 4.30 p.m. by which time Accused No. 1 was due to reach and as per protocol he directly first proceeded to the helipad to receive him. Accused No. 2 Mr. Ashok Bhatt and Mr. Bhupenbhai Ladhawala had already arrived there. After the arrival of the Accused No. 1, they straightaway drove to civil hospital along with other senior officers to see the victims and talked to the doctors as well as the victims about their treatment etc. It was only after this that Accused No. 1 proceeded to the scene of the incident at the Godhra Railway station. By this time two of the burnt bogies had been decoupled from the Sabarmati Express and were lying in the yard. He says there was a big mob of VHP leaders, relatives of the victims and other private persons who had gathered. The VHP leaders and public were very angry and had started shouting slogans at them. Zadaphiya says he asked them to calm down, some of the bodies had already been removed from the spot. At this point Zadaphia clearly says that he spotted Dr. Jaideep Patel and Mr. Ashwinbhai Patel near the railway track and the group inspected the burnt bogies. After this, according to Mr. Zadaphiya he accompanied Accused No. 1 to the Collectorate where they had a meeting about the incident with officials around 6 p.m. Members of the press were also present to put some questions to the Chief Minister to which he replied. According to Mr.

Zadaphiya while this meeting was on, he came out several times and instructed the police offices to round up people who were responsible for this incident. Accused No. 1 also impressed upon the police officers to take stringent action against the accused responsible for the carnage. Mr. Zadaphiya clearly states here in his statement that at this time, the issue related to the transportation of the dead bodies from Godhra to their respective places was discussed but he says that he does not know who decided to transport the dead bodies to Ahmedabad. He states that the Accused No. 1 (Mr. Modi) left for Gandhinagar around 7.30 p.m. by helicopter while he stayed back at the Godhra circuit house. He states that he held a meeting with ATS officers as well as local police officers. Mr. Zadaphiya admits that he was in close contact with Accused No. 21, Dr. Jaideep Patel, then Jt. Secretary of the VHP who had called him four times on his mobile while at Godhra.

208. As per his recollection, Dr. Jaideep Patel was calling a meeting to arrange for intimation to the relatives of the victims about the incident. Though minister of state for home and close conspirator in the events at the time, Mr. Zadaphiya claims he does not know who decided to transport the dead bodies of the victims to Ahmedabad by road. But he admits that he came to know about this at night and also came to know that Dr. Jaideep Patel had accompanied these dead bodies. He claims loss of memory for reasons why he was in touch with Jaideep Patel of the VHP that day!

Dr. Jaideep Patel, accused No. 21 (A-21)

209. Dr. Jaideep Patel recorded his statement before the SIT on 15.2.2010. In the statement he states that he was an active member of the VHP since 1988 and remained Joint Secretary of Gujarat unit from 2001 to 2007. He states that he received information about the burning of the railway coach at Sabarmati Express at Godhra over the telephone on 27.2.2002 between 8.50 a.m. and 9 a.m. He claims that he received this information on his mobile phone from some of the Kar Sevaks who were travelling by Sabarmati Express and he was informed that the train had been attacked; set on fire and that some of the Kar Sevaks had also died because of burning injuries. He said that on receiving this information, in the office of the VHP at Paldi, Ahmedabad, he discussed the matter with other members and office bearers and it

was during this meeting that it was decided that he should go to Godhra to deal with the situation. He says in his statement that he did not want to go alone and hence he went with Mr. Hasmukh Patel, Secretary of the eastern wing of the VHP of Ahmedabad. Leaving Ahmedabad around 10 a.m. he was joined by Hasmukh Patel according to his statement at 1045 at Sonichawl and they reached Godhra at around 12.30 p.m. They stopped at the Civil Hospital, Godhra. He states that it was here that he met the injured Kar Sevaks who had sustained burn injuries and adds that Mr. Prahlad Patel in- charge of Bajrang Dal, Mehsana, was also admitted here. In all 17 injured Kar sevaks had been admitted at the civil hospital and among these were Mandakiniben Bhatia and her husband. He states that he spent some time with the injured persons and then proceeded to the site of the incident at Godhra station by which time he claimed that Sabarmati express had left for Ahmedabad after the compartment which was set on fire was detached and taken to the railway yard.

210. Dr. Patel admits in his statement that it was he along with the VHP workers, and not the policemen or the fire brigade who took out the dead bodies out of the compartment and put them on to the railway platform. He also states that the police prepared the Panchnama of the dead bodies and the post mortem was carried out by the doctors arranged by the police. He claims loss of memory about meeting any of the co-accused ministers of the Gujarat government – Mr. Ashok Bhatt, Mr. Gordhan Zadaphiya, Bhupen Latthawala. He stated that he did not meet the Chief Minister and accused No.1 though he subsequently learnt that he had visited Godhra. He states that one MLA from Godhra whose name he does not recollect was with him in Godhra. He also states that he met some local administrative and police officers whose names he does not remember and he requested them to hand over the dead bodies of Kar Sevaks for transportation to Ahmedabad. He states that it was the district official who acceded to his request to be handed over the bodies and accordingly a letter was prepared by the Mamlatdar and Executive Magistrate in his name specifying the details of the dead bodies and the trucks. He states that he has acknowledged receipt of the dead bodies. He states that he briefed the lady Collector of Godhra around 2300 or 2400 hrs and that a police escort had accompanied them on the way to Ahmedabad. He further states that the convoy reached Sola hospital between 3.30

a.m. and 4.00 a.m. on 28.2.2002. At this stage he stated that he handed over the letter that he was carrying to Mr. Prajapati, Dy. Collector and the administrative and the police officers had been busy with the preparation of the panchnama and other papers. At this stage according to Dr. Patel relatives of those who have died in the Godhra carnage were also present. *(The third phone message of the police states a large crowd of around 3,000 had gathered and these were members of the RSS)*. It is very likely therefore that Dr. Patel and his colleagues had informed people to await the arrival of the bodies in Ahmedabad. 35 of the 54 bodies were identified and handed over to the relatives by 1300 hrs. Dr. Patel now states that Mr. Amit Shah, MLA from Sartej and Dr. Maya Kodnani came to Sola Civil Hospital and the mob according to Dr. Patel thrashed them for failing to protect the lives of Hindu Kar Sevaks. After 1300 hrs, Dr. Patel gives details about how photographs and DNA samples of the remaining 19 dead bodies were taken by hospital authorities. *(The SIT does not appear to have collected these photographs or DNA sample reports and attached with the paper for investigation)*. This is a matter for further investigation to be ordered by this court. Dr. Patel further states that 19 of the dead bodies were cremated at Gota cremation ground by the district administration and the police officers with the help of the Sarpanch and cremation was over by 1830 hrs. It is clear from the confidence with which Dr. Patel provides all details as if he was in the midst of these arrangements though he belonged to a private organisation. It is also clear that 19 of the unidentified bodies were hastily cremated without due procedure being followed – contacting relatives, issuing notice and allowing the bodies to be properly identified.

211. It is also relevant here to note that the SIT poses no question to Dr. Patel about the contact between him and the Chief Minister's office at 9:41:39 hrs on 27.2.2002 (soon after the Godhra carnage) and the call that he received on his mobile from Mr. A. P. Patel, PA to Chief Minister. An analysis of the phone record also shows that Dr. Patel called back Mr. A.P. Patel within 3-4 minutes (9:45:40 hrs). However, the SIT has chosen not to interrogate Dr. Patel about these phone calls between himself and Accused No. 1.

Doctoring of the Records Related to Accused No 1, Mr. Modi

212. Annexure III File XIX (copies of fax messages sent by Regional Officer of State IB to ADGP (Int), Gandhinagar for the month of February 2002). Attached No.87 of this File, fax Mess. IB/D-1-2/15/com/284/2002 dated 27.2.2002 , ACP, State IB, Vadodara records that the Chief Minister visited the place of the incident between 1715 to 1745 hrs. The message also records that in his presence some persons were shifted from Godhra to Ahmedabad for treatment Note on minutes of 28.2.2002 that has been given to the complainant Smt. Zakia Jafri into separate portion, namely;

(i) Annexure IV, File IX at Sr.No250 “Daily programme itinerary of Chief Minister for the period 27.2.2002 to 5.3.2002”.

(ii) Annexure IV File ICX at Sl. No.295 which is daily programme itinerary of Chief Minister for the period 6.3.2002 to 31.3.2002”.

213. It is inescapable that these official documents have been given in two separate parts of the same file. The same file Annexure IV, File IX At Sl.No.236 also contains “meeting notes of the meeting of the ministers of government held on 27.2.2002”. This file also had at Sr.No.249 the copy of the log of air traffic controller SGP international airport, Ahmedabad pertaining to visit of Godhra on 27.2.2002. The following needs to be noted about these documents.

Minutes of 28.2.2002.

214. These minutes at Sr.No.236 page 3420 to 3421 clearly appear to be fabricated. The minutes recorded after an incident such as the Godhra incident which was heavily capitalised by the Gujarat state cabinet and regarding which speeches had also been made in the assembly, the minutes that have been attached as part of the investigation appear to be routine. There is no mention of any discussion on Godhra incident, neither of any discussion of the Chief Minister’s or any steps taken after the Chief Minister’s visit to Godhra before and the steps taken. The omission of any reference on 27.2.2002 to Godhra incident in the minutes itself speaks for itself. The minutes ostensibly have been recorded at 10a.m.; this is improbable. Why do we say that there is a fabrication? Feb. 28,

2002 was a Thursday and the second sitting of the Assembly begins as per the regulation by 1015 a.m. when private members business is discussed as per law. This decision has to be taken on the previous day.

215. On 28th February 2002 morning Shradhanjali was given for the Godhra victim, then how is it that the minutes of the meeting held by the Chief Minister does not mention it. Thursday is always a day in the session when private members business is discussed. In the morning session at 8 a.m. after the home department's intervention Shradhanjali was offered for Godhra. Cabinet meetings moreover area always on Wednesday, so why was this meeting held on Thursday. Another point to be noted is that as the contents of these minutes have been given by the SIT to the to the complainant the Ld. Court should take note of the complete contempt with which the Gujarat government appears to have given papers to this investigation. They are completely illegible. After such a critical incident of Godhra on 27.2.2002 there should have been a circulation of the agenda if the state cabinet was to be called on the next day. There is no communication as to who was to be called to the meeting and when the meeting should have been held. There should have been formal agenda notice which has not been given.

Chief Minister's official register

216. The Ld. Court should demand the original agenda/notice for the meeting of 28.2.2002 and also demand the original copy of the fax inward register of the Chief Minister's office supplied at Sr.No.311 of Annexure IV File X. This item is "copy of the fax inward register at the office of Chief Minister, Gujarat for February 2002". (Page 4114 to 4145). A close look at this register shows how it has clearly been tampered with and therefore it is critical that the court demands the original. Item no..., for example at Sr.No. 2000 has been struck out and Sr. No. 1502 put in its place (i.e. the nos of entries are sought to be seen as reduced.). The manner in which the numbers have been struck off and added clearly suggests a brazen attempt of fabrication. The SIT has of course chosen not to go into these issues even though what is going on is apparent.
217. *Worst of all, the SIT has simply not bothered to summon all documents received by fax and other means related to 2002. These*

could have been memoranda etc from citizens or official communications.

Chief Minister's Itinerary:

218. 10.30 a.m. – 27.2.2002 We are told the petition to the Chief Minister on Godhra could be now in the assembly. In all other records and statements made available by the SIT, this is *not the time for petition in the assembly but a meeting of ministers and officials of the home department. Which is correct and which has been falsified?*
219. Strangely enough, the itinerary of the Chief Minister which has been given to the complainant by the SIT and is available at Sr. No. 250 as mentioned above, mentioning the Godhra incident and thereafter entry of 12 noon mentioning a declaration of 2 lakhs from the Chief Minister's relief fund to those who have died in the tragedy.
220. Strangely, in the Itinerary (that also does not look like the original document) there is no mention of the zero hour discussion on the Godhra incident of 27th February 2002 when M.L.A. of the BJP, Dr. Mayaben Kodnani (Accused No.16 in complaint dated 8.6.2006) gave her speech in the Vidhan Sabha. It is strange that in the official itinerary of the Chief Minister a reference is made to a press release but no mention is made of the speech given by a ruling party member, that too in the Assembly.
221. Besides, there was a long discussion on the Godhra incident that can also be seen in the proceedings of the Vidhan Sabha. None of these is mentioned in the itinerary of the Chief Minister.
222. In the Assembly proceedings of Vidhan Sabha of Gujarat dated 14.3.2002, a statement is made on the floor of the house by MOS Home, Mr. Gordhan Zadaphia in which he acknowledges the incident and also states that curfew has been declared at Godhra itself. If in fact an official meeting with a proper agenda as is sought to be made out in the illegible documents made available to the complainant at Sr. No. 236 of Annexure IV File IX, surely then 28.2.2002 meeting would also have been referred to by Mr. Zadaphia before the State Assembly (Vidhan Sabha) on 14.3.2002.

Through a perusal of the Chief Minister's itinerary we are given to understand that after his discussions with the Prime Minister, there is a submission of the budget.

223. On 28.2.2002 the house adjourned and met again only on 14.3.2002. In the entire statement read suo-moto under Rule 44, Zadaphia narrates the incident of 27.2.2002 and describes the situation at the Godhra railway station, bandobast sent, the mobile van sent and thereafter, how the train leaves for Ahmedabad from Godhra at 12.45 p.m.
224. Coming back to the supposed meeting of which notice of meeting has been provided at Sr. No. 236, the moot question is how could a meeting of the Gujarat cabinet have memo of discussion of any matter related to Godhra when several issues were discussed at Gandhinagar. Mr. Modi talks about two minutes, telephonic call sent for RAF and the army. Zadaphia states that the decision to call the army was taken on the afternoon on 28th February. Where is the evidence? He also states on the floor of the house that in different areas redeployment of army took place. He repeats that within 72 hours violence had stopped. It clearly appears that A-1 Mr Modi and other officials of the government as also other powerful accused are suppressing facts and even providing fabricated documents, that too to a SIT appointed by the Hon'ble Supreme Court.
225. There is also a mention in the Assembly proceeding about Haren Pandya, then Revenue Minister, stating that radio and television would be used to inform family members. Was this done? What were the steps taken to inform relatives of those who had died in Godhra about the incident and giving them the option to collect the dead bodies? Why such a hasty cremation when the first decision appears to have been taken to allow the dead bodies to be taken by relatives? Why were mass funerals organised? The assembly proceedings also mention that photographs of unidentified bodies, finger prints etc. would be collected (Haren Pandya). SIT has not bothered to investigate whether it was done.
226. What is the duty of a Chief Minister when he is informed of an incident like Godhra? The itinerary says that he discussed the issues with the Prime Minister by 12 noon. Should not curfew have

been declared immediately by 10.30 a.m. when at 10 a.m. itself he was aware of the seriousness of the Godhra incident as his itinerary suggests and Assembly proceedings suggest and even the Vidhan Sabha was informed when Dr. Kodhani spoke? Should he not have called a top level meeting of the law and order machinery in the morning itself before he left for Godhra? The itinerary suggests between 5.00 p.m. and 7.45 p.m. the Chief Minister conducts an official level mini-cabinet meeting at the Collectorate in Godhra.

227. On 28 February 2002, i.e., next day there is no briefing of the cabinet on the Godhra incident. The selective briefing of some key members of the cabinet in Godhra about the unfolding of the conspiracy that is planned and keeping in dark of the rest of the cabinet is very suspicious. This is proved by the meeting notice of Minutes of 28.2.2002 meeting where there is no mention of any meeting on Godhra.
228. In the itinerary of the Chief Minister of 28.2.2002, there is mention of a briefing about the Vidhan Sabha proceedings at 8.a.m. Why was the cabinet kept in the dark about the briefing that the Chief Minister was given and the decisions of the State? On 27.2.2002 the Chief Minister announced a compensation of 2 lakhs and said that he has spoken to the Prime Minister. Why were these briefings not given to the State Cabinet? The itinerary talks about the shoot at sight orders given after Godhra. Again the minutes of 28.2.2002 cabinet meeting is silent on this.
229. *Was the Chief Minister grilled by the SIT when he goes to the meeting and takes decision to allow the motor cavalcade of the bodies to Ahmedabad? Was he grilled about this? Why has SIT remained silent on this?*
230. According to the itinerary provided by the investigation team, the Chief Minister arrived at the Godhra hospital at 16.45 p.m. By 17.00 p.m. he had visited Coach S-6 and thereafter the civil hospital and entered into discussions with the ministers present who are also co-accused and the District Magistrate and other police officers.
231. A-21 Dr. Jaideep Patel who has been in touch with the Chief Minister from the morning of 27.2.2002 is also allowed to be present at the official meeting of the cabinet. Therefore between

1645 and 1945 hrs when as many as six or more of the co-conspirators and accused are present at Godhra, major decision relating to the unfolding of conspiracy are taken, and these are also communicated in different ways to the administration. Major aspect of this conspiracy is to aggressively promote the motive behind the Godhra train burning incident as part of an internationally hatched conspiracy, use the ghastly charred remains of the bodies and take them in funeral procession to inflame communal passion. In such meetings, inflammatory speeches are also made by various accused which are not checked or controlled by the police and finally after the infamous meeting at the CM's residence on 27.2.2002, terrorise and paralyse the administration into not performing its lawful primary constitutional duty.

232. *When A-1, Mr. Modi is questioned by the SIT, no questions are put to him about the detailed documentary evidence available in the SIT records, about Mr. Sanjiv Bhatt's role on 27.2.2002. This evidence was available with the SIT since January 2010 when the DGP made it available (17 files) that is even before the investigation report dated 12.5.2010 was filed before the Hon'ble Supreme Court. Thereafter some vindication comes from the CMP Sanjay Bhavsar himself when among the documents handed over by him is one with Mr. Sanjiv Bhatt's signature. Yet SIT ignores this vital documentary evidence completely. It is no wonder that the SIT was resisting tooth and nail against making this documentary evidence available to the Complainant/Petitioner.*

Sandesh Newspaper as Collaborator in the Conspiracy

233. The *Sandesh* daily Gujarati newspaper with widespread circulation played a diabolical role in distorting the Godhra incident to foment violence. The following examples show the extent to which this publication went as a collaborator in the conspiracy hatched by A-1 and the VHP.
- Annexure 1 – Sandesh – 28-2-02 page 1 continued page 14 – Screaming headline stating that 60 Hindus burnt alive in Godhra. Provocative language used.
 - Annexure 2 – False story– 28-2-02 page 1, heading – 10-15 Hindu women dragged away from the

railway compartment by fanatic mob. Police denied that any such incident taking place.

- Annexure 3 – Sandesh – 28-2-02 page 16, the same bogus story is repeated with the heading – mob dragged away 8-10 young women to the slums.
- Annexure 4 – Sandesh – 28-20-02 page 5, news item with heading, "Sabarmati Express arrives at Ahmedabad amidst chants of, 'Jai Shree Ram!'... 'Blood for blood!'"
- Annexure 5 – Suppression of truth – 28-2-02 page 3. A mob killed a youth in Bapunagar, buses and shops set on fire in Ahmedabad. The victim is a Muslim but the paper deliberately hides his Muslim identity. Other victims were Muslims, their properties were targeted, but 'Sandesh' does not mention this anywhere in the news.
- Annexure 6 – Sandesh – 28-2-02 page 2 heading – Sword over his head, train driver hijacked. In fact, there is no such hijack of the Sabarmati Express train driver; no other news paper either in Gujarati or English reported this fabricated news.
- Annexure 7 – Sandesh – 1-3-02 page 1, continued on page 14 – headline says 15,000-strong mob commits great destruction – 50 burnt alive in Gulberg Society of Chamanpura (Ahmedabad) – Three died, five injured: mob turns fierce. News about killing of Ex- MP Mr. Ahsan Jafri printed on the front page. The report claims that ex-MP fired at the mob, so the agitated mob killed him. The widow of Ahsan Jafri has denied any firing by her husband. The newspaper justifies the killing and burning of 60 persons by a mob from the majority community. Mr. Jafri has called the police more than 200 times for help. 'Sandesh' does not disclose this fact in its report.

- Annexure 8 – Sandesh – 1-3-02 page 16 – heading – of the kidnapped young women from Sabarmati Express, dead bodies of two have been recovered with their breasts chopped off. In fact, there is no such incident. Police denial of any such incident finds no mention in the report.
- Annexure 10 – Deceptive trick photography and news – Sandesh – 1-3-02. On the top of front page, a big title, '98 killed' is superimposed on a color picture of funeral biers. The obvious aim is to create an impression that the 98 victims belonged to the majority community.
- Annexure 11 – Sandesh – 5-3-02 there is a news item on front page with heading 'Karsevaks forge ahead, defy prohibitory orders'. Though this news item, the defiance of prohibitory orders by karsevaks is glorified.
- Annexure 12 – Sandesh – On 5-3-02 there is story on page 2 with the title, 'Anger of people against TV Channels'. The story says the biased coverage by some TV channels created tension between two communities. Owners of this paper are clearly upset with TV channels which show that Muslims are the actual sufferers. (The same TV channels had earlier telecast images of victims of the Godhra carnage). Till March 31, 2002, Sandesh does not publish a single photo of Muslim victims of the carnage. Almost 90 percent of shops, commercial, industrial, business establishments ranging from a small vendor's cabin to factories worth crores which were looted and burnt down are Muslim property. This is a clear attempt at economically crippling the minority community. Yet, neither Sandesh nor any other major Gujarati daily prints a single word about this. Many Muslims women were raped before being killed/burnt alive in Naroda Patiya, Gulberg Society and elsewhere. But except for *Gujarat Today*, the

Gujarati vernacular press does not place this information before its readers.

- Annexure 13 – Sandesh 5-3-02 page 11. Its a very communal, highly objectionable, provocative, inflammatory, anti-Muslim article by Manoj Gandhi, some excerpts are as under: Heading – Gory incidents of Godhra – Ahmedabad – dangerous game of *Khoon ka badla Khoon!* (*Blood for blood!*).

Big heading:

(1) Gujarat is ablaze because of the conspiracy of fundamentalist Muslim terrorists.

(2) Instigation of tolerant Hindus triggers intense reactions;

Sub-heading in block letters:

(1) After 50 years of Independence, what is the reason of Muslims hatred towards Hindus of Hindustan?

(2) After the communal riots of 1992 and Godhra incident, Muslims should learn that the results of instigation of tolerant Hindus can be dangerous,

(3) If fundamentalist Muslims do not understand this truth, then innocent Muslims will continue to be sacrificed in this glory game.

The text:

(1) No Hindu can pardon someone forever, the brutal and cowardly terror, committed by the wicked Muslims of Godhra, cannot be pardoned by any Hindu forever because a wrongdoing can be pardoned once or twice, but pardon every time is considered as the sign of weakness.

(2) Snake charmers who can catch a poisonous snake and trap it in the basket are never afraid of

history. They know better how the snake is to be defanged. This fact should be remembered forever by the traitors and the treacherous of the minority community and all fundamentalists as well as terrorists of not only Godhra or Gujarat but of entire India.

(3) Those who forget this, always suffer losses. It is a fact that their own mistakes lead to a heavy toll

(4) Treating Hindus as their enemies, massacre of Hindus through conspiracy of religious fanatics, fundamentalists and terrorists among the Indian Muslims, will not be tolerated; the hissing snake will be brutally dealt with

(5) There is no way out except adopting the policy of tit-for-tat against Pakistan-sponsored terrorism. Otherwise, Hindus in Hindustan will be reduced to a shameful, sorry plight.

- Annexure 14 –Sandesh – 6-3-02 page 1. An 8-column headline ‘Hindus Beware’, ‘Deadly conspiracy of retaliation after Haj’. Subheading – Bomb blasts using RDX or plane hi-jacking feared.

234. On March 18, 2002 Accused No.1 Mr Modi sent an official letter of congratulation to ‘Sandesh’ and 13 other Gujarati newspapers expressing his high appreciation for their restrained coverage of events (sic). This was told by A-1 himself to a team of the Editor’s Guild who visited him on April 2, 2002. The text of the original letter in Gujarati and its English translation is available at Annexure III, File II, D-5 of the SIT papers. Three other Gujarati dailies that had been moderate in their approach and whose representatives the Guild members met were *Sambhav* (four editions), *Prabhat* (Ahmedabad and Mehsana) and *Gujarat Today*. *Prabhat*’s director, Mr. Ashish Kothari spoke to the Guild of swords and liquor being distributed widely on 27.2.2002. Neither *Prabhat* nor *Gujarat today* received the congratulatory letters from A-1 Mr Modi. Mr. Falgun Patel (*Sandesh*) speaking to the Guild made provocative

statements, describing the Godhra incident as “unforgettable” and adding, “Can a 20 per cent minority take the majority for a ride? There has to be a limit.”

235. *SIT had been repeatedly urged by the Complainants, co-petitioners and witnesses to investigate this collaborative hate crime. But SIT simply did not go into this aspect in its investigation at all.*
236. There is ample evidence in the Investigation papers indicating that the SIT deliberately did not investigate the prelude and build-up to the violence unleashed post-Godhra.
237. The anger of the minority community against the publication of communal writing by mainline Gujarati newspaper in 2002 had led to several memorandums being submitted to the authorities. From 27.2.2002 onwards Sandesh newspaper had played the role of assisting the enveloping conspiracy to spread communal violence hatched by accused no.1. The IB message at page 58 of Annex. III File XIX, dated 7.3.2002, 1130 hrs (Mes. IB/Mahiti/383/02 records that Muslims of Tandalge area in Vadodara had boycotted the Gujarati Samachar and Sandesh Newspapers because they have printed inflammatory news that went against public order. This message also records that the anger of the minority went so deep that despite the A-1 chief minister visiting Vadodara no one from the Tandalga met him or even submitted a memorandum.
238. At pages 47 and 48 of annexure III File No.XIX in the SIT papers, the State IB takes note of inflammatory pamphlets distributed by VHP in Vadodara city. This logically should have led to action under the relevant section of the IPC. Both ADGP-Int Mr RB Sreekumar and SP Bhavnagar at the time, Mr Rahul Sharma had strongly recommended prosecution of the Sandesh newspaper. The fax message Mes IB/D-2/com/Info Patrika/ Vadodara/974 and Mes. /SB/Patrika/ 1247/ 02.

Prelude and Build Up to the Violence

239. At Annex IV File XVII (6941to 7368) which is a file of the “Print outs from CD submitted by PC pande former CP Ahmedabad containing scanned copy of Wireless Message Book of PCR Ahmd City for 28,2.2002 contains a chilling Message dated dated 27/2/02 sent at

21: hours. The message is at page 7126 in the file. It records that police informer Ashokbhai has informed the SIB that “Nr. Rakhial Char Rasta mentions that at Rakhial Char Rasta a truck full of arms is present and that these arms are liable to be misused misused. The message has been sent from the Rakhial 2 Wireless Van.

240. Incidentally these documents got made available to the Investigating Agency only after 15.3.2011 when former CP PC Pandey suddenly produced 3,500 pages of scanned messages on CDS that in this instance are described as “Wireless Message Book of Police Control Room, Ahmedabad City Control Room for date 28/2/2002”. They had been concealed by him earlier.
241. A shocking story on the widespread distribution of swords and trishuls by the RSS, VHP and Bajrang Dal right up to the end of March 2002 was reported by *The Indian Express*, April 9, 2002. 'Carrying of swords “capable of being used for carrying out physical violence” is prohibited under Section 37 of the Bombay Police Act and convictions could lead to jail terms ranging from four months to a year but predictably the Ahmedabad police under A- 29, then Commissioner PC Pande, other co accused A 38 Shivanand Jha and others simply did not act. The story is annexed here and was given to SIT to take into serious consideration given the implications of this aggressive arming by a collaborator organization but SIT has ignored this in its investigation.

These steps should have been taken by the Home Department under A-1 Mr Modi

242. (i) A-1 should have made a visible and repeated appeal for peace, calm and restrain
- (ii) Photographic publication of the corpses should not have been allowed.
- (iii) Strict and effective implementation of the law
- (iv) Preventive Arrests of all persons with a history of participation in communal violence and other criminals

(v) Prohibitory Orders since Violence had already broken out in Ahmedabad, Vadodara, Modasa and Khedbharma

(vi) Police stations should have been directed to and monitored about continuous Mobile Petrolling and for arranging bandobast to their sensitive areas.

(vii) Arm, Ammunition and Teargas should have been kept ready
Keep anti-riot drill kit

(viii) Appeal to Vishwa Hindu Parishad to maintain calm, to track their leaders and movements

(ix) Warnings against rumour mongering, hate speech and hate writing

Subversion of the Home Department under Directions of A-1 Mr Modi

243. There are messages received by the Home department of the GOG directly headed by A-1 Mr Modi at serial nos. 29 & 30 (Pages 50 & 51) Annexure III. File XL I sent by the Governor of Gujarat to the A-28 Ashok Narayan, then ACS Home and A-27 Subha Rao, then Chief Secretary. The first para of the letter states that the Gujarat Home Department should pay attention on ensuring the dependability and credibility of reports sent to Governor of Gujarat. There is further evidence to suggest a doctoring of the ground level situation by the Gujarat Home Department headed by A-1 Mr Modi.
244. A message contained at serial No.34 at pg. 56 at Annexure III. File XL I, page says in its last para that “there is a difference in the sets of figures of persons killed and attacked” between what the State IB was sending New Delhi and what the State Control Room under the Accused mentioned above were doing. There are also instances in both these files that suggest deliberate dilution of the offences against the minorities. Further investigation demands that A- 60 GC Raigar, PS Shah and then Joint Secretary, MHA Haldar are questioned on this.

245. On February 22, 2002 the Gujarat intelligence department received a fax message (of the same date) from the UP state intelligence department, informing them of the criminal behaviour of *kar sevaks* travelling on the Sabarmati Express S-6 special bogie. This is in all likelihood the same bogie that caught fire a few days later. The message from the UP intelligence department states that when some local people tried to enter the bogie at the Rudauli station near Faizabad the *kar sevaks* attacked them with *trishuls* and daggers and injured some of them. An FIR was also registered for the crime. Haresh Bhatt, who had gone to Faizabad, was one of the many persons who were caught off guard by *Tehelka's* sting 'Operation Kalank', telecast on October 25, 2007.
246. From reports received, it appears that the train bogie containing those *kar sevaks* who had misbehaved at Rudauli was the same one that returned on February 27 and was unfortunately burnt. Following revelations that Haresh Bhatt and Prahlad Patel also went to Ayodhya, and were integral parts of the plot to build up an arsenal in Gujarat prior to February 27, it is conceivable that they too were in the bogie that caught fire. *Tehelka's* conversation with Bhatt raises serious questions for the authorities and investigating agencies about the sinister accumulation of arms and ammunition by Bajrang Dal and VHP men all over Gujarat. During the same sting operation *Tehelka* also spoke to the then VHP district convener from Sabarkantha, Dhawal Patel. He too provides startling details about the stockpiling of ammunition and bombs. Why were sangh parivar members stocking up on ammunition prior to February 27, 2002? As part of its investigation into the wider conspiracy, that the SIT was mandated to undertake it ought to have investigated this. That it did not exposes its bias. This aspect needs to be looked at in further investigation.
247. *Arms distribution before the execution of mass crimes From Tehelka's 'Operation Kalank':* Haresh Bhatt, the then BJP MLA from Godhra, to *Tehelka*: Bhatt says a well-planned conspiracy was hatched to import large quantities of ammunition from outside Gujarat and also to manufacture weapons within the state. He names one Rohitbhai (VHP treasurer) as being a core member of the planning team. He says the plan to import arms, swords and other ammunition into Gujarat from Punjab and elsewhere was a

long-standing one and that he brought swords and countrymade guns into Gujarat and distributed them all over. He says that a large number of bombs, including diesel bombs and pipe bombs, were manufactured at his factory while rocket launchers were manufactured both at his factory and elsewhere. These rocket launchers, with stands, were made using thick pipes and filled with gunpowder and then sealed and blast using locally made '598 bombs'. The weapons were then distributed across Gujarat. Haresh Bhatt also said he previously owned a firecracker factory in Ahmedabad, one that was fully operational on February 27, 2002!

248. Questions raised:

- a) Who were the conspirators involved?
- b) When and where did they meet?
- c) Did this meeting take place well before February 27, 2002, when the Godhra arson took place, and if so, what was the real intent, the motive?
- d) When did Haresh Bhatt order two truckload consignments (of swords) from Punjab?
- e) When did Bhatt order the consignment of desi guns from UP and MP?
- f) How long does it take for a loaded truck to travel between Punjab and Gujarat?
- g) How long does it take for a loaded truck to travel between UP and Gujarat?
- h) Who are the manufacturers and suppliers of swords (in Punjab) and countrymade guns (in UP and MP)?
- i) When did they receive the orders for consignment and when did they deliver these? Most importantly, who paid for them?
- j) The consignment truck(s) must have passed through many states – Punjab, Haryana, UP, MP and Rajasthan. How was easy passage for the arms arranged?

k) When did the consignments actually arrive in Gujarat and where in Gujarat did they arrive?

l) Were these consignments delivered to locations other than Godhra? Did these destinations include Ahmedabad, for instance? (In the post-Godhra violence, Ahmedabad and Panchmahal district were the worst affected in terms of loss of life while Sabarkantha was the worst affected in terms of loss of property.)

m) If the consignments were ordered well before February 27, 2002, will this fact not have some bearing on the much touted Godhra conspiracy theory?

n) If the consignments arrived in Godhra, which is a hub of truck owners, hundreds of trucks could be available at short notice to supply consignments all over Gujarat. It is now well known that the genocidal carnage that Modi presided over spread to 19 of Gujarat's 25 districts within hours of the news of the Godhra train burning.

o) What is the identity of the vehicles used for the supply of these arms and to whom did they belong?

p) To whom, and at which location/s, were these arms and ammunitions supplied?

q) Who were the officials, police, octroi department and others, who allowed these consignments safe passage?

249. **More questions:**

a) Who were/are the workers at Bhatt's firecracker factory?

b) What were the products manufactured?

c) Was the factory operational on February 27 and 28?

d) Where, apart from Haresh Bhatt's factory, were the rocket launchers manufactured?

250. *Observations:* These findings would then have to be corroborated with forensic reports of the Godhra train burning and mass burnings of women, men and children in many of Gujarat's districts following the Godhra fire. Apart from the revelations about arms consignments being ordered by prominent members of the sangh parivar, other aspects relating to the use of explosive materials in the systematic attacks on minorities bear consideration. For weeks before the attack on Naroda Gaon and Patiya, for weeks before the attack on minorities there was a gas cylinder shortage. However, from the morning of February 28, 2002 onwards, gas cylinders were used by the dozen, by assailants in Naroda Gaon and Patiya, Gulberg Society and other areas of Ahmedabad. In the first attack at Naroda Patiya, at the Noorani Masjid, gas cylinders were placed inside the mosque and then ignited to explode. *The SIT deliberately did not explore this. Stockpiling arms in Sabarkantha*

251. Dhawal Jayantilal Patel, the then VHP *zilla sanyojak* (district convener), Sabarkantha, to *Tehelka*: Patel says that he is a registered holder and supplier of dynamite used in quarrying in the district. He also said that he along with some others had been trained to make bombs. They made desi bombs that were then distributed and used in various areas.

252. **Questions raised:**

a) What was the quantity of dynamite stock as noted in the stock register maintained on Dhawal Patel's premises on and before February 27, 2002?

b) How much stock did Patel receive?

c) From which government depot did he get the supply on requisition?

d) Did he acquire the stock from any other states?

e) What is the identity of the vehicles used for the supply of dynamite and to whom did they belong?

f) Where was the stock supplied to?

g) To whom was it delivered and in which village, town or city?

h) Who were the police and other officers responsible for allowing the consignment safe passage?

253. Anil Patel, the VHP's *vibhag pramukh* (departmental chief) in Sabarkantha, spoke to *Tehelka* about bombs destined for Ahmedabad being smuggled in from quarries owned by VHP workers in Sabarkantha. This suggests the existence of a well-organised and structured arms and ammunition network within Gujarat that has been in operation since well before the violence in 2002 and perhaps thereafter. Anil Patel also explains how sections of the Gujarat police, for example, ND Solanki, the then SP, Sabarkantha, were full-fledged supporters of the VHP. He adds that Solanki gave him full support and even enabled the quick release of a "co-minister", Arvind Soni (a VHP leader). Patel also refers to a fax message sent by "this IB officer, Sreekumar ...to the Ahmedabad police commissioner, saying the Sabarkantha VHP had supplied weapons to Ahmedabad. The matter was inquired into, our block minister was arrested. The inspector who came for the inquiry was associated with the Sangh." Patel's revelations to *Tehelka* show the levels of complicity between the Gujarat police under the A-1 Mr Modi control as Home Minister of the state and outfits of the sangh parivar that are the fraternal organisations of the ruling BJP. This will be the most significant challenge for the SIT under Dr Raghavan. Will it be able to ensure that investigations are carried out by men of impeccable integrity?

Other startling revelations from the sting operation

254. Babu Bajrangi, Bajrang Dal leader, Naroda, Ahmedabad, to *Tehelka*: Bajrangi (prime accused in the Naroda Patiya massacre) says he was present in Godhra at the time of the train fire and vowed to kill four times as many people in Patiya as the *kar sevaks* who died in Godhra.

255. ***Questions raised:***

a) Bajrangi has admitted to calling the then home minister, Gordhan Zadaphiya. This can easily be corroborated with call records of the outgoing calls on his mobile phone.

b) He claims that Chief Minister Modi told the (police) commissioner to provide safe passage to Bajrangi and even arranged for his four-and-a-half-month stay at the Gujarat Bhavan in Mount Abu (Rajasthan) not long after the massacre, when he had still not been granted bail and was on the run from the police.

c) What was the room number of the room at Gujarat Bhavan that Bajrangi occupied?

d) Where were any others with him in Mount Abu?

e) Are there any relevant entries in the Gujarat Bhavan guest register?

f) Who provided the expenses for his stay in Mount Abu?

256. Bajrangi's interview also indicts the Gujarat courts. These are extremely serious allegations that warrant investigation. He talks of how Judge Akshay Mehta had granted bail, to him and other accused, without even looking at the case files. He first says that when Dholakia and other judges simply refused to grant bail, Modi had the bench changed. This was done three times before the matter was heard by a more sympathetic judge – Akshay Mehta – which enabled him to get bail. Four and a half months after the Naroda massacre Bajrangi was a free man. He roams scot-free today.

257. Ramesh Dave, the then VHP *zilla mantri* (leader), Kalupur, Ahmedabad, to *Tehelka*: Dave says that he took DCP (SK) Gadhvi to the terrace of a locked house (in Kalupur) after Gadhvi told him that there were several Muslims who had taken shelter nearby and he wanted to "set them straight". Once on the terrace, Gadhvi started firing and before they knew it, he had killed five persons (Muslims). Dave also claims that "all the policemen helped us, they all did. One shouldn't say it, but they even gave us cartridges."

258. **Questions raised:**

- a) Did Gadhvi shoot a service revolver – if so, the victims could not have been more than 20 feet away.
- b) Did he shoot a .303 rifle – if so, the bullet would go through the victim, making a hole, and could be recovered later from the scene of the crime.
- c) If the shots were fired from a revolver, the bullets should have struck the victims either in the head or the chest.
- d) Five dead bodies must bear near identical injuries/bullet wounds.
- e) Did the doctor performing the post-mortem examinations recover any bullets from the bodies of the victims?

259. This was a small but critical aspect of the detailed and independent investigation was expected of the SIT. The issues need to be probed in further investigation.

260. *The SIT has deliberately not given due weightage to the Tehelka tapes that amount to direct evidence against A-1 and several conspirators, already arraigned in the Complaint dated 8.6.2006 and many others despite the fact that the CBI has authenticated them thanks to an Order of the NHRC.*

Validation Whistleblower Mr RB Sreekumar, then ADGP-Intelligence and Former DGP Gujarat

261. Mr RB Sreekumar has submitted in the first instance four affidavits before the Nanavati Commission which affidavits filed by former director general of police RB Sreekumar before the Nanavati Commission were crucial in the filing of the complaint dated 8.6.2006 and the SLP 1088/2008 before the Hon'ble Supreme Court. Apart from the analysis narrated in the affidavits, the mountain of evidence including vital state intelligence bureau records provide a well documented account of the refusal of the state government to act on the warnings given by its own intelligence wing. These can be read at:

- (i) RB Sreekumar 1st Affidavit dtd 06.07.2002
Annexure III File II D-21
- (ii) RB Sreekumar 2nd Affidavit dtd 06.10.2004
Annexure III File III D-22
- (iii) RB Sreekumar 3rd Affidavit dtd 09.04.2005
Annexure III File III D-23
- (iv) RB Sreekumar 4th Affidavit dtd 27.10.2005
Annexure III File III D-24
- (v) RB Sreekumar 5th Affidavit dtd 05.03.2010
Annexure III File XV D-155
- (vi) RB Sreekumar 6th Affidavit dtd 03.09.2010
Annexure IV File XXII Sr No 403
- vii) RB Sreekumar 7th-8th Affidavit dtd 15.09.2011
Annexure IV File XI Sr No 330
- (viii) RB Sreekumar 9th Affidavit dtd 12.01.2012
Annexure III File XI Sr No 344

262. Why was and is Whistleblower Mr RB Sreekumar such a threat to A-1 Mr Narendra Modi the chief mastermind and conspirator and his co-conspirators?

- 1. He provided empirical evidence of the SIB as Annexures and Appendixes that showed the build-up of violence and communal mobilisation, prior to 27.2.2002, the provocative behaviour of the kar sevaks;
- 2. In his four critical situation reports after he took over as ADGP-Intelligence on 9.9.2002, dated 24.4.2002, 15.6.2002, 20.8.2002 and 28.8.2002 to

the government and home department presided over by A-1 Mr Modi he warned of the systematic subversion of the Criminal Justice System including lodging of doctored FIRs, appointment of public prosecutors with ideological leanings towards the RSS, VHP, BD and BJP and urgently advised correction;

3. He refused to abide by the blatantly illegal orders given to him by A-1 Mr Modi in person and through A- 27 then chief secretary Mr Subha Rao to fall in with the government plans to order extermination killings of criminals from the minority community to create a social and political atmosphere favourable to A-1 Mr Modi; he similarly refused to bow down to pressures and gave documents about an independent assessment of A-1 Mr Modi's hate speech at Becharaji at Mehsana on 9.9.2002; he maintained a record of these instructions in a Conscience Diary between April and September 2002.
4. He gave independent assessments and statistics to statutory bodies like the Chief Election Commission (CEC) and even the National Human Rights Commission (NHRC) related to the violence, its extent and scope as also the ground-level situation that continued to pervade in Gujarat (the CEC referred to this in its report postponing elections in the state in August 2002);
5. He refused to buckle, risked being sidelined from promotion, thereafter winning a substantive moral and legal battle with two path-breaking judgments delivered by the Central Administrative Tribunal (CAT) enabling him to be promoted to Director General of Police a day before his retirement.
6. He provided vital evidence of the systematic attempts by agents of A-1, co-conspirators and others to pressurise and cajole him not to tell the

truth before the Nanavati Commission. It can only be imagined what tactics were used by A-1 Mr Modi and his agents on other public servants, more amenable to pressure and intimidation.

263. Among the documentary evidence annexed to the first affidavit produced by Mr Sreekumar was a report titled 'Current Communal Scenario in Ahmedabad City' prepared by Mr Sreekumar and sent to the then ACS (Home) Mr Ashok Narayan for appropriate action on April 24, 2002. The report made the following points:

- a. Riot victims had lost faith in the Criminal Justice System. Police officers were dissuading victims from lodging complaints against BJP and VHP members
- b. Officers were watering down the charges in complaints and clubbing FIRs
- c. The VHP and Bajrang Dal were exhorting businesses not to give employment to Muslims
- d. The VHP was distributing pamphlets with communally inflammatory material
- e. Inspectors in charge of police stations were ignoring the orders of their superiors and complying instead with direct verbal instructions from BJP leaders.

264. Crucially, then additional DGP Mr RB Sreekumar has recorded in his Fourth Affidavit dated 27.10.2005 that on 28.2.2002, A-25 then DGP Mr K. Chakravarti told him that "activists of the VHP, Bajrang Dal, BJP and its sister bodies were leading the riots and police officers were not intervening effectively as they were keen to avoid crossing swords with the supporters of the ruling party."

265. Then additional DGP SIB Mr Sreekumar in his confidential report dated 24th April, 2002 (which was submitted to the Nanavati-Shah Commission) has also recorded that: "(X) The inability of the Ahmedabad city Police to contain and control violence unleashed by the communally oriented mobs created an atmosphere of

permissiveness and this eroded the image of the police as an effective law enforcing machinery in the society, particularly among the lumpen and underworld segments.” (XI) Many senior police officers spoke about officers at the decisive rung of the hierarchical ladder viz. Inspectors in charge of City Police Stations, ignoring specific instructions from the official hierarchy on account of their getting verbal instructions from the senior political leaders of the ruling party.

266. Then additional DGP Mr Sreekumar has also noted in his third affidavit dated 09.04.2005 that “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 the District Police, had not initiated any action to contain/control riots or to stabilise the situation, especially in those areas where mass murders, rapes 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..”
267. *The SIT completely ignores this voluminous evidence provided by this witness in both its reports dated 12.5.2010 and 8.2.2012, and worse, tries to even question his motive and credibility. Through this more than anything the SIT has displayed unprofessionalism and bias.*
268. *In its reports, the SIT finds the report dated 24.4.2002 to the home department is genuine, it also found reports prepared by a few other officers which corroborated Mr Sreekumar’s report. Questioned by the SIT on this, Mr Ashok Narayan confirmed receiving this report (dtd 24.4.2002) but claimed loss of memory on whether he had placed it before the chief minister.*
269. Mr Sreekumar also sent another report dated 15.6.2002 advising against a proposed Rath Yatra by A-1 Mr Modi because communal tension was still simmering in many parts of Gujarat. The Modi administration overruled his recommendation. Mr Sreekumar prepared another report dated 20.8.2002, highlighting continuing communal tension and emphasising that the minorities continued to complain of unjust police action and shoddy investigations.

270. *A-28 Mr Ashok Narayan accepted before the SIT that the government didn't act upon this report. Mr Sreekumar prepared yet another report dated August 28, 2002 regarding internal security trends in the light of the ensuing Assembly polls. Mr Ashok Narayan told the SIT that he could not recall the action taken by him on the said report. The SIT leaves this crucial evidence without adequate probing.*
271. Mr Sreekumar thereafter filed three more affidavits before the Nanavati-Shah Commission. This was after the expanded terms of reference of the Nanavati Commission in July 2004 when the role of A-1 Mr Modi and his cabinet was first allowed to come under scrutiny. The first contained information that detailed the failure of the state and central intelligence bureaus in preventing the Sabarmati train carnage. The second alleged that the Modi government deliberately didn't act on the reports of the state intelligence bureau. And in the third, he recorded how he was pressurised by Modi's officials to give favourable reports on the law and order situation to facilitate an early Assembly election.
272. Mr Sreekumar also detailed an account of a meeting chaired by the then chief election commissioner Mr JM Lyngdoh on August 9, 2002 in which the latter had castigated home department officials for presenting wrong facts. The CEC Order dated August 16, 2002 had noted that, "Significantly, additional director general of police RB Sreekumar stated before the commission that 151 towns and 993 villages covering 154 out of 182 Assembly constituencies in the state were affected by the riots. This falsifies the claims of other authorities."

On Misleading the CEC

273. Mr Sreekumar's observation in his register that A-28 ACS Mr Ashok Narayan and others had been asking him to make a presentation before the Central Election Commission (CEC) on 09-08-2002 was proved by the CEC's Open Order dtd 16-08-2002 in which the CEC observed that Mr Sreekumar's assessment of the situation had falsified the government version. In several judicial pronouncements related to 2002, the role of the government under A-1 Mr Modi has been condemned.

274. *Should not the SIT have corroborated and analysed the data contained in Mr Sreekumar's register about illegal orders by the government with the judicial indictments against the government in power? The SIT in a blatant display of maliciousness and unprofessionalism, without examining the independent data contained in the documents and affidavits provided by Mr Sreekumar that stand proven, tries to attribute all his actions to the pique of an officer denied promotion!*
275. The supersession of Mr Sreekumar took place in February, 2005 and was a vindictive action by the government for his stand of not complying with illegal orders to fall in line with the criminal actions of A-1 Mr Modi on elimination, not tell the truth before the Nanavati Commission etc, submitting many reports to the higher officers and statutory bodies etc.
276. A-1 Mr Modi under whom the state home department was run like a personal fiefdom started three departmental inquiries against him since 16-08-2002 – the very day the CEC issued an order vindicating Mr Sreekumar's presentation about the Law & Order situation in Gujarat and postponing the holding of elections to the Gujarat state assembly.
277. In reply to these inquiries he had submitted a detailed response to the state government in November 2004 pointing out that the government was indulging in his victimisation only because A-1 Mr Modi was annoyed about his reports on the field situation in the state affecting A-1 Mr Modi's personal political designs and interests.
278. In these responses by Mr Sreekumar, in response to government memos initiating the inquiries, Mr Sreekumar had indicated that he would be constrained to present evidence about the government's totally unjustified prejudice against him before an appropriate judicial body. Mr Sreekumar had resorted to this action when he was superseded in February 2005 and challenging his supersession, a case was filed before the Central Administrative Tribunal, Ahmedabad Bench, in April 2005.

279. Mr Sreekumar has included this entire narration on the above developments in his third affidavit dated 09.04.2005. Therefore, the revelation about data on illegal verbal orders by A-1 Mr Modi to him and acts of tutoring by Home Department Officers and the government pleader were reported by Mr Sreekumar to the state government months before his supersession (in February, 2005) while his reporting about the possession of inputs regarding A-1's prejudice against him was carried out in November, 2004, that is nearly three months before his supersession).
280. *Ignoring this vital chronology of events, the SIT officials appear to have gone on a deliberate and all-out bid to trivialise the monumental evidence provided by Mr Sreekumar and further, in a motivated way attribute all his actions to pique. The fact that a supposedly high-profile SIT which should be concerned about the vast scales of violence and breakdown of Constitutional governance, ignores hard evidence of this, refuses to probe documents collected by it and instead simply discredits all evidence that may indict and charge A-1 Mr Modi and other accused, exposes the orientation, motivations and bias of the SIT. The SIT has let the Survivors of 2002 down in a fundamental manner.*
281. *The evidence contained in the four reports (24.4.2002, 15.6.2002, 20.8.2002 and 28.8.2002) annexed to the first four affidavits of Mr Sreekumar was crucial evidence that warranted being treated with the seriousness that the charges deserve. However, the SIT displays an extraordinary and inexplicable bias against this Whistleblower Witness, Mr RB Sreekumar, the former DGP Gujarat.*
282. *The obvious bias of the SIT against Mr RB Sreekumar is revealed from the fact that, in both its reports dated 12.5.2010 and 8.2.2012, the SIT has concentrated all its energies on discrediting the evidence of Mr Sreekumar by focusing solely on a register maintained by him, trying to debunk it by dubbing it a register of illegal verbal instructions. What is in fact a Conscience Memoir, a diary kept by a serving officer to document all illegal and unconstitutional instructions given to him between April-September 2002 by A-1 Mr Modi, is sought to be dismissed as a document kept with ulterior motives. By this, the SIT exposes its own motives in believing each one of the co-Accused who bad-mouth this crucial*

evidence without having any regard for the truth that is empirically borne out by the situation on the ground and in various Courts. The register could have been tested for its age and longevity through the tools of forensic science.

Independent Assessment of Violence Provided by Mr Sreekumar

283. According to the data presented in his Second Affidavit dated 06.10.2004, in Ahmedabad City, during the riots (from 27-02-2002 to 07-08-2002) in police firing 114 persons were killed (36 Hindus – 30% and 78 Muslims – 70%), and through mob action 326 people were killed (75 Hindus – 23% and 251 Muslims – 77%). It is a matter of concern and corroboration by Survivors and civil rights activists, now corroborated by statistics offered by a senior officer of the Gujarat state intelligence bureau that, both in the reprisal killings and in police firing post 27.2.2002, more Muslims were killed.

284. *Questions that arise and ought to have been interrogated by the SIT within the purview of the complaint dated 8.6.2006 were:*

- *Was police deliberately soft towards the belligerent Hindu rioters?*
- *Will it not be on account of covert pressure from supervisory officers? Media reports about riots had narrated instances of crowds attacking Muslims, shouting slogans like 'Yeh andar ki baat hai, Police hamare saath hai (It is a secret, police is on our side)'.*

285. *Relevant to note here also is Mr Sreekumar's letter no. 12C/COM/11 dated 25.10.2011 to the Nanavati Commission and the SIT, captioned: "Suggestion to get information on effective administrative and operational measures by officers in areas of lesser communal violence in 2002 Gujarat riots" (7th-8th Affidavit dtd 15.09.2011, Annexure IV File XI Serial No 330). It thus becomes necessary to go into the evidence provided by Mr Sreekumar in detail (See SIT closure report, page 8, under caption 'Broad Allegations' para 1, 2, and 3, 12.5.2010, 8.2.201)*

286. The information about manipulation of the Criminal Justice System to deny and delay justice delivery to riot victims along with remedial measures were suggested by Mr Sreekumar in his reports to A-28 Addl. CS Mr Ashok Narayan and DGP Mr K. Chakravarti dtd (1) 24-04-2002, (2) 15-06-2002, (3) 20-08-2002 and (4) 28-08-2002 (all these reports were appended in his Second Affidavit to the Nanavati Commission dtd 06-10-2004).
287. It is pertinent that had the government implemented these suggestions –and from the SIT reports and other documents it is clear that A-1 Mr Modi, A-28 Mr Ashok Narayan, A-34 Mr K. Nityanandam, A-25 then DGP Mr Chakravarti not to mention A-5 Mr Gordhan Zadaphiya stand indicted for this failure – the Hon'ble Supreme Court and the Gujarat High Court would not have made so many adverse observations against the Gujarat Administration and the Gujarat Police since 12.4.2004 when the Best Bakery case judgment was delivered. The transfer of trial of 2 cases to Maharashtra; transfer of the Best Bakery case; handing over of investigation of the Bilkis Bano case to the CBI; order to reopen and reinvestigate 2,000-odd riot-related cases; constitution of the SIT for investigation of major cases of manslaughter; entrusting to the SIT the investigation of Mrs Jafri's complaint; orders to investigate certain fake encounter cases by the CBI, constitution of the Justice Bedi Committee to probe into all cases of extrajudicial killings in Gujarat from October 2002 to April 2007; Gujarat High Court's criticism against the Modi government for its failure to protect socioreligious and historic monuments of minorities etc – would prove that maladies in the Criminal Justice System pointed out by Mr Sreekumar in his immediate reports to the then DGP and A-25 Mr Chakravarti, and the government, in 4 reports dtd (1) 24.4.2002 (2) 15.6.2002 (3) 20.8.2002 and (4) 28.8.2002 were ignored and the remedial measures, as proposed by him, were not initiated. Officers who are legally bound to take cognisance of intelligence reports (the government and DGP have till date not questioned the validity and reliability of materials in these reports) intentionally did not take follow-up actions and this would amount to offences u/s 166, 186, 187 IPC. In other words, the relevant authorised officers had fully aided and abetted the conspiracy of A-1 Mr Modi's government, not simply to allow mass reprisal violence but to subvert the system of justice delivery, in fact torpedo justice delivery for survivors of the violence.

288. It is important here to note that in his Ninth Affidavit 12.01.2012 Annexure III File XI Serial No 344 Mr RB Sreekumar had narrated the admission by A-28 Mr Ashok Narayan, the ACS (Home), about the government's inaction on his intelligence assessment reports. This admission by the ACS was made in August 2004, a few days before Mr Sreekumar's cross-examination by the Nanavati Commission on 31.8.2004. An audio tape of Mr Sreekumar's conversation with Mr Ashok Narayan was submitted to the SIT along with a copy of his 9th affidavit.
289. *The SIT did not probe this admission by the ACS (Home). In all other instances where evidence against powerful accused was provided, the SIT sought to cover up/ seek explanations from the accused themselves in further statements while ignoring vital corroboratory documentary evidence.*
290. *Did the SIT avoid such an action, which was professionally required, because it would jeopardise the SIT's objective of giving a clean chit to the accused in Mrs Jafri's complaint?*
291. Numerous suggestions were also made by Mr Sreekumar in reports dated (1) 15.6.2002, (2) 20.8.2002 and (3) 28.8.2002 relating to law and order situations prevailing as an aftermath of the protracted riots. But no follow-up action was taken.
292. *In a brazen bid to cover up this major criminal negligence of the powerful accused and other authorities, the SIT has simply sought their clarification on his suggestions regarding cancellation of the Rath Yatra only and not probed the question of any anti-minority prejudice consciously at work.*
293. The first and second Affidavits of Mr Sreekumar were filed in his official capacity and the remaining Seven Affidavits were filed in his private capacity. The supersession of Mr Sreekumar was due to his non-compliance of illegal verbal orders given to him and for not obliging the home department officers and the government pleader who pressurised and intimidated him to try and get him to speak in favour of the government during his cross-examination before the Commission on 31-08-2004.

Elimination as Strategy of the A-1 Mr Modi

294. There are two entries in Mr Sreekumar's Register about the Chief Secy. Mr G. Subha Rao suggesting organising for the elimination of Muslim extremists and those who disturb the Rath Yatra (entry in Mr Sreekumar's Register against dates : 01-05-2002 and 28-06-2002). Mr Sreekumar had refused to carry out his suggestions. In this context, why did the SIT fail to note that fake encounters by a coterie of officers allegedly close to the Chief Minister were started after Mr Sreekumar left the charge of ADGP (Int.) on 18-09-2002 and continued till these officers were arrested for fake encounters in April, 2007? There were no fake encounters after the arrest of the police officers in April, 2007. Are criminals afraid of committing crimes after the arrest of police officers responsible for fake encounters? Perhaps these officers responsible for extrajudicial killings knew that the ADGP (Int.) could suo motu inquire into such incidents and suggest action against the concerned under Rule 61, Sub-Rule 4 (A & B) of the Gujarat Police Manual, Vol. III. (This Rule empowers the ADGP (Int.) to conduct inquiries into fake encounters without any orders from higher authorities.)

Failure to act on suggestions from state intelligence. Page 262 (SIT closure report, 8.2.2012)

295. *The SIT had accepted Mr Narendra Modi's claim that he had not seen Mr Sreekumar's analytical intelligence reports dtd 24.4.2002 on the law and order situation. Mr Ashok Narayan told Mr Sreekumar that he had presented all his reports to the CM (See Mr Sreekumar's Ninth Affidavit) Audio cassette is also available.*
296. *A-28 Mr Ashok Narayan in his interaction with Mr Sreekumar (in August, 2004) admitted that no action was initiated on his suggestions in the 24 April, 2002 report. He also admitted that many nurtured ill-will against the Muslims including judges. In Mr Sreekumar's 24th April, 2002 report, specific suggestions like (a) proper registration of FIRs by recording the verbatim versions of the complainants (b) replacement of officers at the cutting edge level (This was done only after the intervention of Mr KPS Gill) (c) Legal action against the publication and distribution of pamphlets fomenting animosity between different social groups etc, were submitted.*

297. It was only because the suggestions in the report dtd 24.4.2002 were not implemented and there was no improvement in the situation that Mr Sreekumar had sent another report on 15.6.2002 and reiterated the need for implementation of his earlier suggestions. Strangely, the higher authorities including the DGP either did disagree with his suggestions or had not at least issued any query asking for clarifications on the points presented in the report.

Discrediting the Conscience Register of RB Sreekumar

298. Mr Sreekumar's Register was maintained by him for recording verbal instructions of higher officers that he found illegal and irregular. *The SIT conclusion that such a register was 'unauthorised' is unwarranted and biased as such a document is meant to be an informal but meticulous contemporaneous record keeper. The entry on 12-06-2002 said that phone call details of the late Mr Haren Pandya's phone were handed over to Dr A-31 Mr PK Mishra by Mr OP Mathur 'in our office'. The words 'in our office' relate to the position of Mr OP Mathur and do not indicate that A-31 Mr Mishra visited the ADGP (Int.)'s office.*
299. *The SIT has conveniently avoided judging the positive admission by Mr SM Pathak, DySP State IB (**SIT statements**), about Mr Sreekumar's tasking him to inquire about the late Mr Haren Pandya deposing before the Citizen's Tribunal headed by Justice Krishna Iyer. Mr Pathak's corroboration would establish that Mr Sreekumar's entry about Dr Mishra's verbal instructions was correct. As a related transaction, instructions about collecting call details of the late Mr Haren Pandya's mobile phone had to be treated as admissible and reliable.*
300. *Detailed clarifications about the background of the maintenance of the Register and recording of illegal tutoring imposed on Mr Sreekumar by the Home Department Officers and government pleader were submitted to the SIT in (1) Suggestions letter dtd 3-8-2009 and (2) vide his letter no. RBS/201C/SIT/2010 dtd 30-11-2010 captioned 'An appeal to objectively appreciate and acknowledge the evidential merit of his Six Affidavits to the Judicial Commission probing into the 2002 Gujarat Communal Riots'.*

301. *The SIT had avoided probing into specific points suggested in these letters because such an action by the SIT would have damaged the SIT's strategy to enfeeble and ignore Mr Sreekumar's evidence against planners and perpetrators of the 2002 anti-minority genocide.*
302. *During the investigation of criminal cases, even entries made by criminals and dubious characters in their private diaries are properly probed. (For example, entries in the diary of accused in the Jain Hawala case against senior politicians were accepted). Instead of collecting collateral and circumstantial evidence, as suggested in Mr Sreekumar's above-said letters, the SIT had invalidated evidence in the Register by simply accepting the statements of accused persons. Amazingly, when Mr SM Pathak and Mr Maniram, the then ADGP (L&O) fully endorsed Mr Sreekumar's entries in the Register, the SIT had ignored these facts.*
303. *Does this mean that the SIT is bent upon bypassing any evidence which will debilitate the edifice of defence built up by it for saving the accused in Mrs Jafri's FIR?*

Page – 65-71: Allegation of No. III (Ref SIT report.8.2.2012):

304. Mr Sreekumar suggested a specific line of investigation about each of the entries in his Register through his letter no. RBS/75C/SIT/2010 dtd 30-11-2010, as mentioned in para 18 however, the SIT ignored these suggestions. The Register was opened as a defence for him in the event of a probe or judicial scrutiny about many illegal actions by the State Administration. He did not support any of these actions and comply with any illegal instructions. Secondly, no minutes of the meetings chaired by the higher officers were prepared. Though the Register was numbered and sealed by Mr Mathur on 18.04.2002, he made entries about meetings held on 16th/17th.04.2002 as information of these meetings was fresh in his memory. Instead of finding technical objections about the Register, the SIT should have tried to collect collateral and circumstantial evidence as suggested in Mr Sreekumar's letters dtd (1) 3-8-2009 and (2) 30-11-2010. After such an earnest investigation, if any entry was found to be false,

malicious or fabricated, the SIT could have suggested action against Mr Sreekumar. Instead, the SIT has gone out of its way to discredit the vital evidence provided by Mr Sreekumar as he is the vital bridge between the administration/bureaucracy and the political wing of the government headed by A-1 Mr Modi the chief minister and home minister.

305. Mr Mathur has been given many favours by the Modi government. Departmental proceedings against him were dropped and he was posted as the Commissioner of Police, Ahmedabad City, on promotion to the rank of DGP, ignoring the claims of officers senior to him in the IPS Civil list. Further, after his retirement he was given an assignment with the status of a Vice-Chancellor, as Director, Raksha University.
306. *Why did the SIT, who has diligently sought to bring such detailed incriminating details about Mr Sanjiv Bhatt's career on record, conveniently avoid such adverse information about Mr Mathur? Was it because Mr Mathur was being used by the SIT to discredit Mr Sreekumar?*
307. *The SIT did not bring on record the alleged undesirable actions of Mr Mathur, widely reported in the media, particularly in the Times of India, Ahmedabad edition, on the eve of his taking over as Commissioner of Police, Ahmedabad City. The reports related to his alleged patronising of a petty street criminal – Abdul Latif – and facilitating his rise to the position of a major Don of Ahmedabad City. This criminal was killed by Ahmedabad city Police in 1997 in an alleged fake encounter. In police circles it is widely accepted that Abdul Latif was about to reveal the names of his patrons in the Police Department and political parties and for preventing this eventuality police had eliminated him in an extrajudicial killing. (Please refer to the Times of India (Ahmedabad edition) report on the Gujarat High Court verdict in a sedition case filed by Mr Mathur dtd 22 June, 2012, Page 4.) If Mr Mathur was suspicious of Mr Sreekumar's order to open a Register, why did he not report the matter to the DGP and higher authorities at the relevant and immediate point of time?*

Ignoring Intimidation & Threats to a Public Official

308. The SIT has deliberately avoided appreciating the facts mentioned in the forwarding letter of Mr Sreekumar's Third Affidavit, explaining the reason for his filing that Affidavit in his individual capacity. As a consequence of Mr Sreekumar's resisting illegal orders and directions by Home Department Officers – Mr Dinesh Kapadia, the Under Secy., and A-37 Mr GC Murmu, IAS, Home Secy., and the special public prosecutor (PP) Mr Arvind Pandya, he was superseded in promotion to the rank of DGP (*The supersession was declared illegal by the CAT and the Gujarat High Court but the SIT remains quiet on this*). To apprise the Commission of his victimisation, he had filed his Third Affidavit and requested the Commission to take action to check the government from resorting to further acts of his victimisation on account of his giving evidence to the Commission against the interests of the State Government Officers. Moreover, the Register was kept as a record of his defence and an aid to memory in the event of future action by judicial bodies.
309. *However these aspects have been completely and deliberately ignored by the SIT. Why did the SIT choose to pass an adverse judgement about evidentiary value and admissibility of material in Mr Sreekumar's Register without conducting an independent probe and by merely accepting the version of the accused in Mrs Jafri's complaint?*

Para 8: Sub para XXVII (SIT Report dated 8.2.2012):
Data on officers who did not file Affidavits was provided in Mr Sreekumar's Fourth Affidavit dated 27 October, 2005.

Para 8: Sub para XXVIII (SIT Report dated 8.2.2012):
Role of DGP Mr SS Khandwawala in neutralising the reinvestigation of cases ordered by the Apex Court was narrated in Mr Sreekumar's Sixth Affidavit dated 3 September, 2010.

Para 8: Sub para XXIX (SIT Report dated 8.2.2012):
Relevant data may be seen in Mr Sreekumar's Sixth Affidavit.

Information on favours to 25 officers was given in the Sixth Affidavit.

310. **Statement of Mr Sanjiv Bhatt:** Mr Sanjiv Bhatt had confirmed Mr Sreekumar's statement in his Fourth Affidavit about A-29 Mr PC Pande objecting to the government decision for transportation of dead bodies of Godhra train fire victims to Ahmedabad City.

Page – 55: SIT conclusion about Mr Sreekumar's Register. (SIT Report dated 8.2.2012)

311. *The SIT did not record the statement of any 'independent witness' – See page 71/72 of the SIT report – but had simply accepted the version of the accused. How can the version of the accused be treated as that of "independent witness" by the SIT? Had they supported Mr Sreekumar's entries in the Register, their evidence would have been self-incriminating to them. The entry in Mr Sreekumar's Register against the date 04-05-2002 was corroborated by Mr Maniram, the then ADGP (L&O). Besides this, Mr SM Pathak also had provided supporting evidence on the entry on government orders to probe into the role of the late Haren Pandya. Do not these corroborative statements establish that the entries in the Register are truthful? Are not Mr SM Pathak and Mr Maniram 'independent witnesses' unlike the accused in Mrs Zakia Jafri's complaint? It appears that the SIT ignored any evidence in support of the entries in the Register, for establishing its baseless contention that the Register was a document kept for motivated reasons. Contemporary events, records like the CEC order dtd 16-08-2002 etc also establish the genuineness of the Register.*
312. *Would anybody accept the statement about illegal orders given to Mr Sreekumar by higher officers and the CM without the proof of entries in such a Register? In such a situation what was the option left for an official keen to remain loyal to his oath to the Constitution of India? Instead of making the document of the Register an inadmissible evidence of no value, the SIT should have inquired into each of the episodes narrated therein and proved or disproved their truth. All transactions delineated in the Register pertained to the period from 09-04-2002 to 18-09-2002 and entries were made in the above period by Mr Sreekumar in his capacity as ADGP (Int.).*

This can be established by testing the period of writing in the original Register. So presentation of this evidence after his supersession does not in any way reduce the

admissibility and evidential quality of the entries in the Register. Had he not been superseded, he would have submitted this Register with other documents appended in his Third Affidavit, to a reliable investigating agency. The Nanavati Commission has, to date, also not called him for cross-examination on the Second to Ninth Affidavits.

Page 83, Of SIT Report (8.2.2012)

313. *The sweeping assessments by the SIT about Mr Sreekumar's statement as 'motivated' is expressive of its annoyance against anybody providing any incriminating evidence against the powerful accused persons. According to the SIT, any collection of evidence against the Government is a motivated action even if the Government was engaged in violation of the principles of the Rule of Law, the concept of secularism and the spirit and letter of the Constitution of India. Strangely, the SIT had accepted as gospel truth, statements of all persons figuring as accused in Mrs Jafri's complaint. Does the SIT suffer from an inbuilt allergy to anybody going against the interests of the accused, the Sangh Parivar and the Chief Minister? The SIT did not take into account the fact that the Nanavati Commission had itself issued a Notification calling for data from all citizens relating to terms of reference of the Commission issued by the Gujarat Government. The State Government had included the role of the CM during the riots as a point of probe only after July 2004. Moreover Section 6 of the Commission of Inquiry Act provides total protection to the witnesses giving evidence from any criminal or civil proceedings.*
314. *The SIT should have probed the fact that the state government had not challenged the validity of facts and data presented in Mr Sreekumar's Nine Affidavits running into 600 pages. In its hurry to discredit Mr Sreekumar, himself an independent witness, the SIT has shown a callous disregard for the facts and evidence provided by him about mass killings directed with a criminal mind by A-1 Mr Modi as chief conspirator in the reprisal killings.*
315. *The SIT concluded that "the register maintained by RB Sreekumar cannot be considered a reliable document as the same appears motivated and no credence can be placed upon the same. Moreover, there is no corroboration to the oral version of RB*

Sreekumar by any of the independent witnesses.” The SIT has the gall to use the term “independent witnesses” when all the senior bureaucrats that the SIT based its conclusions on were, like A-28, then ACS Home, Ashok Narayan, A-25, then DGP K. Chakravarti and A-29, then Commissioner of Police, Ahmedabad, PC Pande, all co-accused in the complaint dated 8.6.2006, seriously indicted and charged for being accomplices in the criminal conspiracy behind the mass crimes that took place in several locations of the state of Gujarat in 2002. By the SIT’s own admission these bureaucrats were rewarded with post-retirement assignments by A-1 Mr Modi and thus did not seem to have spoken honestly. Yet the SIT proceeds to believe them nonetheless!

Intimidation and Tutoring of Witnesses as part of the Conspiracy by A-1 Mr Modi

316. The very acts of A-37 Mr GC Murmu and Mr Arvind Pandya are illegal and amounting to misconduct and crime, viz. interference in the normal discharge of duties of a Government servant, acts punishable under Sections 186 and 187 IPC. When the State Government had constituted a Judicial Commission to probe into the role of the Chief Minister and other seniors in the riots, how could officers from the supervisory department of Police (in which Mr Sreekumar was serving) – Mr Dinesh Kapadia and Mr Murmu) – venture to tutor him and intimidate him, directing him to speak in favour of the Government during his cross-examination by the Commission. (The Home Department is the supervisory department of Police). Even briefing a witness like Mr Sreekumar (as he was not a prosecution witness supporting the Government side) is certainly blatant interference in the normal course of duties, contrary to the objectives of the constitution of a Judicial Commission by the State Government. Mr Sreekumar did not comply with the illegal tutoring by Home Department officers and deposed before the Commission real facts on 31-08-2004, during cross-examination. In fact during this cross-examination he had further exposed the role of Government servants in the riots and he had also provided official documents as exhibits – like the copy of his proposal to take action against publication of communally inciting material, to the Commission on 31-08-2004 (no action was taken by the Government on this proposal and the SIT did not find anything improper in this intentional inaction by the Government

which was due to the fact that Mr Sreekumar's proposal for action was against Hindu extremist elements).

317. Along with his third affidavit, Mr Sreekumar also produced an audio recording to demonstrably prove that state home secretary Mr GC Murmu, home department official Mr Dinesh Kapadia and the state government's special PP Mr Arvind Pandya had tried tutoring and intimidating him into not telling the truth before the Nanavati-Shah Commission. These are serious offences under the law and constitute, apart from individual crimes under the Indian Penal Code, the serious obstruction of public justice.
318. *The SIT, despite having found the audio recording to be genuine, has dismissed its own finding of authenticity and proceeded to allege that Sreekumar produced this register as an act of pique only after he was superseded for a promotion. This is not borne out by facts. Moreover the SIT has deliberately failed to draw connections in the mens rea of the Government of Gujarat in trying to subvert the course of criminal justice.*
319. *What the SIT appears to have deliberately failed to appreciate is the consistency in Mr Sreekumar's stand against A-1 Mr Modi's government's communal and political agenda since the filing of his first affidavit far back in July 2002 while he still held the post of ADGP (Intelligence). This was at great risk to his professional career. (Pages 24-28 of the SIT Report dated 12.5.2010).*
320. *Despite the wealth of evidence, SIT chairman Mr RK Raghavan has disregarded Mr Sreekumar's evidence and commented: "It has been clearly established that the register was an unofficial document that Sreekumar was not authorised to maintain", adding that it has no "evidentiary value whatsoever. The very motive behind him maintaining such a register is suspect" (Page 7 of the chairman's comments). Significantly, both the SIT's investigating officer Mr AK Malhotra, and Mr Raghavan and thereafter, the further investigation by the SIT have all failed to investigate or comment on the evidence in annexures and appendixes provided through Mr Sreekumar's affidavits before the Nanavati-Shah Commission (see section on Prelude to Godhra of the Protest Petition), his numerous reports prepared in his capacity as state intelligence chief and also his testimony before the SIT. This*

despite the fact that the evidence he provided was substantiated. Besides, to date the Gujarat government and the home department under A-1 Mr Modi since 2002 has not challenged a single fact or document contained in Mr Sreekumar's several affidavits.

321. The SIT had conveniently forgotten or ignored that the facts related to the persuasion, cajoling and tutoring (first by police officials Deepak Swaroop and J. Mahapatra, both ADGPs) followed by Under Secretary, Home, Mr Dinesh Kapadia, Home Secretary, A-37 Mr GC Murmu and Government pleader Mr Arvind Pandya came in a sequence and therefore followed a logical pattern. So these acts can never be treated as acts done on their individual initiative, out of concern for Mr Sreekumar's welfare or career interests. These actions by government officials were taken on instructions from their higher officers, if not Mr Narendra Modi himself. In case Mr Sreekumar had not recorded the voice bites on the interaction, the SIT would not have accepted his complaint against them at all. Now the SIT is treating the act of recording as a "clandestine act". The SIT is not questioning the relevant officials about the basis of objections about Mr Sreekumar's recording the conversations which was simply an act of preserving the data on tutoring sessions through electronic means/ device. The SIT did not accept as truth his statement about 2 Additional DGP-ranking officers persuading him to speak in favour of the government for want of any proof other than his statement whereas in the case of tutoring by Home Department Officials, about which Mr Sreekumar produced material evidence,

322. *Amazingly, the SIT also does not accept the free admissions by Mr Arvind Pandya, in his "extrajudicial confessions to a journalist of Tehelka, Mr Ashish Khetan, in the Sting Operation Kalank, that Mr Pandya had intimidated Mr Sreekumar, as truthful and reliable. This evidence by Mr Khetan was accepted by the Court in the Naroda Patiya Massacre Case. In the SIT's scheme of action, relying upon any item of evidence that could damage the accused persons would upset its apple cart aimed at immunising the real culprits of the riots.*

323. Both in the transactions of senior officials and the CM giving illegal verbal orders to Mr Sreekumar and tutoring by Mr Murmu and others, there were no independent witnesses present and in such a situation how could the victim complainant (Mr Sreekumar) present

evidence from independent witnesses. *The SIT has stopped short of declaring Mr Sreekumar's evidence (Mr Sreekumar's register and recording of conversations of A-37 Mr Murmu and Mr Kapadia) as baseless, false and fabricated.*

Statement of A-28 Mr Ashok Narayan --- Page 88 (8.2.2012) SIT Report and Papers)

324. A-28 Mr Ashok Narayan has stated that Mr Sreekumar's entries in the register relating to the meeting convened by the Central Election Commission on August 9, 2002 "are broadly true". In the recorded tutoring of Mr Sreekumar by A-37 Mr Murmu (see Mr Sreekumar's Third Affidavit), he had revealed his plan to brief A-28 Mr Ashok Narayan. But the SIT did not check with A-28 Mr Ashok Narayan about the details of briefing/ tutoring by A-37 Mr Murmu.

Allegation VII Page 85 Statement of A-27 Mr G. Subha Rao, the then Chief Secretary

325. A-27 Mr Subha Rao has alleged that the Register contained "baseless false and malicious statements" "absurd, unethical" and the SIT had fully accepted these without any verifications either from Mr Sreekumar or through independent investigations through A-27 Mr Subha Rao is an accused in Mrs Jafri's complaint.
326. *The SIT did not test the age of paper and writing in Mr Sreekumar's Register through tools of forensic science.*
327. The SIT did not find anything strange or probe the many encounters taking place after Mr Sreekumar left the charge of ADGP (Int.), i.e. from October, 2002, and ending only with the arrest of A-44 DIG Mr DG Vanzara and others for fake encounters in April, 2007. The SIT had ignored the fact that these fake encounters were started within a few days of Mr Sreekumar's transfer from the post of ADGP (Int.) on 18-09-2002 after he refused to comply with the criminal intent and plan of A-1 Mr Modi as conveyed to him by A-27 Mr Subha Rao. As per Rule 61, Sub-Rule 4, of the Gujarat Police Manual (GPM), Vol. III, the ADGP (Int.) has powers to inquire into all encounter killings.

328. These fake encounters ought to have been suo motu inquired into but ADGP (Intelligence) Mr J. Mahapatra reportedly did not conduct any inquiry as envisaged in the above-mentioned Rule of the Gujarat Police Manual, Vol. III; perhaps as a reward, Mr Mahapatra was given an out-of-turn accelerated promotion, superseding Mr Sreekumar and other officers, and a post-retirement placement as Member of the State Administrative Tribunal. Do not these facts constitute circumstantial evidence to prove many entries in the register?
329. Moreover, in his 9th affidavit dated 12.1.2012 Mr Sreekumar provided details about Mr Ashok Narayan's frank admissions about the State Administration including Doctors showing anti-Muslim bias. But the SIT did not seek any clarifications from A-28 Mr Ashok Narayan about his revelations to Mr Sreekumar. (Mr Sreekumar had submitted an audio recording of this interaction, so there could not be any doubt about its acceptability). It is pertinent to note that the various communications to the Nanavati-Shah Commission and the SIT (from Mr Sreekumar) denying certain false claims made by Mr Sanjiv Bhatt which were submitted on 27th December, 2011 were fully utilised by the SIT as evidence whereas material in Mr Sreekumar's 9th affidavit dated 12th January, 2012 was ignored.
330. *Clearly, the SIT has only taken cognisance of those materials favourable to the accused persons and not anything damaging to them.*

Statement by A-31 Mr PK Mishra --- Page 89, 8.2.2012 SIT Report

331. The SIT should have treated the claims of A-31 Mr Mishra on his memory loss as unreliable and false because Intelligence Officer Mr SM Pathak had revealed that he had probed into the role of the late Mr Haren Pandya on Mr Sreekumar's instructions. The SIT also did not ask A-31 Mr Mishra about details of meetings chaired by the CM Mr Modi in which Mr Sreekumar and A-31 Mishra had remained present. Does the SIT hold the view that many entries in Mr Sreekumar's Register about meetings presided over by the CM Mr Modi are a product of Mr Sreekumar's imagination?

Statement of Mr AK Bhargava, the then DGP --- Page 91, SIT Report dated 8.2.2012. Allegation No. XIX Page 156

332. The move of ADGP Mr Deepak Swaroop, ADGP Mr J. Mahapatra, Under Secretary (Home) Mr Dinesh Kapadia and Home Secretary Mr GC Murmu along with Mr Arvind Pandya, Government pleader, had a chronological sequence and pattern. All these officials who persuaded, cajoled, tutored and intimidated Mr Sreekumar had pressurised with the sole purpose of trying to prevent truthful and adverse facts and material against the state government and A-1 Mr Modi from coming out in Mr Sreekumar's deposition before the Nanavati Commission on 31.8.2004.
333. *Yet the SIT has deliberately treated each of these briefings as unconnected, separate transactions.*
334. *Did the SIT accept Mr Sreekumar's statement about DGP AK Bhargava, ADGP Deepak Swaroop and ADGP J. Mahapatra's attempts at advising him not to go against the accused in Mrs Jafri's complaint? Mr Sreekumar had not audio recorded these interactions and the above officers could have refused to support his version.*
335. *Did not the actions of A-37 Mr GC Murmu and Mr Arvind Pandya amount to commission of offences u/s 186, 153-A, 506, 193 IPC r/w 116 IPC? Did not the SIT accept that Mr Sreekumar's compliance to the instructions of the Home Department officials and the Government pleader would result in the commission of the offence of perjury by Mr Sreekumar before the Commission?*
336. *Why did the SIT not test scientifically the genuineness of the audio records of tutoring imposed on Mr Sreekumar by Mr Dinesh Kapadia, A-37 Mr GC Murmu and Mr Arvind Pandya though in their statements they had accused him of tampering with the tapes? Mr KC Kapoor, the Principal Secretary, Home, had also alleged about tampering of the tapes.*
337. *The SIT has treated the entire attempts at intimidation in a brazen manner. How has the SIT deemed that the advice by Mr Dinesh Kapadia – viz.*
(1) "truth need not be told to the Commission" (Page 8 of Annexure-A to Mr Sreekumar's Third Affidavit),
(2) "You are harming yourself" (by telling the truth), Page 9,

(3) "Little bit cautious, just to ensure that you are totally objective. Not to prevent any harm, which is likely to be done to you, by Government, because of your deposition", Page 16 – does not amount to persuading a government servant to commit perjury? Did the SIT hold the view that the move of Mr Dinesh Kapadia to cajole Mr Sreekumar was for his own benefit or for preventing flow of evidence against the accused persons? Did the SIT consider that it was unlikely that Mr Sreekumar would seek a briefing from Mr Kapadia, a junior civilian officer in the Home Department, with no experience or expertise in investigation and judicial matters, before his cross-examination by the Commission on 31.8.2004?

338. *Did not the whole exercise by Mr Kapadia form part of the accused's efforts to constrict free flow of evidence to the Commission?*
339. *Did not the SIT view that the directions to Mr Sreekumar by A-37 Mr GC Murmu and Mr Arvind Pandya go against the letter and spirit of the State Government notification on the terms of reference of the Commission and general instructions to government officials to cooperate with the Commission? Is it not the duty of every government servant to act as per the requirements of government notifications?*
340. *Do not the illegal and unauthorised directives by A-37 Mr Murmu and Mr Pandya to Mr Sreekumar, to avoid giving long answers resulting in more questions, amount to obstructing Mr Sreekumar from performance of his duties – an offence u/s 186 IPC? (See Page 6 of Annexure-B of Mr Sreekumar's Third Affidavit).*
341. *Is not A-37 A-37 Mr Murmu's direction to Mr Sreekumar to avoid speaking about the follow-up action by the Government on his 24th April, 2002 report an act of abetment to perjury? (Pages 11-12) Similar instructions were given by Mr Pandya to Mr Sreekumar. (Page 14) Are not the directions of Mr Pandya, to devalue the intelligence reports in Mr Sreekumar's depositions, illegal? (Page 16) Did not the SIT consider that Mr Pandya's intimidatory utterances to Mr Sreekumar, with the approval of A-37 Mr Murmu who presided over the meeting – viz. "You are my witness. Am I permitted cross-examination of my own witness? If you create circumstances, I give application that I want to cross-examine you,*

then giving contrary opinion by you and in those circumstances if I obtained permission from the court, you are hostile to me and of false nature. I will cross-examine and then notice will be issued by government to you regarding your integrity and everything. In sum I cannot cross-examine my witness" (Page 17) – constitute an offence u/s 506 and 186 IPC? This threat and illegal direction is quite unambiguous and is indicative of the Government's (accused persons') intention to intimidate government officials from "giving contrary opinions" to government interests before the fact-finding Commission (and not before a court trying a criminal case)?

342. Do not Mr Pandya's words that "whatever brief we are giving you, we are telling every witness (Page 18)" falsify the claim of A-37 Mr Murmu in his statement – this statement is attached to Mr Sreekumar's chargesheet for departmental action – that Mr Sreekumar sought out a briefing from him? Does not Mr Pandya's confession that he would not speak 10% of information (Page 22) constitute an act of violation of government orders about assisting the Commission?
343. Do not the suggestions hinted by A-37 Mr Murmu to call A-37 the former ACS (Home) Mr Ashok Narayan, the then senior-most IAS officer, for tutoring (Page 23) falsify his claims about Mr Sreekumar requesting a briefing from him before Mr Sreekumar's deposition to the Commission? This proves that tutoring of government servants had been done as part of an illegal drill.
344. *Why did the SIT not assess that the whole episode of tutoring and intimidation by A-37 Mr Murmu and Mr Pandya perpetrated on Mr Sreekumar as a whole and series of connected criminal acts that constitute offences u/s 193 r/w sections 116, 186, 153A and 506 IPC?*
345. Why did the SIT not accept the extrajudicial confession by Mr Pandya in the Tehelka magazine Sting Operation reported in its issue dtd 3-11-2007 (Vol. IV, Issue 43) about his threatening Mr Sreekumar as evidence? (The CBI has authenticated the Tehelka Tapes).
346. Mr Sreekumar was not a prosecution witness nor was he giving evidence in a criminal case but as a senior government servant and

responsible police official was deposing before a Judicial Commission tasked to bring out the truth about its terms of reference. During such proceedings, a witness is free to give his version of incidents. A witness can be charged or prosecuted for giving false evidence only u/s section 6 of the Commission of Inquiry Act. Had Mr Sreekumar deposed giving false evidence or data, he could have been dealt with for the offence of perjury.

347. *In this context, the whole transaction of tutoring organised by Mr Murmu and Mr Pandya, especially in the light of Mr Sreekumar's refusal to go according to the briefing given to Mr Sreekumar by DGP AK Bhargava, A-40 ADGP Deepak Swaroop, ADGP J. Mahapatra and Under Secretary Home Dinesh Kapadia, was a blatant illegal action culpable under various sections of law viz. the IPC and Commission of Inquiry Act.*
348. *How has the SIT blithely accepted the statement by the Principal Secretary (Home) Mr KC Kapoor (for his "services", the Modi government posted him as State Election Commissioner after his retirement – see the Sixth Affidavit of Mr Sreekumar) that the government did not give approval to Mr Sreekumar for filing his second affidavit, when in the forwarding letter of this affidavit he had mentioned the details of written orders by the then DGP Mr AK Bhargava to all officers to file second affidavits relating to the additional terms of reference of the Commission issued by the government notification dated 20 July, 2004. Mr Sreekumar had submitted copies of these orders by Mr Bhargava to the SIT along with his letter captioned "Rejoinder to malicious campaigns to marginalise his evidence" and to the Nanavati Commission and the SIT on 30.3.2010.*
349. The State government issued a 9-point chargesheet against Mr Sreekumar, imposing major punishment of dismissal, in which recording of the interaction with Mr Murmu and Mr Pandya was included as one of the charges.
350. *But the Central Administrative Tribunal (CAT) had unconditionally quashed all 9 charges. Later the High Court of Gujarat had refused to issue any stay orders on the CAT's orders dated 28.9.2007. The Judicial Commission also did not find fault with Mr Sreekumar on the act of "clandestine recording".*

351. The SIT conveniently accepted the statements of A-37 Mr Murmu, Mr Kapoor, Mr Kapadia, Mr Pandya, etc without any investigation or perusal of relevant records, examination of impartial witnesses, etc.
352. Mr Sreekumar has categorically denied that there was any meeting with Mr Kapadia on the day of his retirement on 27.2.2007, nor did he plead for any mercy! By spending several paragraphs of its report on such petty issues while ignoring the large-scale misgovernance and breakdown of constitutional order, the SIT has exposed its own petty mindset.
353. The SIT has not spared any attention to scrutiny of the wealth of corroboratory evidence contained in Seventeen files provided by the DGP that relate to field reports of the State Intelligence Bureau (SIB) and the PCR wireless messages of police vans (provided by A-29 , the then Commissioner of Police A-29 Mr PC Pande) indicating that
- a) Large crowds were allowed to gather from 4 a.m. onwards to receive at the Sola Civil Hospital, Ahmedabad, the aggressively mobilised Motor Cavalcade of dead bodies being brought by A-21Dr Jaideep Patel, VHP strongman, from Godhra to Ahmedabad;
 - b) That aggressive funeral processions were encouraged and allowed by A-1 Mr Modi and co-accused conspirators to ensure that anger was deliberately fuelled against the deaths at Godhra;
 - c) That violent attacks had begin to be unleashed from the afternoon of 27.2.2002 onwards;
 - d) That hate speech and writing were used as potent weapons by A-1 Mr Modi and his co-accused.
354. But as far as discrediting of whistleblower witness Mr RB Sreekumar goes, pages of the SIT reports are devoted to just that.

355. Mr Sreekumar has made it clear that since 16 August, 2002, when the government started an inquiry on a trivial matter of a control room officer of ADGP (Int.) sending a secret message to field officers by fax against him, until later he has been victimised due to his upright and constitutional stand.
356. Soon after, the government started inquiries on his sending an adverse report against A-44 DIG Mr DG Vanzara in September 2002 and himself not reporting about an inquiry during his deputation period with the Central government. Even after such persistent acts of victimisation by the government he continued to send proper reports as per his charter of duties in the Gujarat Police Manual, Vol. III, Rule 461. His transfer away on 18.9.2002 from the post of ADGP (Int.) to the post of ADGP (Police Reforms) without any specific charter of duties was for "the deviant act" of reporting about the CM Mr Modi's speech containing contemptuous and insulting words about the Muslim Community. In this report he had also commented that contents of such speeches by the CM would vitiate the prevailing atmosphere.
357. *The SIT has just not bothered to evaluate Mr Sreekumar's presentation to the Nanavati Commission during his cross-examination on 31.8.2004. Mr Sreekumar did not bow to attempts at intimidation. Yet the SIT sets no store by this act of principle. He also gave a lot of information which was quite incriminating to the accused persons, to the Commission during his cross-examination. The SIT avoided any reference to this aspect because such a reference would go against the strategy of the SIT to portray Mr Sreekumar as an opportunist who had come up with evidence against the accused persons only after his supersession in February, 2005.*
358. *The SIT has deliberately turned a Nelson's eye to the several reports about the illegal action of government functionaries and their complicity in the 2002 anti-minority mass violence, during Mr Sreekumar's tenure as ADGP (Int.). His presentation about the law and order situation to the Chief Election Commissioner resulted in the postponement of Assembly Elections. His report about the communal content of CM Mr Modi's speech in Mehsana District was another instance. So the SIT should have noted that Mr Sreekumar's register and evidence of tutoring by the Home*

Department officials – both referred to in his petition before the CAT in April 2005 – was to expressly prove that this supersession was on account of bias and malicious prejudice nurtured by the Government against him for the above-mentioned acts – reporting the truth about the culpable role of A-1 Mr Narendra Modi and other accused persons in the subversion of the Criminal Justice System to obstruct proper and timely delivery of justice to riot victims, insulting Muslims in Modi's speech, etc.

359. *The SIT has deliberately and with mal-intent devalued and ignored voluminous data in Mr Sreekumar's intelligence reports (submitted to the DGP and government) from 9.4.2002 to 18.9.2002 – years before his supersession – but the SIT has deliberately and malevolently overemphasised the material contained in his Third Affidavit and advanced technical arguments to denigrate their evidentiary value.*
360. *The SIT has failed to acknowledge that Mr Sreekumar had not complied with any of the illegal verbal instructions (as narrated in the Register) nor did he take a stand favourable to the accused persons during his cross-examination by the Nanavati Commission on 31.8.2004.*
361. The SIT observed that "the recorded conversation is totally absurd, confusing and does not make any sense" (Page 171). How could the SIT reach such a conclusion obviously for favouring the accused persons, without independently testing the recorded material and bringing out its verbatim version through scientific means?
362. At Para 8, sub-para vii-A (SIT Report dated 8.2.2012) Mr Sreekumar has provided a List of Officers who were given rewards like post-retirement placements, out-of-turn promotions, etc, for their collaborative role during the riots and for subversion of the Criminal Justice System, that was submitted in his Sixth Affidavit to the Commission on 03.09.2010.

Evidentiary merit of Mr RB Sreekumar's Register

363. State IB Additional Director General of Police Mr RB Sreekumar's Register has all the ingredients prescribed u/s 35 of the Indian Evidence Act, of being (1) public record and (2) made in the performance of duty.

364. *Yet the SIT has chosen to deliberately debunk it as it gives invaluable evidence about the Public Record and Performance of duty un-Constitutional and Criminal behaviour of A-1 Mr Modi illustrating his masterminding of the criminal conspiracy. SIT has in fact fallen in line with the design of powerful accused to save themselves from incriminating evidence.*

1. The register was supplied by Mr OP Mathur IPS, the then IGP (Admin. Security) who was in charge of the office of the ADGP (Int.) and Mr Mathur was also the second in command in the office, headed by then ADGP, (Intelligence) Mr Sreekumar.
2. The Register has an endorsement written by him, in Mr Sreekumar's own handwriting, certifying the number of pages.
3. No private and personal register needs an endorsement/ certificate from a senior officer, in his official capacity.
4. No minutes were prepared and circulated about meetings and sessions of discussions convened by senior officers (DGP and above), which would disprove the validity and veracity of contents in the entries of the Register.
5. Since no minutes were prepared about any of the meetings mentioned in his Register by Mr Sreekumar, he had no other means to document the gist of discussions, than by keeping an official register.
6. All materials in the Register are fully relevant to the charter of duties of the Addl. DGP Sreekumar, and the Police Department as per the provisions of the Indian Police Act 1861, Bombay Police Act, Gujarat

Police Manual numbers DGP circulars and other periodical instructions from higher formations.

7. All references to the discussions on events, persons, developing situations, law and order strategy, tactics and ground-level situation, are made by "the public servant (Mr Sreekumar) in the discharge of his official duty" and so are "relevant facts" as per section 35 of the Indian Evidence Act.
8. On the whole, reports sent by the ADGP (Int.)'s office under Mr Sreekumar on the law and order situation make full use of the quintessence of materials in the Register entries. This can be seen by examining Mr Sreekumar's affidavits, particularly copies of reports by the ADGP (Int.)'s office appended to the affidavits of Mr Sreekumar.
9. An examination of press reports of the relevant period will establish the truth of the Register entries, as these media projections bring out the chain of circumstances and ambience behind many of the illegal and unethical instructions given to Mr Sreekumar.

365. Please see suggestions about corroborative evidence and further action to be taken to prove the veracity of entries, given below:-

Entry dated 16-04-2002

- (A) The CM's observation about Congress leaders, viz. Mr S. Vaghela, about their role in the communal riots was in the press reports of those days.
- (B) Police follow-up action on arrest of history-sheeters as per the CM's instructions can be seen from police records.
- (C) Since the above 2 entries can be proved by supporting evidence, the entry regarding illegal

instructions to tap Mr Vaghela's phone can be largely inferred or presumed to be correct.

366. Entry dated 17-04-2002

Please note that as per police records, nobody was arrested for the exclusive offence of obstructing examinations in schools/ colleges. 18-04-2002. The Central IB Joint Director Mr Rajendra Kumar's illegal moves in support of Mr Modi's political policy and strategy may be seen in Sreekumar's 4th and 5th affidavits before the Nanavati Commission.

367. Entry dated 22-04-2002.

The then chief secretary A-27 Mr Subha Rao's posture against the arrest of Hindu leaders is endorsed by the fact that only after interventions by the Apex court were senior Hindu leaders like A-16 Dr Maya Kodnani (then an MLA) and A-21 Dr Jaideep Patel (VHP) arrested. Numerous Court decisions condemning inaction by the Gujarat Administration is additional evidence.

368. Entry dated 30-04-2002.

Some as under entry dated 17-04-2002.

369. Entries dated 1-05-2002 and 28-06-2002

The then Chief Secretary's instructions regarding fake encounters and Mr Sreekumar's refusal to implement the same can be proved by the fact that extrajudicial killings (largely of Muslims) started after Mr Sreekumar's transfer from the post of ADGP (Int.) on 17/18 September, 2002. The ADGP (Int.) has inherent powers to probe into all custodial deaths and fake encounters suo motu.

370. Entry dated 7-05-2002

A-1 Mr Modi's observations about "natural uncontrollable reaction" can be seen in his press statements also.

371. Entry dated 8-05-2002

There is sufficient evidence about forcible closure of relief camps – an act approved by Mr KPS Gill.

372. Entries dated 5-08-2002, 6-08-2002, 8-08-2002 and 9-08-2002

Statistics about incidents of communal violence were manipulated by the Gujarat Government to project a picture of normalcy in the state, to ensure holding of early Assembly elections. Mr Sreekumar's presentation and reports dated 20-08-2002 and 28-08-2002 (appended in Mr Sreekumar's second Affidavit) had falsified Government reports. Please see Central Election Commission order dated 16-08-2002 for corroboration.

373. Entry dated 30-08-2002

Records in ADGP (Int.) will prove about inadequacy of reports from the Gandhinagar region since 30-08-2002.

374. Entries dated 10-09-2002 and 12-09-2002

These letters from the Minority Commission with endorsement from DGP and others are available.

375. Entry dated 15-09-2002

There were press reports about the then ACS (Home) A-28 Mr Ashok Narayan informing that the government did not have details of the CM's speech.

376. Entry dated 19-09-2002

A-27 The then Chief Secretary's observations about Mr Sreekumar's duty to speak in support of government policy, even in violation of the provisions of the Constitution, is proved by voluminous evidence about subversion of the Criminal Justice System (CJS) by the Modi Government during and after the protracted 2002 communal violence.

Validation whistleblower Rahul Sharma

377. Rahul Sharma, SP of Bhavnagar in 2002 when violence engulfed the state of Gujarat gave his statements to the SIT on. His affidavit before the Nanavati Commission was in 2002 and his deposition before the Nanavati Commission took place in 2004.

378. This officer's testimony before the Commission (**see Section Violent reprisals Attempted at Bhavnagar**) is reflective of the pressures on the police and administration because of the Conspiracy hatched and unleashed by A-1 Mr Modi on the morning of 27.2.2002 to allow premeditated violence to be unleashed on the

minorities. The fact remains however that this man does not succumb and acts independently of any political intimidation. A-5 MoS home at the time Gordhan Zadaphiya reportedly complains to him about more Hindus dying in police firing and in the violence. He is therefore summarily transferred and brought to Ahmedabad on 27.3.2002. He was made DCP of the Crime Branch at Ahmedabad and asked by his superiors Mr PP Pandey and the new Commissioner of Police A-61 K R Kaushik to supervise/assist the Naroda Patiya and Gulberg investigations.

379. *The SIT has in its entire assessment of Mrs Jafri's complaint dated 8.6.2006 and the Concerned Citizens Tribunal report completely and utterly failed to make any analysis or comparison between those districts that experienced unprecedented violence because of the willingness of the District Police and administration heads who fell in line with the conspiracy hatched and those who did not.*
380. *Mr Sharma states in his affidavit before the Nanavati Commission that when he spoke to his superior A-25 then DGP K Chakravarti urgently asking for more forces, expressing his difficulty Mr K Chakravarti tells him that the "bureaucracy has been neutralized." SIT simply seeks a denial from a further statement of A-25 K Chakravarti but does not see any need to go further.*
381. *A thorough and independent investigative agency would have analysed and evaluated whether there was any ground level evidence of the police or administration being terrorized or neutralised as a result of the conspiracy that was masterminded by A-1 Mr Modi on 27.2.2002.*
382. *Thereafter Mr Sharma is transferred to Ahmedabad where in the course of his time at the Crime Branch he on the instructions of his superior officer AK Surolia he had summoned the mobile phone records of 5 lakh phones of Ahmedabad. He had placed this CD on the records of the Nanavati Commission when he testified in 2004.*
383. *SIT's attitude towards this crucial CD is illustrative of its inherent reluctance to get to the bottom of this crucial evidence and authenticate it despite it being made available. (steps need to be taken to authenticate the CD in further investigation)- June 2002 letter to A- 61 Mr K R Kaushik CP on Faulty Investigation in Naroda*

Patiya and Gulberg as DCP Crime is not there in SIT papers though this provides vital clues about the manner in which the Conspiracy to subvert the investigations continued to be committed by A-1 Mr Modi and senior members of his administration.

385. The Naroda Patiya judgement dated 29.8.2012 at Chapter III (Mobile Calls details at pages 792-799) makes serious comments on the absence of probity in the SIT investigation with relation to the authentication of the CD. Refer to pages 792-799, Chapter III: Mobile Call Details in the Naroda Patiya judgment dated 29.8.2012.
386. It is not insignificant that Mr. Sharma is the second critical whistleblower witness who has been seriously victimized by A-1 Mr Modi and the home department under him. After he gave his statement and met the Amicus Curiae in January 2011 a charge sheet was served to him much like the treatment meted out to Mr. Sreekumar. His petition challenging this mala fide charge sheeting was admitted on 3.4.2012.

Validation Whistleblower Sanjiv Bhatt 27.2.2002 Meeting Information Before and After the SIT Investigation Begins

- **Before SIT Investigation (i.e. Before June 2009) May 2002**

387. Haren Pandya, former Minister in the Gujarat Government before the Concerned Citizens Tribunal (CCT) May 2002 first gave information of the unconstitutional and illegal instructions given by A-1 Modi at this meeting. He is mysteriously killed on 26.11.2003

21-22 November 2002

Report of the CCT, November 2002 publishing details of Haren Pandya's revelations while keeping the source anonymous

27.12.2005

Fourth Affidavit of RB Sreekumar, ADGP-Int (2002) before the Nanavati Shah Commission dated 27.10.2005 (**Annexure III File III D-24 of the SIT Records**) stating that A-25 K Chakravarti had given information of the same words uttered by A-1 Mr Modi at the meeting of 27.2.2002 on 28.2.2002

- **After SIT Investigation Commences on June 2009**

27.6.2009

Statement of Teesta Setalvad, Secretary Citizens for Justice & Peace Mumbai given before SIT stating what had already been stated by former Minister Haren Pandya to the Tribunal

28.08.09

Statement of Justice P B Sawant before the SIT (**Annexure I Vol I Serial No. 17**)

28.08.09

Statement of Justice Hosbet Suresh before the SIT (**Annexure I Vol I Serial No 16**)

14.09.09

Statement of Smt. Swarnakanta Verma before the SIT (Annexure I Vol I Serial No 18)

388. *In 2010 the SIT Report states at pages 16-17 that*
Mrs Swarnakanta Verma: “She has stated before (SIT) that she *does not recollect* as to whether CM instructed the police officers that the police should not come in the way of the Hindu backlash... She has pleaded loss of memory due to passage of time.” (There is no reference to whether Bhatt was present or not).
389. *SIT did not record her statement a second time after documentary evidence was made available by the Gujarat state IB that reveals that Mr Sanjiv Bhatt was indeed deputing that day and could well have been at the meeting.*

- **16.12.09 & 17.12.09 A-25 K. Chakravarti statement (Annexure I Vol I Serial No 65 in SIT Papers)**

390. **A-25 K. Chakravarti:** (A statement similar to Narayan’s)... “He has denied to have told RB Sreekumar (as claimed in an affidavit before

the Nanavati Commission by the then ADGP) that the CM had said in the meeting held on February 27 night that in communal riots police takes action against Hindus and Muslims on one to one basis and this will not do now and allow Hindus to vent their anger. He has also stated that as per his recollection, Bhatt did not attend this meeting”.

- **24.09.2009 Statement of A- 34 K Nityanandam before the SIT (Annexure I Vol I serial No 20)**

391 *.A-34 K. Nityanandam:* “Has denied that the CM said that police should not stop (Hindu retaliation)...” (There is no reference to whether Bhatt was present).

- **22.11.09 Statement of Anil Mukim before the SIT (Annexure I Vol I Serial No. 47)**

392. *Anil Mukim:* “Denied to have attended this meeting but all other participants have confirmed his presence in the meeting...”

- **25.11.2009 & 26.11.2009 Statement of Sanjiv Bhatt before the SIT on two consecutive days (Annexure I Voll Serial No 51 & 52)**
- **12.12.2009 Statement of A-28 Ashok Narayan (Annexure I Vol I Serial No 62)**
- **13.12.2009 Statement of Ashok Narayan (Annexure I Vol I Serial No 63)**

393. *In 2010 the SIT Report states at pages 16-17 that A-28 Ashok Narayan:* “He does not recollect as to whether K Nityanandam and Bhatt attended ... The chief minister said that the people were outraged by the heinous incident of Godhra and therefore effective steps should be taken to control the communal riots if any. He does not recollect any other words uttered by the CM”.

- **12.3.2010** A-31 Statement of Dr P K Mishra (**Annexure I Vol II Serial No 96**)

394. **A-31 Mr P K Mishra:** “Has denied that the CM said... (let) Hindus vent their anger... He does not recollect whether Bhatt attended the meeting...” (SIT Report dtd 12.5.2010)

SIT has not asked him about the documentary evidence contained in the SIB files that had been given to SIT by January end 2010.

- **24.03.2010** Statement of A-29 P C Pande (**Annexure I Vol II Serial No 106**)

395. *SIT has not asked him about the documentary evidence contained in the SIB files that had been given to SIT by January end 2010.*

- **7.05.2010** A-29 Statement of P C Pande **Annexure I Vol II Serial No 176**

396. **A-29 P C Pande:** “Has denied that the CM said... (let) Hindus vent their anger...” (There is no reference to whether Bhatt was present).
(SIT Report dated 12.5.2010)

- **27-28.3.2010**

397. A-1 Mr Modi questioned by the SIT. No questions put to him about the detailed documentary evidence available in the SIT records about Sanjiv Bhatt’s role on 27.2.2002.

12.5.2010 SIT Investigation Report Dated 12.5.2010

SIT’s Conclusion in 2010:

398. “The statement made by RB Sreekumar is hearsay which has not been confirmed by K Chakravarti. The participation of Bhatt has not been confirmed by any of the participants at the said meeting. The SIT further goes on to dismiss the statements of retired Supreme Court and High Court judges of the Concerned Citizens Tribunal preferring to accept the versions of the co-accused who are also co-conspirators in the complaint. In view of the version of all the senior officials of the home and police department, the testimony of the late Mr Haren Pandya before the Concerned Citizens Tribunal becomes unreliable. No minutes of the meeting of February 27 were prepared”.

399. “In the light of the above, a law and order meeting was in fact held by Modi at his residence late in the evening of February 27. However, the allegation that the chief minister instructed the chief secretary, DGP and other senior officials to allow the Hindu community to give vent to their anger on the minority Muslims in the wake of Godhra incident is not established.” (*Page 19, SIT Preliminary Report*).
400. *The preliminary report’s general observation:* “Though Bhatt claims to have attended the meeting, yet none of the participants of the meeting have confirmed this fact”. *The preliminary report then concludes:* Since none of the officers present at this meeting have confirmed the alleged statement of Modi, Sreekumar’s statement is hearsay, and since no minister was present at the meeting therefore late Haren Pandya’s statement before the Concerned Citizens Tribunal is unreliable, the allegation “is not established”.

Comments of SIT chairman, R K Raghavan, 14.5.2010

401. “Bhatt is considered an unreliable witness, especially because no official who is known to have definitely attended the meeting has spoken of his presence there. Also he was considered too junior to have been invited to such a high-level meeting... The three officers (P C Pande, P K Mishra and Ashok Narayan) had been accommodated in post-retirement jobs, and are therefore not obliged to speak against the chief minister or the state government.” (***Page 4 of Chairman’s comments, 14.5.2012***).
402. Their views are taken as gospel truth even though they are seen as motivated by rewards from a culpable establishment.

Further Investigation by the SIT

- **05.10.2010** Statement of A-29 P C Pande (**Annexure II Vol I Serial No 46**)
- **23.11.2010** Statement of A-29 P C Pande (**Annexure II Vol I Serial No 77**)

- **20.01.2011** Raju Ramachandran's Interim Note **20.01.2011 (Annexure IV File IV Serial No 91)**
 - **15.3.2011** SC Orders Further Investigation March 15, 2011
 - **21.3.2011 – 22.3.2011** Sanjiv Bhatt statement (**Annexure II Vol III Serial No 78**) Sanjiv Bhatt statement (**Annexure II Vol II Serial No 79**)
 - **23.03.11** Statement of A-29 P C Pandey (**Annexure II Vol I Serial No 80**)
 - **24.03.11** Statement of A-25 K. Chakravarti (**Annexure II Vol II Serial No 81**)
403. Not confronted with SIT Investigation papers that had been produced by the DGP on 27/29.1.2010 that within its 4,900 pages had faxes signed by Mr Sanjiv Bhatt on 27.2.2002 showing that Sanjiv Bhatt was operating as the senior most officer in the SIB on 27.2.2002.
- **25.03.2011** Statement of Sanjiv Bhatt statement (**Annexure II Vol II Serial No 82**)
 - **28.03.2011** Statement of A-34 K Nityanandam (**Annexure II Vol II Serial No 88**)
404. Not confronted with SIT Investigation papers that he had produced on 27/29.1.2010 showing that Sanjiv Bhatt was operating as the senior most officer in the SIB on 27.2.2002.
- **29.03.11** Statement of A-31 P K Mishra (**Annexure II Vol II Serial No 89**)
 - **31.03.11** Statement of Anil Mukim (**Annexure II Vol II Serial No 91**)
 - **05.04.11** Statement of Prakash S Shah (**Annexure II Vol II Serial No 96**)
 - **06.04.11** Statement of A-28 Ashok Narayan (**Annexure II Vol II Serial No 97**)

405. Not confronted with SIT Investigation papers that he had produced on 27/29.1.2010 showing that Sanjiv Bhatt was operating as the senior most officer in the SIB on 27.2.2002.

- **14.04.2011** Affidavit of Sanjiv Bhatt (**Annexure IV File X Serial No. 302**)

406. **States in Affidavit**, *“that so far in communal riots police takes action on one to one basis and that this will not do now. Allow Hindus to give vent to their anger.”*

SC Directs Amicus Raju Ramachandran to evaluate evidence bypassing SIT Order dated 5.5.2011

- **25.07.2011** Raju Ramachandran’s report in Sealed Cover to SC (**Annexure IV File X Serial No. 306**)

- **SIT Further Investigation After the SC Order dated 12.9.2011**

- **25.01.2012** Statement of A-25 K Chakravarti (**Annexure II Vol II Serial No 145**)

407. **A-25 K Chakravarti**: “He has categorically stated that Bhatt did not attend the meeting at CM’s residence and no such instructions as alleged were given... He has further stated that none of the ministers/politicians had attended the meeting...”

- **14.01.2012** A-29 Statement of P C Pande (**Annexure II Vol I Serial No 130**)

408. **A-29 P C Pande**: “Has out rightly denied the presence of any minister or Bhatt in the meeting... Pande has categorically stated that no instructions to allow any freedom to any law breaker were given by the chief minister...”

The SIT conclusions dated 8.12.2012 state at Pg. 26-28 that:-

409. **Mrs Swarnakanta Verma**: “She cannot recollect as to whether any minister was present there... On being shown a photo of Bhatt she has stated that she cannot recollect having met or seen him in this meeting... She as denied that there was any mention by the chief

minister (that) Muslims be taught a lesson or Hindus be allowed to vent their anger...”

- **20.01.12** A-31 P K Mishra statement (**Annexure II Vol II Serial No 139**)
- **17.01.12** Statement of A-28 Ashok Narayan (**Annexure II Vol II Serial No 137**)

The SIT conclusions dated 8.12.2012 state at Pg. 26-28 that:-

410. **A-28 Ashok Narayan:** “Bhatt did not attend the meeting”... He has further stated that no minister was present at the meeting... He has denied any utterances by the chief minister (that) Muslims be taught a lesson or Hindus be allowed to vent their anger...”
411. **A-31 Mr P K Mishra:** “Has categorically denied the presence of Bhatt at the meeting. He has also denied the presence of any minister at the meeting... Mishra has stated that it was not true that the chief minister talked in terms (like) let Muslims be taught a lesson and Hindus be allowed to vent their anger...”
412. **A-34 K Nityanandam:** “He has denied the presence of any minister or Bhatt at the meeting... He has also denied any such alleged observations made by the chief minister about Muslims being taught a lesson etc etc and Hindus be allowed to vent their anger”.
413. **Anil Mukim:** Has stated that he attended the meeting for some time and then left after taking permission of Mishra... Has out rightly denied any utterances/instructions about Muslims being taught a lesson and the Hindus allowed to vent their anger, in his presence...”
414. **Prakash Shah:** “Has confirmed to have attended the meeting. He has denied the presence of any minister or Bhatt in the said meeting...”

Note on Validation of Sanjiv Bhatt 27/29.1.2010

Sanjiv Bhatt's Faxes sent on 27.2.2002 Available after a Scrutiny or SIT papers

415. A close scrutiny of SIT papers provided to the Complainant shows that at least at 35 different places in the SIT papers Fax messages and Other communications sent by Sanjiv Bhatt deputing on 27.2.2002 as the senior-most Officer in the SIB are to be found.
416. The following files were submitted by 'DGP' on 27/29.1.2010: Annexure III (File No to be added): D-160, D-161, D-162, D-163, D-164, D-165, D-166, D-167, D-168, D-169, D-170, D-172, D-173, D-174, D-176 (This file contains a handwritten notification stating that these documents were handed over by DGP Chakravarti on 27/29.1.2010. SIT should be asked to produce all Notes/Its Own Register/Covering Letters etc. that came with all Documents. These are in the main Documents supplied by 'DGP's letter' (It is not specified who wxactly gace which files when. The Court should summon the despatch and receipt register of SIT and covering letters etc) A handwritten notification shows on 27/29.1.2010.
417. *Yet none of the protagonists who attended the meeting, who would have been in the know of Mr Bhatt's actions on that day or who would have had occasion being in relevant positions to have received these faxes of Sanjiv Bhatt have been confronted with these documents. It is critical for the SIT to be made to disclose who produced these records.*
418. *A-25 DGP Chakravarti should have certainly then been the first to have been confronted with these records. He was not.*
419. *SIT has spent a significant number of pages trying to discredit Mr Sanjiv Bhatt after he submitted the affidavit to the Supreme Court dated 14.4.2011. The efforts of the SIT seemed to be at any cost to discredit his character and service record to show that he could not have been present at the controversial meeting at the A-1 Mr Modi's residence*

that day. If the SIT had been true to their investigation they could have from the record collected by them and closely analysed by the Petitioner with the assistance of Citizens for Justice and Peace found that at several places in the Gujarat state police records –State Intelligence Bureau – Mr Sanjiv Bhatt had sent out messages on 27.2.2002. His contention that since the ADGP-Int was on leave and his colleague Mr P B Upadhyaya was on leave he was deputing and in that capacity attended the 27.2.2002 meeting stands corroborated by SIB records.

420. *SIT did not confront any of the Accused including A-1, A-25, A-28, A-29 or A-34 with the evidence from the Record. A-34 K Nityanandam was also not confronted with these SIB documents. Neither was A-28 Ashok Narayan. Most serious of all A-1 Mr Modi was simply not confronted by these documents by the SIT.*

Documents with Mr Sanjiv Bhatt's Signature:

421. Several Messages in Many of the SIT Investigation papers coming from different sources validate Sanjiv Bhatt. They show that on 27.2.2002 he was in fact as DCP-Int (Security) deputing for colleague P B Upadhyaya (DCP-Communal) who was on leave and his boss G C Raiger was also on leave.

1. Same message No 71/02 is also at Annx IV File XX 374 Pg. 8394 (71-02) **signed by Sanjiv Bhatt.**

2. Same message No 71/02 is also at Annx III File II D-21 Pg. 31 (71-02) **signed by Sanjiv Bhat.**

3. Same message No 71/02 is also at Annx III File XXXIV D-176 Pg. 13 (71-02) **signed by Sanjiv Bhatt**

4. Again, in Annexure III, File XXXVI, D-179 Pg. 7 (D-178-185) which contains several

documents provided to the SIT by the Gujarat Government, ADGP etc. there is a **Message 72/02 dated 27.2.2002 signed by Sanjiv Bhatt**

5. Same message No 72/02 is also at Annx III File II D-21 Pg. 33 (72-02) signed by **Sanjiv Bhatt**

6. Same message 72/02 is also at Annx III File XXXIV D-176 Pg. 14 (72-02) signed by **Sanjiv Bhatt (This message is the same as provided by Sanjiv Bhatt to the SIT at D-72, Annexure III, File V --Copy of confidential Fax Message No.D-2-2)**

7. Again, Annexure III, File XXXVI (D-178-185) which contains several documents provided to the SIT by the Gujarat Government, ADGP etc. there is a **Message 23/02 (or 73/02) dated 27.2.2002 signed by Sanjiv Bhatt**

8. This message No **23/02 (or 73/02) signed by Sanjiv Bhatt** is also at Annexure III, File II, (R B Sreekumar affidavit) at D-21 Pg. 32

9. Annx III File II D-21 Pg. 24 (327-02) signed by Sanjiv Bhatt in R B Sreekumar affidavit

10. The same above message signed by Sanjiv Bhatt can also be seen in Annx III File XXXIV D-176 Pg. 11 (327-02)

11. Annx III File II D-21 Pg. 38 (74-02) Signed by Sanjiv Bhatt in R B Sreekumar affidavit

12. Annx III File XXXIV D-176 Pg. 16 (74-02) Signed by Sanjiv Bhatt

13. Annx III File II D-21 Pg. 102 (192-02) signed by Sanjiv Bhatt in R B Sreekumar affidavit

14. Annx III File XXXIV D-176 Pg. 120 (192-02) signed by Sanjiv Bhatt

15. Annx III File II D-21 Pg. 75 (342-02) signed by Sanjiv Bhatt in R B Sreekumar affidavit

16. Annx III File XXXIV D-176 Pg. 223 (342-02) signed by Sanjiv Bhatt

17. Annx III File II D-21 Pg. 106 (291-02) signed by Sanjiv Bhatt in R B Sreekumar affidavit

18. Annx III File XXXIV D-176 Pg. 232 (291-02) signed by Sanjiv Bhatt

19. Annx III File II D-21 Pg. 111 (354-02) signed by Sanjiv Bhatt in R B Sreekumar affidavit

20. Annx III File XXXIV D-176 Pg. 252 (354-02) signed by Sanjiv Bhatt

21. The message, message No **23/02** (or 73/02) is also in Annx III File XXXIV D-176 Pg.15 (23-02) is **also signed by Sanjiv Bhatt (was also in R B Sreekumar affidavit annexures)**

22. This message No **23/02** (or 73/02) is also Annx IV File XX 374 Pg. 8397 (23-02) is **also signed by Sanjiv Bhatt**

23. Again at Annexure IV, File XX, (which is a “ Copy of the documents submitted by Govt. of Gujarat to Justice Nanavati and Justice Mehta Commission of Inquiry, regarding instructions/messages issued by DGP Office, Gujarat for controlling: riots and actions taken by concerned police units for the period from 27/02/2002 to 31/05/2002” **there is a message D-2/2/Com/takedari/71/2002 signed and sent by Sanjiv Bhatt as ADGP Gandhinagar.**

24. Again at Annexure IV, File XX, (which is a “ Copy of the documents submitted by Govt. of Gujarat to Justice Nanavati and Justice Mehta Commission of Inquiry, regarding instructions/messages issued by DGP Office, Gujarat for controlling: riots and actions taken by concerned police units for the period from 27/02/2002 to 31/05/2002” **there is a message dated 27.2.2002 Msg No C/D-2/Com/Takedari/- 02 signed and sent by Sanjiv Bhatt as ADGP Gandhinagar.**

25. Annexure IV, File IX Serial NOs 241 (70/02) produced by Sanjay Bhavsar, CMO is a fax message addressed to ACS Home, GOG is a message signed by Sanjiv Bhatt; **important message that speaks of the provocative slogans of karsevaks**

26. The same message 70/02 signed by Sanjiv Bhatt can be located at Sr No 11, Annexure III, File XLI; **important message that speaks of the provocative slogans of karsevaks**

27. Sanjiv Bhatt in SIT Record:- Annx III File XXXIV D-176 Pg. 102 (217-02) dtd 22.3.2002

28. Sanjiv Bhatt in SIT Record:- Annx III File XXXIV D-176 Pg. 110 (216-02), dtd 22.3.2002

Sanjiv Bhatt Faxes in SIT Record

1. Annx III File XXXIV D-176 Pg. 25 (178-02) is a Record Message supplied by Sanjiv Bhatt to SIT—Can also be found at Annexure III, File V (**D-83 Copy of Most urgent Fax Message No C-D-2-Incident-178**)

2.**D-70 Copy of Confidential Crash Cipher Message No D-2-2 given by Sanjiv Bhatt to SIT can be found at two places in the SIT records**) Annx III File II D-21 Pg. 30 (69-02); b) Annx III File XXXIV D-176 Pg. 12 (69-02)

3.**D-74 copy of Confidential Fax Message No D-2-2-COM-Karsevak dtd. 28.02.02 sent by Shri Solanki) given by Sanjiv Bhatt to SIT can be found in two places a)** Annx III File II D-21 Pg. 34 (78-02); b) Annx III File XXXIV D-176 Pg. 17 (78-02)

4. **D-77 Copy of Confidential Fax Message No D-2-2 given by Sanjiv Bhatt to the SIT can be found at** Annx III File II D-21 Pg. 36 (90-02)

5. **D-76 copy of Confidential Fax Message No.D-2-2-COM dtd. 28.02.02 sent by Shri V.J. Solanki given by Sanjiv Bhatt to the SIT can be found at two places a)** Annx III File II D-21 Pg. 39 (80-02); b) Annx III File XXXIV D-176 Pg. 19 (80-02)

6. **D-75 Annexure III File V given by Sanjiv Bhatt to the SIT can be found at** Annexure III, File II D-21 Pg. 35 in the SIT Record

Messages of Sanjiv Bhatt given to the SIT not located in the SIT Record, This should be a matter of further investigation ordered by this Court to be conducted by an Independent agency.

- a) Annexure III, File V, D- 65**
- b) Annexure III, File V, D-66**
- c) Annexure III, File V, D-67**
- d) Annexure III, File V, D-68**
- e) Annexure III, File V, D-69**
- f) Annexure III, File V, D-71**
- g) Annexure III, File V, D-72**
- h) Annexure III, File V, D- 73**
- i) Annexure III, File V, D-78**
- j) Annexure III, File V, D-79**
- k) Annexure III, File V, D-80**
- l) Annexure III, File V, D-81,**
- m) Annexure III, File V, D-82**
- n) Annexure III, File V, D-84**

Evidence from CD towards the veracity of Sanjiv Bhatt affidavit regarding the meeting of 27.02.2002 at CM's Residence:

Annexure 1 (Study of the Phone Call Records of Mr Sanjiv Bhatt)

422. At the concerned point of time, the following IPS officers, in order of seniority, were serving in the State CID, IB:

- 1) A-60 Mr G.C. Raiger, ADGP, IB
- 2) Mr O.P. Mathur, IG, IB
- 3) Mr Sanjiv R. Bhatt, SP, IB (Administration & Security)
- 4) Mr Prabhat Patel, SP, IB (Communal)
- 5) Mr Pravin Upadhyay, SP, IB (Political)

423. The last two mentioned names are not directly recruited IPS officers and junior to Sanjiv Bhatt and for mere reasons of seniority, in the event of the first two officers not attending any meeting requiring the presence of officers from the IB, as per protocol, Sanjiv Bhatt would attend meetings on behalf of IB.

424. It is virtually impossible that such an important meeting (the meeting at CM's residence on the evening of 27.02.2002)

would have taken place without any representation from IB.
The question is who attended the meeting?

1. A-60 G.C. Raiger, on his own admission, was out of the state. Hence, he could not have attended the meeting.
2. O.P. Mathur, at that point of time was using the mobile phone number: 9825029246. Given that the meeting took place at around 10:15 pm and got over by 10:40 pm, O.P. Mathur could not have attended the meeting because his mobile phone is located in Ahmedabad till as late as 10:10 pm. If he attended the meeting, he could not have reached the CM's residence before 10:45 pm, when the meeting got over. Hence, he did not attend the meeting.
3. One of the other two SP's (other than Sanjiv Bhatt) was using the mobile phones – 9825049394. This number was definitely moving in Ahmedabad City from early evening till as late as 11:27 pm. So, he could not have attended the meeting.
4. The other SP was using the phone number 9825049392. This number was also in Ahmedabad City till about 8:40 pm. And whether this officer attended the meeting or not would appear to be inconclusive. However, analysis of his phone calls reveals that he was never contacted by any person or by the IB Control. This means that he may not be having any information on the proposed meeting. Further clarity can be had from this number:
 - a. Another interesting phone number that has come up is 9811066749. This number has called all numbers of officers of IB except 9825049392. This number has also called the DGP & IGP, Gujarat State A-25 A-25 Mr K Chakravarti. And the only police officers numbers that have been called are those of the

IB and the DGP&IGP. It is suspected that the number can only be of A-60 Mr G C Raiger. It is also most unlikely that A-60 Mr G C. Raiger, being the head of CID, IB would detach himself from the proceedings of that day. And, he would definitely have contacted some officers of the IB for that purpose.

- b. And, this number (9811066749) has not called 9825049392. This means that the officer holding number 9825049392 was not considered important enough by A-60 Mr G C Raiger to be consulted on the Godhra train carnage and the possible communal tension it could have generated the next day. Therefore, the officer holding the mobile number 9825049392 is not likely to be trusted to attend such an important meeting. Therefore, he has, most probably, not attended the meeting.

425. Let us now analyse the mobile phone number being used by Mr Sanjiv R. Bhatt: 9825049398. The last call to this number is also at 8:40 pm. He has also been spoken to from the number 9811066749 – maybe, he received instructions also to attend the meeting. His is the only mobile phone of IB that has called back the number 9811066749. Sanjiv Bhatt is also the senior-most SP. And he claims to have attended the meeting. His claim is most likely to be true.

(See Graphs and Tables on Phone Call Records of Mr Sanjiv Bhatt at **Annexure -----**)

Prelude to Godhra

426. The Vishwa Hindu Parishad (VHP) had announced holding of “Ram Maha Yagna” for 100 days at Ayodhya in order to pursue its declared objective of construction of Ram Temple. Accordingly, the VHP Gujarat Branch held meetings at various Dist. Headquarters and important towns (from 7.2.2002 to 17.2.2002) to solicit participation of volunteers to participate in “Ram Maha Yagna” at Ayodhya. The VHP’s International General Secretary Mr. Praveen Togadia has held a meeting on 4.2.2002 at Vanikar Bhavan, Paldi, Ahmedabad, in which it was decided that Maha Yagna would start at Ayodhya from 24.2.2002 and it would go on for 100 days and about 3,000 Kar Sevaks would be participating from the Gujarat Region. The State Intelligence Bureau vide its letter No. D-1/9-HA/252/2002 dated 12/2/2002 informed the Addl. Chief Secretary, Home Department. Govt of Gujarat, and DGP Gujarat, about the activities of VHP. **(Affidavit of RB Sreekumar dated 6.7.2002 before the Nanavati Commission; Appendix: 2)**
427. The State Intelligence Bureau (SIB) had collected intelligence in this matter, and informed all the Districts’ SSPs and the Police Commissioners vide its Fax Message No. (even) 9-HA/Ram Mahayagna/228/2002 dated 7/2/2002. **(Affidavit of RB Sreekumar dated 6.7.2002 before the Nanavati Commission; Appendix: 1)**
428. It is mentioned in this message that about 3,500 Kar Sevaks would be starting on 22.2.2002 by train from Gujarat. It was also reported that recruitment of Kar Sevaks for the ensuring Ram Maha Yagna will take place in these local Mahayagnas, therefore, all the Districts and the PCs were accordingly asked to be alert and take all precautionary steps to avoid any untoward incident. Again, the State Intelligence Bureau vide its message No. D-1/9-HA/295/2002 dated 20/2/2002, informed SP, Western Rly, under intimation to Home Secretary and DGP, GS, Gandhinagar that about 3,000 Kar Sevaks under leadership of Mr. Trivedi (VHP Leader) would be going to Ayodhya by Sabarmati Express on 22/2/02 at 20:00 hrs from Ahmedabad Rly Station. **(Affidavit of Mr. RB**

Sreekumar dated 6.7.2002 before the Nanavati Commission; Appendix: 3)

429. The SIB had, therefore sufficiently warned the SSPs and Police Commissioners from time to time, under intimation to the State Home Department and DGP's Office, that any deterioration in law and order situation at Ayodhya would have serious repercussions in Gujarat, particularly on the communal front. Another message was sent to SSP Faizabad and IGP (Communal Intelligence) Intelligence Dept, UP, Lucknow, vide No. D-1/9-HA/316/2002 dated 25/2/2002. About 1,900 VHP and Bajrang Dal activists under the leadership of Mr. Vijay Pranami (Secretary, VHP), Hareshbhai Bhatt (President, Bajrang Dal Gujarat), Khemrajbhai Desai (President, VHP South zone) from Vadodara and South Gujarat left Vadodara by Sabarmati Express train for Ayodhya on 24/2/2002 at 23:10 hrs. **(Affidavit of Mr. RB Sreekumar dated 6.7.2002 before the Nanavati Commission; Appendix: 8)**

430. Yet another message was sent to SSP Faizabad and IGP (Communal Intelligence) Intelligence Dept, UP, Lucknow vide No. D-1/9-HA/327/2002, dated 27/2/2002. About 1,500 VHP and Bajrang Dal and Durga Vahini activists (1200-Male, 300-Female) under the leadership of Mr. Narendrabhai Vyas (President, VHP Saurashtra Zone) from South Zone had left Ahmedabad for participating in "Ram Jap Mahayagna" by Sabarmati Express for Ayodhya on 26/2/2002 at 20:40 hrs. **(Affidavit of Mr. RB Sreekumar dated 6.7.2002 before the Nanavati Commission; Appendix: 9)**

431. The Superintendent of Police, Western Rly Baroda had informed IGP (Communal Intelligence) UP, Lucknow, vide his Fax Message No. B-10/LIB/175/2002 dated 16/2/2002 that Mr. Prahlad J. Patel, President of Bajrang Dal, Mehsana, would be leading a group of 150-200 Bajrang Dal activists of Mehsana for the Ayodhya Maha Yagna by 9165 DN Sabarmati Express on 22/2/2002. It was also mentioned in the said Fax Message that the Bajrang Dal activists travelling to Ayodhya would be carrying **Trishuls** with them.

(Affidavit of Mr. RB Sreekumar dated 6.7.2002 before the Nanavati Commission; Appendix: 11)

432. Similarly, Superintendent of Police, Mehsana also sent a TP Message to IGP (Communal Intelligence), Intelligence Department, Lucknow, UP, vide TPM No. LIB/415/VHP/2/1/2 dated 19.2.2002, stating that a group of 150 Rambhakts armed with **Trishuls** would be leaving Ahmedabad by train for Ayodhya on 22.02.2002 under the leadership of Mr. Prahlad Jayantibhai Patel, President, Bajrang Dal, Mehsana, and would be arriving at Ayodhya on 24/2/2002.

433. The said Mr. Prahlad J. Patel, President, Bajrang Dal, Mehsana, was injured in the Godhra incident on 27/02/2002.

(Affidavit of Mr. RB Sreekumar dated 6.7.2002 before the Nanavati Commission; Appendix: 12)

There was no information from Central IB or any other input from any other agency about possible attacks on Ram Sevaks returning from Ayodhya. On date 24.02.2002 at about 9:00 p.m. Sabarmati Express train reached Rudauli police station near Faizabad and some people got into special bogey S-6 where Ram Sevaks going to Ayodhya were seated. They tried to enter; Ram Sevaks did not let them enter; violence erupted. Ram Sevaks used **trishuls and small daggers** to severely beat up four local persons who, it is reported, are severely injured. The FIR for this incident has been registered at Rudauli Po. St. as the case of Asad Ahmed, resident at Khairanpur, Dist. Faizabad, at 15:20 hrs u/s 147/323/324/504/506 along with 145 of Rly Act on the very same day. **(Affidavit of Mr. RB Sreekumar dated 6.7.2002 before the Nanavati Commission; Appendix: 13)**

434. Several of the Bajrang Dal and VHP workers went to Ayodhya with sharp weapons and came back here with sharp weapons and they did not come back peacefully; this suggests that they had gone to Ayodhya with determination and come back accordingly. The ghastly and tragic incident of arson on the railway bogey that took place at Godhra on 27.02.2002 resulting in the death of 59 Kar Sevaks happened in this context. There was no information from Central IB or any other input from any other agency about

possible attack on Ramsevak returning from Ayodhya, by any groups, fundamentalist or otherwise.

435. On 27.2.2002, Mr. RB Sreekumar met A-25 DGP Mr. K. Chakravarti in his office and reported compliance of the instructions given to Mr. Sreekumar. A-25 Mr. K. Chakravarti informed him that Mr. Rajendra Kumar, the then Joint Director, Central IB, Ahmedabad, had come up with the theory of an ISI conspiracy behind the Godhra incident and had cajoled him to pursue the investigation by treating the Godhra incident as a pre-planned conspiracy. But A-25 Mr. Chakravarti didn't agree with this theory.
436. On 28.2.2002, the chief minister A-1 Mr. Narendra Modi also observed that it was a pre-planned conspiracy. But it was much later that the theory of conspiracy was introduced into the charge sheet.
437. Further, A-5 Mr. Gordhan Zadaphiya, the then Minister of State for Home, also made a statement about the said incident of Godhra carnage but never mentioned anything about a conspiracy. The Hindu communal organisations, particularly the VHP and Bajrang Dal, had left no stone unturned to whip up the sentiments of the Hindu community by projecting the Muslims as collectively and as a community responsible for the Godhra carnage. The VHP, Bajrang Dal and their fraternal bodies had given a call on 27.2.2002 for observing a statewide bandh on 28.2.2002 and this was supported by the BJP. This had created an atmosphere conducive for mobilisation of Hindu mobs, particularly in communally sensitive areas of the State.
438. The State Intelligence Bureau had sent as many as three separate messages on 27.2.2002. In addition to these messages, specific information was sent to the CP, Ahmedabad, on 27.2.2002 about a bandh called to protest against the burning of the train at Godhra and a meeting called by the VHP at 16:00 hrs on the same day in connection with the bandh call.

439. The first message was sent on 27.2.2002 vide message No. D-2/2-com/69/2002 dated 27/2/2002 to all the PCs and the Dist. SSPs... People travelling by public transport like buses, cars and trains may be targeted by motivated mobs to take revenge. Therefore, suitable measures are needed to be taken to prevent a communal conflagration in the State. **(Affidavit of Mr. RB Sreekumar dated 6.7.2002 before the Nanavati Commission; Appendix: 15-A)**
440. A second message No. D-2/2/com/Alert/71/02 dated 27/2/2002 was sent, alerting all the Jurisdictional Police that the dead bodies would be brought to Ahmedabad city by train and thereafter, these bodies would be taken to the respective towns for funeral and therefore all anticipatory security measures to prevent and forestall communal violence should be initiated. **(Affidavit of Mr. RB Sreekumar dated 6.7.2002 before the Nanavati Commission; Appendix: 15-B)**
441. The third Message No. D-2/2/com/Alert/73/02 dated 27/2/02 was sent to all Police Dist. That the situation arising out of the bandh call needed strict vigilance and prompt response from the Police units to avoid any untoward incident. **(Affidavit of Mr. RB Sreekumar dated 6.7.2002 before the Nanavati Commission; Appendix: 15-C)**
442. The State Intelligence Bureau had inputs about the likely repercussions of the Godhra incident on 27.2.2002. Accordingly, the SIB had sufficiently alerted all the Police Commissioners and Supdts. of Police of all Districts for taking precautionary steps to prevent likely communal clashes in their jurisdiction. Which means that police officers in all and sensitive jurisdictions were supposed to:
- a. Strict and effective implementation of the law.
 - b. Arrest communal goondas and anti social elements who thrive in such a climate

- c. Take strict and prompt action to prevent any kind of fallouts; avoid delay, inaction, and negligence.
- d. Police stations should continue mobile patrolling and arrange bandobast to their sensitive areas.
- e. Arms, Ammunition and Tear Gas should come in handy.
- f. Keep anti-riot drill kit.
- g. Keep a tab on the leaders, workers and office bearers of the Vishwa Hindu Parishad to obtain the necessary information regarding the movement of persons, etc.
- h. Incident at Godhra communal incident should have alerted all Police Commissioner, Police Officers and coercion against all attempts to instigate communal flames, especially control provocations and hate speech.

These messages are also there in the documents: Annexure IV File XX
Message Date 27/02/2002

	Message Date/ Page No./ Time	Message No.	From	Sent to Whom	Message Instruction	Remarks
1	27/2/02 8288 17:50 18:00	LIB/Gujarat bandh/Home Guard/2002	D.Pol Narmada	D	Gujarat bandh called by VHP so maintain law & order situation & allocate 50 home guards	Without format , Time not shown
2	27/2/02 8289 17:55 18:05	LIB/Gujarat bandh/Home Guard/2002	D.Pol Narmada	C.Pol Dediya pada, AB-Shakha Narmada	Gujarat bandh called so maintain law & order situation	Without format, Time not shown
3	27/2/02 8291 19:45 19:55	LIB/Gujarat bandh/Home Guard/2002	D.Pol Narmada	PI, Rajpipla, C.Pol Tilakwada, Unit Commander, Home Guard	Gujarat bandh called by VHP so maintain law & order situation	Without format, Time not shown

4	27/2/02 8292 20:20 20:25	LIB/ Gujarat bandh/2002	D.Pol Narmada	C.Pol Rajpipla, Dediya para All PI, Unit Commander, Home Guard	Gujarat bandh called by VHP so maintain law & order situation. To inform by telephone if any incident occurs	Format, Time not shown
5	27/2/02 8296 18:10		D.Pol Narmada	PS, Rajpipla, Sagwada, Kediyapada, Tilakwad, Kevadiya Garudi	As per incident occurred at Godhra train, dead bodies of VHP workers reached through train at 3:00 from Godhra to Ahmedabad and then procession of funeral at the areas of workers. So, necessary action should be taken. Gujarat bandh called on dt. 28.2.02 by VHP so maintain law & order situation	Telephone Vardhi/ Without Format
6	27/2/02 8297 01:20 01:50	LIB/Gujarat bandh/ Takedari/2002	D.Pol Narmada	All PI Dist. Narmada SD PO. Rajpipla, Kevadiya DySP, Narmada	Gujarat bandh called by VHP so maintain law & order situation	Without format, Time not shown, Wireless
7	27/2/02 8394 03:10 p.m.	D-2/2 com/ takedari/ 71/2002	Sanjiv Bhatt Addl. DGP Gandhi- nagar	All CP, All ACP with Western Railway, All DGP Range, Police Gandhi- nagar, PS to MoS Home, Gandhi- nagar	After incident of 27/2/02 Godhra train burning. Procession of funeral at the areas of workers. So, necessary action should be taken - Gujarat bandh called on dt. 28.2.02 by VHP so maintain law & order situation	Fax message Confidential Message
8	27/2/02 8395 19:25 20:00	Log Message	Police Gandhi- nagar	All D.Pol, All CP	On dt. 28.2.02 at 8:00 a.m. Reporting every 2 hrs to Home control room on tele no. 3252957, 3221476 and Fax No. 3221008 and if any incident occurs report first.	Format, Log Message
9	27/2/02 8396 10:40 a.m.	C/D-2/ Takedari/ 173/ 02	Add. DIG (Int.) Gandhi- nagar	All CP, All ACP, All West Pol., Vadodara Police, Gandhi- nagar, SIB, All Pol (Int.) Vision,	They were shouting slogans in the train during travel from Ayodhya to Ahmedabad. After incident of 27/2/02 Godhra train burning keep police bandobast.	Fax message
10	27/2/02	C/D-2/Com/	Sanjiv	All CP, All ACP	Gujarat bandh called on dt.	Fax message

	8397 11:42 p.m.	Takedari/ /02	Bhatt Add. DGP Gandhi- nagar	with Western Railway, All DGP Range, Police Gandhi- Nagar, PS to MOS Home, Gandhi- nagar	28.2.02 by VHP so maintain law & order situation	Confidential urgent
11	27/2/02 8413	LIB/326/2002/	D.Pol Surat Rural	PI, Bardoli All C.Pol	All staff alert with lathis, weapons, helmets with uniform for bandobast	Wireless message, Without format
12	27/2/02 8417	LIB/ Bandobast/ /2002	D.Pol Surat Rural	PI, Bardoli All C.Pol, PI LCB, C.Pol traffic, All D.Pol, All CPI	Gujarat bandh called on dt. 28.2.02 by VHP so maintain law & order situation, guidelines.	Wireless Message
13	27/2/02 8441	SCR/623/ 2002/ 27/2/02		All CP All D.Pol West Pol. Vadodara Circle, All Range PI	Regarding incidents of 27/2/02 made detailed register about offence occurred with Hindu- Muslim's murder and injuries reported in FIR. Assembly started then send information immediately.	Time not shown

Annexure IV File XXI : Message Date 27/02/2002

Sr	Message Date/ Page No./ Time	Message No.	From	Sent to Whom	Message Instruction	Remarks
1	27/2/02 8737 20:25	Log message	Police Gandhi- nagar	All CP All Dis Pol.	Preventive action to be taken so no communal reflection takes place and also take preventive action so no serious incident occurs. Reporting every 2 hrs to Home control room on tele no. 3252957, 3221476 and Fax No. 3221008 and if any incident occurs report first.	Format, Log message
2	27/2/02 8750-8752	LIB/326/2002		-Dy.P.O, Ahwa -H.D. Ahwa -P.C.I. Ahwa - Dy.SP Ahwa -CPI, Ahwa	Godhra communal train burying incident in Dang district does not have any reaction following the instruction given mainly for	Time not shown, Format

					<ul style="list-style-type: none"> - Madarsa in both the police station, mosque, built on the armed police - 28.2.02 5:00 o'clock in the morning of the continuous mobile patrols to keep - VHP, Bajrang staff, kar sevaks from a reaction to be sufficient to alert- All district police men stand to in public and be alert - Both pol. Stat. and LCB have to keep watch on communal-minded peoples and take action if any doubt. 	
3	27/2/02 8753-8754	LIB/Guj. Bandh/ 329/2002	Dis.Pol. Dang, Ahwa	-C. Pol Ahwa, Vadhai -S.P.O. Ahwa, Dang -CPI, Ahwa - Dy.SP Ahwa -CPI, Ahwa	- The law and order situation remains tense, any unwanted incident should be watched for, additional policemen beware, it is not required to immediately report to be sent to office -Between 8:00 p.m. on 28.2.02 kheriyat about every 2 hrs from reporting to the police control room should Ahwa	Time not shown, Format
4	27/2/02 8805 14:50	-	PI/ LIB/ Por- bandar	DYSP City, DYSP Rural, DYSP HQ, CPI Ranawav, All Po. Sta.	The law and order situation remains sustained any unwanted incident and additional policemen beware.	Without Format
5	27/2/02 8806 Confidential	LIB/bandh/ 535/02	DYSP Por- Bandar	All DYSP, All PI Porbandar, PSI traffic, Control In-charge	Maintain law & order situation, guidelines. Keep patrolling and take action against antisocial elements.	-
6	27/2/02 8832 19:25 21:15	NR/46	Police Gandhi- nagar	All CP, All Dis Pol.	Maintain law & order situation.	-

7	27/2/02 8885 11:36 11:50	SCR/89/02	Police Gandhi- nagar	All CP, All Dis Pol. West Pol. Vadodara	Maintain law & order situation.	Without format
8	27/2/02 8886 21:55	LIB/ control room	Police Gandhi- nagar	All CP, All Dis Pol.	Between 8.00 p.m. on 28.2.02 kheriyat about every 2 hrs from reporting to the police control room should be sent	Log message, Without format
9	27/2/02 8889 00:05 00:15	SCR/624/02	Police Gandhi- nagar	All CP, All Dis Pol., All Range In- charge	Preventive action to be taken so no communal reflection take place and also take preventive action so no serious incident occurs.	Without format, Wireless message
10	27/2/02 9009 11:30 12:55	SCR/589/02	Police Gandhi- nagar	All CP, DSP, All Dis Pol.,	To take preventive action in your areas against a reaction to kar sevaks being injured at Godhra who are from Ahmedabad city, Mehsana, Vadodara, Sojitra, Anand.	Without format, Wireless message
11	27/2/02 9057 Fax message 11:15	SCR/588/02	Police Gandhi- nagar	Police Commi. Ahmedabad, Vadodara, SP Western Railway Vadodara, Vadodara Rural, Anand, Kheda, Ahmedabad Rural	Keep police bandobast at your areas' railway stations where the Sabarmati train arrives en route from Godhra to Ahmedabad and take preventive action.	Without format, Wireless message

443. However, no preventive arrests had been made and the relevant instructions contained in the Gujarat Police Manual, compilation of the circulars in a booklet known as 'Communal Peace' and a compilation called 'Instruction to deal with Communal Riots (Strategy and Approach)' issued by Mr. KV Joseph, the then DGP in 1997, had not been complied with and further, the Communal Riot Scheme was also not implemented in Ahmedabad. Even subsequently, no action was taken in this regard.

444. The dead bodies of Kar Sevaks who died in the Godhra incident, some of which were unidentified, and those whose

kin were not present, were used to create a communal atmosphere fuelled by anger at the sight of the dead bodies. A decision was taken to bring the dead bodies to Ahmedabad by train. Regarding this matter, a message was sent to Gandhinagar and IB.

Msg.	Annex. III File No. XIX, D-161 Part-II Page No. 355	Fax/Vardhi No. 525 12:30 hrs 27/2/02	D.O. A/bad	Int. O. A/bad	8 dead bodies of VHP workers brought to Ahmedabad from Godhra, at Kalupur Rly. St. at 15:00 hrs and then these dead bodies brought to their areas and there might be processions in their areas. So communal incidents will occur in Ahmedabad city. So take preventive action. Likely to be Gujarat Bandh called by VHP on dt. 28/2/02. So take preventive actions.
Msg.	Annex. III File No. XIX, D-161 Part-II Page No. 356 to 360	Fax Mes. Out/184/02 dt. 27/2/02 20:46 V-1 Political V-2 Discrimi-nation	ACP, Int. A/bad	Add. D.G. G. Nagar	To DCP (C) 1) 8 dead bodies of VHP workers brought to Ahmedabad from Godhra, at Kalupur Rly. St. at 15:00 hrs and then these dead bodies brought to their areas and there might be processions in their areas. So communal incidents will occur in Ahmedabad city. So take preventive action. Likely to be Gujarat Bandh called by VHP on dt. 28/2/02. So take preventive actions. 2) Dead bodies reached Kalupur Station at 3:00 to 3:30 hrs and were then sent to/brought to Dhanvantari Hospital at Bapunagar and condolence by Bajrang Dal workers and there is possibility of a Gujarat Bandh by VHP. 3) According to Godhra incident information at Kalupur Rly. Stat., 27 injured kar sevaks had gone to Vadodara Rly. Hospital where a senior medical officer treated them as outdoor patients. And 18 kar sevaks who were seriously injured were treated at Godhra Civil Hospital. The train departed at 14:20 hrs from Vadodara to Ahmedabad and is

					<p>likely to reach Ahmedabad at 16:30 hrs. There are many kin of kar sevaks and with them Ashok Sharma, President of Hindu Samrajya Shiv Sena, Krishnavadan Brahmhatt (Corporator of A/bad) and 200 to 250 workers of BJP & VHP. Keep police bandobast. Details faxed as per vardhi No. 527 before some time.</p> <p>4) VHP called Gujarat Bandh on dt. 28/2/02 according to Godhra Incident.</p> <p>5) On dt. 27/2/02 a mob attacked AMTS and ST buses at Bapunagar at 15:00 hrs and broke windows of buses. Shops were shut down.</p> <p>8) Sabarmati Exp. Train arrived at 16:13 hrs at Platform No. 1, with kar sevaks shouting slogans (1) Jai Shri Ram (2) Bharat Mata Ki Jai (3) Ram Mandir Vahin Banayenge (4) Khoon Ka Badla Khoon, and then facility of buses was given to kar sevaks to reach their areas. No dead bodies comes are in train. Dead bodies given to their heirs from Civil Hospital. Kar sevaks have given interview to ETV and stated that, "Amari Sathe Gaddari Karwama Avi Che, Miyao Amari Upar Tuti Padela Che, Ane Miyaone Kapi Nakho". They used abusive language in this interview.</p> <p>9) Bandh called by VHP of Viramgam.</p>
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445. According to these messages, as mentioned above, the dead bodies were brought by train from Godhra to Ahmedabad and taken to A-20 VHP international general secretary Dr. Praveen Togadia's brother Mr. Dinesh Togadia's Dhanvantari Hospital at Bapunagar. This area is also very sensitive. So a communal atmosphere was created by fuelling anger at the sight of the dead bodies.

446. A-5 MOS Home Mr. Gordhan Zadaphiya reached Godhra and after the Assembly proceedings were completed, A-1 Mr. Narendra Modi too left for Vadodara by a government charter plane. At Vadodara a helicopter had been requisitioned from ONGC to go to Godhra. By that time, two burnt bogies had been detached from the train and parked in the Rly. yard and the dead bodies of the victims were lying covered in the Rly. yard.
447. The train left Godhra for Ahmedabad without coach 6. Coach 6 stayed at Godhra Rly. Station. Messages were conveyed to CP Ahmedabad, CP Vadodara and all concerned routes of Rly (Message No. SCR/588/02).
448. Mr. Anil Mukim, PS to CM, Mr. Jagdish Thakker, PRO, accompanied the A-1 to Godhra and reached there between 1400- 17:00 hrs. A-1 the chief minister was received by Mrs. Jayanti Ravi, Collector & Dist. Magistrate, and some other Government officials and politicians. A-1 Mr. Modi straightaway drove to the Godhra Rly. Station. He climbed up and inspected the burnt coach. He then spoke to the crowd of VHP supporters who had gathered outside.
449. He then went to the Collectorate and had a meeting with Government and Police officials. At this meeting, A-2 Mr. Ashok Bhatt and A-5 Mr. Gordhan Zadaphiya and A-21 Mr. Jaideep Patel were also present. A-1 Mr. Narendra Modi, Chief Minister, left Godhra by road around 19:30 hrs along with his personal staff and came to Vadodara. He reached his Gandhinagar residence at about 22:30 hrs. Mobile phone records of the CMO and their locational analysis show that he may have gone to Meghaninagar (where the Gulberg society is located) before leaving for Godhra and after returning before reaching his residence.

Msg.	Annex. IV File No. XXI, Page No. 9009 27/2/02 11:30	SCR/ 589/02	Police Gandhi- nagar	All CP, DSP, All Dis Pol.	To take preventive action in your areas against a reaction to kar sevaks being injured at Godhra who are from Ahmedabad city,	Without format, Wireless message
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	12:55				Mehsana, Vadodara, Sojitra, Anand.	
Msg.	Annex. IV File No. XXI, Page No. 9057 27/2/02 Fax message 11:15	SCR/ 588/02	Police Gandhi- nagar	Police Commi. Ahmedabad, Vadodara, SP Western Railway Vadodara, Vadodara Rural, Anand, Kheda, Ahmedabad Rural	Keep police bandobast at your areas' railway stations where the Sabarmati train arrives en route from Godhra to Ahmedabad and take preventive action.	Without format, Wireless message

450. Despite the messages from Gandhinagar Police to all District Police, the Dist. and Rly. Police did not take any action and did no bandobast at major locations and Rly.Stations. Incidents occurred where Muslims died or were injured following attacks by VHP and Bajrang Dal workers.

Msg.	Annex. III File No. XIX, D-161 Part-I Page No. 92	Fax. Mes. IB/ Com/Sankhya/ 281/02 Dt. 27/2/02 15:51 hrs	ACP, State IB Vadodara Region	IG, Guj. State IB, Gandhi- nagar	BJP Mayor Bhartiben Vyas, BJP Leader Jitendra Sukhdiya, VHP and Bajrang Dal workers came to Vadodara Rly Sta. at 13:30 at Platform No. 1 and supplied food packets and water to kar sevaks. The train arrived in Vadodara at 13: 45 and they shouted slogans and damaged property. One person died at 14:10. VHP and Bajrang Dal workers came out in the market and tried to close shops. Due to this reason send a message to Dis Pol. Anand. In the above-said incident, 60-year-old Ibhrahimbhai died from a head injury received when he was assaulted by kar sevaks. Another person was injured by a sharp knife.	Vadodara Rly. Police I.C.R.No. 32/02
Msg.	Annex. III File No. XIX, D-161	FIR Dt. 27/2/02 15:00 hrs			One person named Abdul Rashid Kalubhai Mashita was assaulted by some kar sevaks who came on the train at Vadodara Stat.	Ahmedabad Rly. Stat. Western Rly. Stat. ICR No. 1/02:

	Part-I Page No. 67-68				platform No. 2&3. Abdul Rashidbhai died and another 2 persons were injured. The kar sevaks were shouting slogans.	this incident was caused by Kar Sevaks who came from Godhra by train.
Msg.	Annex. III File No. XIX, D-161 Part-II Page No. 347	Vardhi No. 535 20:30 hrs 27/2/02	D.O. A/bad	PI and IP A/bad	Abdulkadar Abdul Rehman Dhobi of Memdavad, who came to Ahmedabad Rly. Stat. Platform No. 1, was attacked by some unknown persons with weapons at 17:00 hrs and he was admitted to VS Hospital at 17:25 hrs	Hand-written

451. Despite the messages from Gandhinagar Police to all CPs and District Police, they did not take any action and did no bandobast and incidents started in the city area of Ahmedabad.

Annex IV File XIV (5731 to 6140)

About incidents on Dt. 27/2/02

Sr. No.	Page No	Message Date/ Time	Message	Remarks
1	5746	28/2/02 1:10 hrs	Between 14:30 to 15:00 on dt. 27/2/02 a mob of 200 persons was pelting stones and set fire to a bus & shop.	Bapunagar ICR No. 64/02
2	5749	28/2/02 1:21 hrs	Zone-I: Visit to point of arson i.e. on shop; place: Opp. Samrat Dairy, Nehru Park, Vastrapur.	
3	5750	28/2/02 1:54 hrs	Arrange for SRP bandobast at Sola Hospital because dead bodies are to arrive from Godhra.	
4	5754	28/2/02 1:55 hrs	A mob attacked a rickshaw and injured 4 persons near Ratnasagar Cross Road, Meghaninagar, at 22:00 on dt. 27/2/02.	Meghaninagar ICR No. 66/02
5	5757	28/2/02 2:05 hrs	A mob injured one Muslim with sharp weapons near the Express Highway at 21:45 on 27/2/02 and Taushif Shaeb Ali Saiyed has died.	Amraiwadi ICR No. 96/02 IPC 302
6	5760	28/2/02 2:49 hrs	ASI Meghaninagar informed that Raj Cycle Store has been set on fire near Umiyanagar. Send Fire Brigade.	
7	5762	28/2/02 2:00 hrs	A mob burnt 11 seats and damaged exteriors near Maruti Complex bus stand at 19:45 on dt. 27/2/02 and then ran away.	
8	5768	28/2/02	A mob of about 100 persons did stone-	Odhav ICR

		2:38 hrs	pelting and burnt buses and rickshaws and damaged public property at 17:15 on dt. 27/2/02.	No. 78/02
9	5771	28/2/02 3:00 hrs	Babubhai Trikamhai and 8 other persons formed an unlawful assembly and damaged rickshaws and trucks near Lilanagar, N.H.-8, Odhav.	Odhav ICR No. 79/02
10	5775	28/2/02 2:30 hrs	A mattress shop was burnt at Pashwanath Township, Naroda.	Naroda ICR No. 96/02
11	5777	28/2/02 3:20 hrs	Stone-pelting on an ST Bus and damage to public property took place near Paldi Cross Road at 19:10 on dt. 27/2/02.	Ellisbrige ICR No. 112/02
12	5783	28/2/02 3:06 hrs	4 Unknown persons burnt a rickshaw and injured one Muslim with sharp weapons near C.T.M., Ramol, at 21:45 on dt. 27/2/02.	Amraiwadi ICR No. 97/02
13	5786 & 5788	28/2/02 3:40 hrs	50 to 60 persons were pelting stones and set fire to a car, two bikes and damaging houses. The incident occurred at Rajnagar, Paldi at 19:35 on dt. 27/2/02.	Ellisbrige ICR No. 113/02
14	5792	28/2/02 3:45 hrs	A mattress shop has been burnt at Vasna; Send police.	
15	5798 5803 5804	28/2/02 00:30 hrs	A factory was burnt at Ambikanagar at 00:30 on dt. 27/2/02.	Odhav ICR No. 80/02
16	5801	28/2/02 3:50 hrs	A mob attacked and injured one Muslim near Mahalaxmi Cross Road, Paldi, at 20:30 on dt. 27/2/02.	Ellisbrige ICR No. 114/02
17	5805 5806	28/2/02 4:20 hrs	A mob attacked and injured one Muslim near Law Garden at 20:15 on dt. 27/2/02.	Ellisbrige ICR No. 116/02
18	5807 & 5808	28/2/02 4:28 hrs	4 unknown persons attacked and injured one Muslim near Kathwada Road, Naroda, at 19.30 on dt. 27/2/02.	Naroda ICR No. 97/02
19	5840	28/02/02 8:45 hrs	Jafarbai who was injured near Rameshwar Cross Road at 13:10 yesterday died at 18:45 yesterday i.e. on dt. 27/2/02.	Meghaninagar ICR No. 65/02

Annexure III File XXXIV

D-176 Part-I

Sr	Pag e No.	Message No./ Date	From	Sent to Whom	Message Instruction	Remarks
1	1	D-1/6-HA/ Ram Mahayagya/2 28/2002 Dt. 7/2/02	P.B. Upadhyaya Dy. Com. (Com.) For Add. DGP	All CP, All SP, Home Sec. G.Nagar, Police, G.Nagar	VHP Guj. arrange the programme of Purnahuti Maha Yagna starting on 24.2.02 and send VHP workers to	

			Int. Guj. State G. Nagar		Ayodhya on dt. 22.2.02 - VHP Guj. arrange the Maha Yagna and plan to manage the programme on dt. 7.2.02 to 17.2.02 so, for that reason, to ensure that no incident takes place in any area, take precautions.	
2	2	D-1/9-HA/ 253/2002 Dt. 12/2/02	P.B. Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	DGP, Uttar Pradesh, Lucknow, Home Sec, G.Nagar, Police, G.Nagar	3,000 kar sevaks from Gujarat to reach Ayodhya by 23.2.02 to participate in the proposed 100-day Maha Yagna programme commencing from dt. 24.2.02	
3	3	D-1/9-HA/ 252/2002 Dt. 12/2/02	P.B. Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	DGP, Add. Chief Sec., Home Dept. Sachivalaya G.Nagar, Police, G.Nagar	VHP Guj. arrange the programme of Purnahuti Maha Yagna starting on 24.2.02 and send VHP workers to Ayodhya on dt. 22.2.02. - VHP to construct a temple at Ayodhya and thus disrupt the law and order situation at Ayodhya and there is thus the possibility of innocent persons' lives being put in danger. Reactions to Ayodhya are also reflected in Gujarat state. VHP has been canvassing about the Mandir issue and for that reason also religious feelings have been hurt.	
4	4	D-1/9-HA/ 259/2002 Dt. 13/2/02	P.B. Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	All CP, All SP, State Int. West. Vadodara, Home Sec., G.Nagar Police, G.Nagar All Range IGP, State Int. Dept. U.P., Lucknow	VHP GS Praveen Togadia announced on 29.1.02 that a Ram Mandir would be constructed at any cost on or after March 12 - information sent by IB- any weapons including lathis carried by them (kar sevaks)	
5	5	D-1/9-HA/	P.B.	Add. DGP (Int.)	Under the leadership	

		295/2002 Dt. 20/2/02	Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	G.S. G.Nagar SP, West. Rly. Vadodara Home Sec. G.Nagar Police G. Nagar	of Gujarat leader Dilip Trivedi, 3,000 VHP and BD workers will leave for Ayodhya from A/bad Kalupur Stat. by the Sabarmati Express at 20:00 on dt. 22.2.02. So take precautions.	
6	6	D-1/9-HA/ 300/2002 Dt. 21/2/02	P.B. Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	Add. DGP (Int.) G.S. G.Nagar All CP, All SP, West Rly. Vadodara Home Sec. G.Nagar Police G.Nagar	3,000 VHP and BD workers will reach Ayodhya by the Sabarmati Express. So take precautions.	
7	7	D-1/9-HA/ 296/2002 Dt. 21/2/02	P.B. Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	SSP, Faizabad, UP, IG (CI) Int. Dept. UP. Lucknow, Home Sec. G.Nagar Police G.Nagar Add. DGP (Int.) G.S. G.Nagar	About 3,000 VHP & BD activists from Gujarat State, under the leadership of Dilip Trivedi (VHP, Gujarat Pradesh), are leaving Gujarat by train for Ayodhya from 22.2.2002 to 27.2.2002.	
8	8	D-1/9-HA/ 312/2002 Dt. 23/2/02	P.B. Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	SSP, Faizabad, UP, (F.No. 05278- 24215/ 22209). IG (CI) Int. Dept. UP. Lucknow, (F.N. 0522- 206235) Home Sec. G.Nagar Police, G.Nagar, Add. DGP (Int.) G.S. G.Nagar	Kumari Malaben Raval (President Durga Vahini, Gujarat) from Gujarat State has left Ahmedabad (Gujarat) by the Sabarmati Express, train No. 9165, for Ayodhya at 20.50 hrs on 22.2.2002.	
9	9	D-1/9-HA/ 316/2002 Dt. 25/2/02	P.B. Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	SSP, Faizabad, UP, (F.No. 05278- 24215/ 22209). IG (CI) Int. Dept. UP. Lucknow, (F.N. 0522- 206235) Home Sec. G.Nagar Police, G.Nagar, Add. DGP (Int.) G.S. G.Nagar	Vijay Pranami (Sec., VHP), Hareshbhai Bhatt (Pres., BD, Guj.), Khemrajbhai Desai (Pres., VHP South Zone) from Vadodara and South Gujarat have left Vadodara by the Sabarmati Express train for Ayodhya at 23.10 hrs on 24.2.2002.	
10	10	D-1/9-HA/ 327/2002 Dt.	Sanjiv Bhatt Dy. Com.	SSP, Faizabad, UP, (F.No. 05278-	About 1,500 VHP and BD and Durga Vahini	

		27/2/02	(Com.) For Add. DGP Int. Guj. State G. Nagar	24215/ 22209). IG (CI) Int. Dept. UP. Lucknow, (F.N. 0522- 206235) Home Sec. G.Nagar Police, G.Nagar Add. DGP (Int.) G.S. G.Nagar	activists (1200 –M, 300-F) from South Zone, under the leadership of Mr. Narendrabhai Vyas (Pres., VHP Saurashtra Zone), have left Ahmedabad for Ayodhya, for participating in the Ram Jap Maha Yagna, by the Sabarmati Express at 20.40 hrs on 22.2.2002.	
11	11	D-2/2-Com/ 69/2002 Dt. 27/2/02	Sanjiv Bhatt Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	All CP, All SP, including West Pol., Vadodara, All Range IGP, State, Add. Chief Sec. Home G.S. G.Nagar Police, G.Nagar Add. DGP GS Gandhinagar Add. DGP CID (Crime& Rly) GS G.Nagar Add DGP Int. G.S. G.Nagar	Statewide precautions and people travelling in Public Transport like Trains, Buses, etc are likely to be targeted for vindictive action. Take all precautionary measures to prevent communal conflagration in your jurisdiction.	
12	12	D-2/2-Com/ Takedari 71/2002 Dt. 27/2/02	Sanjiv Bhatt Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	All CP, All SP, including West Pol., All Range DIG, Home Sec. G.Nagar PS to CM G.Nagar PS to MoS (Home) G.Nagar Add. DGP (Int.) G.S. G.Nagar	The dead bodies of VHP workers are to reach A/bad Rly. Stat. by train at about 15:00 hrs and thereafter the dead bodies will be sent to their different areas for the funerals. Some incidents will occur on account of these funerals so take precautions. - there is possibility of a bandh being called by the VHP on dt. 28.2.02 so take sufficient police forces and take precautions.	
13	13	D-2/2-Com/ Takedari 72/2002 Dt. 27/2/02	Sanjiv Bhatt Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	CP, Ahmedabad City, Home Sec. G.Nagar Police, G.Nagar Add DIG (Int.) G.S. G.Nagar	VHP has called a bandh on dt. 28.2.02 and one meeting was arranged at the VHP office at 16:00 hrs.	

14	14	D-2/2- Com/ Takedari 72/2002 Dt. 27/2/02	Sanjiv Bhatt Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	All CP, All SP, including West Pol., All Range DIG, Home Sec. G.Nagar PS to CM G.Nagar PS to MoS (Home) G.Nagar Add. DGP (Int.) G.S. G.Nagar	VHP has called a bandh to protest the incident of dt. 27/2/02 at 7:15 hrs at Godhra. Take precautions.	
15	16 *	D-2/2- Com/Kar Sevak 78/2002 Dt. 28/2/02	V.J. Solanki PI (C) For Add. DGP Int. G.S. G.Nagar	CP, Ahmedabad City, Asst. Com. Of Int. Ahmedabad Div. Add. DGP (Int.) G.S. G.Nagar	54 dead bodies have been sent by truck and tempo with police escort from Godhra to A/bad at 23:15 hrs on dt. 27/2/02. - so as to avoid any incident, take precautions.	
16	17	D-2/2- Com/Kar Sevak 79/2002 Dt. 28/2/02	V.J. Solanki PI (C) For Add. DGP Int. G.S. G.Nagar	SP, Sabarkantha Police, G.Nagar Sp. SP. G.Nagar Range. Add. DGP (Int.) G.S., G. Nagar	150 BD activists of Khed Brahma Prakhand came back from Ayodhya to Khed Brahma at 20:30 hrs on 27/2/02 and now they all are staying at Ambaji Mata Dharmshala. All these activists are eyewitnesses to the Godhra incident - if any activist tries to give a memorandum of an organised rally or meeting about the incidents, that will have reactions. So take precautions.	
17	18	D-2/2- Com/ Takedari 80/2002 Dt. 28/2/02	V.J. Solanki PI (C) For Add. DGP Int. G.S. G.Nagar	All CP, All SP, including West Pol., Vadodara Police, G.Nagar Sp. IGP. All Range Asst. Com. (Int.) Region Add. DGP (Int.) G.S. G.Nagar	About the incident of 27/2/02, VHP Sec. Kaushik Mehta stated that some Hindu girls had been kidnapped by a religious mob; as a result of this, the situation is becoming dangerous and it is possible that the opposition will demand the government's resignation.	

18	19	D-2/2- Com/ Banav/ Mahiti 82/2002 Dt. 28/2/02	PB Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	SP, PI, Godhra Centre, ASI, IB, Vadodara Region West Pol., Vadodara Add. DGP (Int.) G.S. G.Nagar	According to news released in newspapers, Hindu girls were kidnapped from the coach by some mob. Send us the real facts so that we can publicise the same.	
19	20	D-2/2- Com/ Banav/ Takedari 84/2002 Dt. 28/2/02	PB Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	All CP, All SP West Pol., Vadodara. Police G.Nagar Sp. DIG. All Range Add. DGP (Int.) G.S. G.Nagar	Take precautions at the time of the funeral procession.	
20	24	C/D-2/ Com/ Banav/ 178/2002 Dt. 28/2/02	Sanjiv Bhatt Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	Home Sec. G.Nagar PS to CM Sachivalaya G.Nagar PS to MoS (Home), Sachivalaya G.Nagar Police, G.Nagar CP, A/bad City Add. DGP (Int.) G.S. G.Nagar	A Hindu mob surrounded Gulberg Society at Chamanpura, Mehganinagar. About 18 persons were killed along with ex-MP Ehsan Jafri and his family members. Then the mob continued their acts.	
21	27	D-2/2- Com/ Banav/ 96/2002 Dt. 28/2/02	PB Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	Add. Chief Sec., Home Dept. GS. Sachivalaya, G.Nagar Police, G.Nagar PS to CM, G.Nagar PS to MoS (Home) GS G.Nagar Add. DGP (Int.) G.S. G.Nagar	32 to 35 houses were burnt by mobs at 16:45 on dt. 1.3.02 at Pandharwada, Khanpur Po. Stat., Godhra Dist. 8 Muslims were killed and 12 injured.	
22	28	D-2/2- Com/ Banav/ 98/2002 Dt. 28/2/02	PB Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	Add. Chief Sec, Home Dept. G.S. Sachivalaya, G.Nagar Police, G.Nagar PS to CM, G.Nagar PS to MoS (Home) GS G.Nagar Add. DGP (Int.) G.S. G.Nagar	During the bandh called on dt.1.3.02 at Gandhinagar Dist., Village Pore, a mob of Hindus set on fire Muslims' houses at 10:15 hrs. The Police, Dist. Collector and DDO were informed and	

					they reached Pore village and advised them to shift to a safe place. So they went in 3 Matadors and reached Adalaj Po. Stat. and among them 6 persons died of suffocation. Adalaj Po. Stat. noted No. 6/2002 as per CrPC 174.	
23	49 & 50	FIR		Vadodara Rly PS Anand Rly PS Ahmedabad Rly PS Sabarmati Rly PS Mehsana Rly PS Valsad Rly PS	Vadodara ICR No. 32/02 IPC 302, 307 on dt. 27/2/02 Anand ICR No. 01/02 IPC 302, 324 on dt. 27/2/02 Ahmedabad ICR No. 50/02 IPC 314, 324 on dt. 27/2/02 Sabarmati ICR No. 07/02 IPC 302, 295 on dt. 2/3/02 Mehsana ICR No. 07/02 IPC 506, on dt. 2/3/02 Valsad ICR No. 18/02 IPC 436, 143 on dt. 1/3/02	
25	56	D-2/2- Com/ Banav/ Mahiti/ 129/2002 Dt. 7/3/02	PB Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	SP, Kheda, Add. DGP (Int.) G.S. G.Nagar	Memdavad Po. Stat. ICR No. 53/02 dt. 6/3/02	Ghodasar incident; 13 Muslims' death
26	57	D-2/2- Com/ Banav/ Anjanwa/ 350/2002 Dt. 7/3/02	AS Kamiri PI 'C' Add. DGP Int. Guj. State G. Nagar	Add Chief Sec, Home Dept. G.S. Sachivalaya, G.Nagar Police, G.Nagar PS to CM, G.Nagar PS to MoS (Home) GS G.Nagar Add. DGP (Int.) G.S. G.Nagar	Santram Po. Stat. ICR No. 43/02 IPC 302, 306 Dist. Godhra	Anjanwa Incident; 8 Muslims' Death
27	76	D-2/2- Com/SR/ 161/2002 Dt. 7/3/02	PB Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	Add. Chief Sec, Home Dept. G.S. Sachivalaya, G.Nagar Police, G.Nagar PS to CM, G.Nagar PS to MoS (Home) GS G.Nagar	News released in daily newspaper Sandesh: "Hinduo Savdhan, Haj Yatra Pachi Vadta Humlani Sajish" (Hindus to be alert, possibility of attack after Haj)	

				Add. DGP (Int.) G.S. G.Nagar		
28	116	D-2/2- Com/ Takedari/231/ 2002 Dt. 25/3/02	PB Upadhyaya Dy. Com. (Com.) For Add. DGP Int. Guj. State G. Nagar	CP, A/bad City Home Sec. G.Nagar Police, G.Nagar Add. DGP (Int.) G.S. G.Nagar	Khanwadi, Jantanagar; At Ramol, Hindu mob to be attacked on Muslims with deadly weapons.	

310 letter of DIG SIB

Schedule-II Office System to Work (Use of Sachivalaya)

452. This critical document, which has been accessed from the SIT papers and has obviously been collected from the office of A-1, indicates that there was a sustained build-up of violence prior to the Godhra incident on 27.2.2002, of which he was aware and conscious and yet he did not take the steps required to observe peace nor did he appeal for peace.

No	Name & Desig. Of Concerned Person	Outward Reg. No File No.	Values of Fixed Ticket
61	D-2/2 com/61/2002/ Dt. 23/2/2002	Incident that occurred at Bharuch Dist, Tankaria post, during Eid Festival	Home Sec. Gandhinagar P to CM P to MoS Police Gandhinagar.
62	D-2/2 com/ Incident/62/02/ Dt. 23/2/ 2002	As Above	-----“-----
63	D-2/2 com/ Incident/62/02/ Dt. 23/2/ 2002	As Above	-----“-----
64	D-2/ Incident/64/2002/ Dt. 24/2/2002	S.R. of Gomtipur I 46/02 and I 48/02	Addl. Sec. Home Dept. PS to CM PS to CM Police Gandhinagar
65	D-2/2 Com/ Incident/ 65/02/ Dt. 24/2/2002	Information about incident that occurred at Village Khariya, Dist. Bharuch, S.R.	CS Home PS to CM PS to MoS Police Gandhinagar
66	D-2/2 Com /Incident- Rally/ 66/02/ Dt. 25/2/2002	Incident that occurred at Old Harijanwas at Vagad city for bandobast	RC Valsad PS to Gandhinagar IGP, Surat Range
67	D-2/2-com/LSO-454/67/02 Dt. 26.2.2002	LSQ-454 Atrocity on minority	CP & DSP Home Sec. Police Gandhinagar
68	D-2/ Com /Jhagadiya Bandh/ 68/02/ Dt. 26/2/2002	About incident that occurred during Tankariya bandh called on dt. 27.2.02	DSP Bharuch Home Sec. Gandhinagar Police Gandhinagar

69	D-2/2-com/69/2002 Dt. 29.2.2002	Precaution taken about communal incident at Godhra	Range IGP Police Gandhinagar
70	D-2/2 Com / Godhra Incident/ 70/02/ Dt. 27/2/2002	Burning coaches of train incident at Godhra. S.R	Addl. Sec. Home Dept. PS to CM PS to CM Police Gandhinagar
71	D-2/2 Com /Takedari / 71/02/ Dt. 27/2/2002	Precaution taken about bandh called and persons killed in the train at Godhra	DCP and CSP of all Cities and Districts Home Sec Gandhinagar PS to CM PS to MoS Police Gandhinagar.
72	D-2/2 Com/Takedari/ 72/02/ Dt. 27/2/2002	Gujarat Bandh meeting at VHP office about the incident that occurred at Godhra	C&P, Ahmedabad City Home Sec. Gandhinagar Police Gandhinagar
73	D-2/2 Com/Takedari/ 73/02/ Dt. 27/2/2002	Alert Message	All CP and DCP Home Sec., Gandhinagar Police Gandhinagar
74	D-2/2 Com/Gujarat Band/Takedari/ 74/02/ Dt. 27/2/2002	Messaged about the bandh called on dt. 28.2.02	Addl. Police Supdt. Valsad Police Gandhinagar PS to Home
75	D-2/Dalit Pravrut/75/02/ Dt. 27/2/2002	Memorandum given to Collector and Police Supdt. of Valsad about I 45/02 u/s IPC 303-504-302	Addl. Sec Home Police Gandhinagar PS to CM PS to Home Sec
76	D-2/2 Com/ Incident/ 76/02/ Dt. 27/2/2002	Incident that occurred at Vadodara Rly. Stat. Ref. S.R.	Addl. Chief Sec Home Dept., Sachivalaya Gandhinagar, Police Gandhinagar PS to CM PS to Home Sec
77	D-2/2 Com/ Incident/ Information/77/02/ Dt. 27/2/2002	Information about death and injuries at Godhra, Vadodara and Anand S.R.	ACS Home, Police Gandhinagar PS to C.M PS to MOS (Home) Gandhinagar
78	Kramank No.2/2-Com/ Karsevak/ 78/02 Dt. 28/2/02	Faxed to precaution about police escort with 54 dead bodies from Godhra to Ahmedabad	CP Ahmedabad City ACP Ahmedabad
79	Kramank No.2/2-Com/ Karsevak/7/02 Dt. 28/2/02	Situation is not in control at Khedbrahma town and faxed	Police Suprint. Zalol, Joint CP Gandhinagar Spl. Officer Shree Gandhinagar
80	D-2/2-Com/Karsevak/ 80/02 Dt. 28.2.02	Precaution about bandh called on dt. 28/2/02	All Police Com. & All Police Suprint. Police, Vadodara
81	No.-2/2-Com/For Bandh/81/02 Dt.28.2.2002	Precaution taken every two hours	All Police Comm. Police Gandhinagar
82	D-2/2-Com/incident/ infomratopm/82/02 Dt.28.2.02	Incident that occurred on dt. 27/2/02	DSP Godhra PI Godhra

			ACP, Vadodara Region
83	No.-2/2-Com/For Bandh/ 83/02 Dt.28.2.2002	Incident that occurred on dt. 28/2/02	Addl. Sec. Home Police Gandhinagar PS to CMO PS to CM
84	D-2/2-Com/Incident/ Precaution/84/02 Dt. 28.2.02	Precaution about funeral yatra	All DSP & All SP Police Gandhinagar All IGP
85	D-2/2-Com/Incident/ Precaution/85/02 Dt. 28.2.02	Precaution about Condolence Meeting	All CP, DSP, Police Officers, All Ranges
86	D-2/2-com/86/2002 Dt. 29.2.2002	Information about communal situation	ACS Home, Gandhinagar Police Gandhinagar
87	D-2/2-com/87/2002 Dt. 29.2.2002	Fact about Godhra incident and Gujarat Bandh on dt. 28/2/02	Addl. Sec. Home, Police Gandhinagar PS to MoS PS to CM
88	D-2/Com/88/2002 Dt. 28.2.02	No any incident occurred back from Haj.	All PC & All DCP DSP Vadodara Range All Range IGP All ACI & Int. All Regional Gandhinagar, Police Gandhinagar
89	D-2/2-Com/Incident/89/02 Dt. 28.2.02	Incident occurred against reaction of Godhra incident	ACS Home Home Sec. Gandhinagar PS to C.M PS to MoS
90	D-2/2-Com/Incident/ Precaution/90/02 Dt. 28.2.02	Alert Message Situation is intense at Sabarkantha Dist.	DSP Sabarkantha Home Sec. Gandhinagar Police Gandhinagar. DSP Gandhinagar
91	D-2/2-Com/Incident/91/02 Dt. 28.2.02	Information about incident occurred on dt. 27/2/2002 and 28/2/2002	Home Sec. Gandhinagar
92	D-2/Com/Incident/ Information/92/02 Dt.1.3.02	Information about reaction to Godhra train incident	All PC All SP, All Asst. Commi. Intel Police Gandhinagar All IGP
93	D-2/Com/Precaution/93/ 02 Dt.1.3.02	No incident of attack on police after Godhra carnage	All CP, DSP, Police Officer Gandhinagar
94	D-2/2-Com/ Precaution/ 94/02/ Dt.1.3.02	Alert Message Situation is intense at Danilimda	CP Ahmedabad Home Sec, Gandhinagar Police Gandhinagar

453. The interviews in the *Tehelka* Sting Operation also create evidence about the deliberate build up prior to 27.2.2002 especially the stockpiling of weapons and ammunition by the VHP, Bajrang Dal and RSS in Ahmedabad (Naroda etc), Sabarkantha and Panchmahals. This was valuable evidence

that has been ignored by the SIT and needs to be looked at closely in the further investigation.

Narrative Re starts

454. The Petitioner/Complainant is giving herein below a detailed narrative of the systematic build-up, documentary evidence related to the build-up before, during and after 27.2.2002. Aggressive communal mobilisation was taking place all over Gujarat State since November-December 2001 and records show evidence of this since early February 2002. Even before the tragic train burning incident at Godhra, the SIB was sending messages about the aggressive mobilization going on.
455. Incidents which took place commencing from the incident at Godhra on 27.2.2002, and the incidents which took place between 27.2.2012 and 5.3.2002 in aggravated form and thereafter continued until May 18, 2002 based on the documents on record submitted by SIT pursuant to the Order of this Court dated 10.4.2012 and the Hon'ble Supreme Court's Order 7.2.2013, as well as documents collected from Nanavati Commission, records of the Concerned Citizens Tribunal and phone call records analysis. Reveal that there was consistent mobilisation through speeches, illegal assembly, use of pamphlets to promote hate speech and writing all through December until January. **Annexed hereto _____** is also a compilation of pamphlets circulated by the Vishwa Hindu Parishad that were available with the State Intelligence Bureau and should have been scrutinised and analysed for their content and intent by the SIT.

456. The documents other than what have been collected by the SIT have been marked as **Annexures** _____ internally numbered and put in a separate compilation at **Annexure** _____. The narrative also consists of the individual incidents which had taken place at dozens of places. The narrative shows the continued act of Conspiracy as well as Abetment by the Accused. Besides the narrative, the Complainant has also discussed the Individual acts of the Accused which *prima facie* involve them in the act of Conspiracy and Abetment based on the material on record.

Provocative Behaviour of the Kar Sevaks

457. Critical documentary evidence from the SIB records submitted to the SIT and provided to the Complainant corroborate and detail the incendiary and provocative behaviour of the VHP workers who called themselves kar sevaks and were aboard the Sabarmati Express Train. This has been deliberately ignored by the SIT and its high powered team with a view to superficially conclude the investigation to the benefit of all the powerful accused. The Concerned Citizens Tribunal clearly observes that not all the victims of the training burning were Kar Sevaks (**see CCT annexed in SIT papers**) Yet to capitalise crudely it was made out by A-1 and his co-conspirators as if the whole affair was an attack on kar sevaks and kar sevaks alone.
458. Former DGP Gujarat RB Sreekumar, had as far back as 6.7.2002 in his First Affidavit filed before the Nanavati Commission and the Annexures therein, that contain valuable information from the SIB records, provided proof of this violent and provocative behaviour. Annexed at Appendix 13, of this First Affidavit (a document that can be seen at **Annexure III, File II, D-21, Page 28** of the SIT records). This is a message from the records of the State Intelligence Bureau (SIB) of the Gujarat Police that details the obnoxious and provocative behaviour of the kar sevaks travelling on this train in the same S-6 Coach, between Gujarat and Ayodhya. Specifically, it states that, "On date 24/02/2002 at about 9:00pm., the Sabarmati Express train reached the Rudauli Po. Sta. near Faizabad and some people got into special bogey S-6 where Ram Sevaks going to Ayodhya were seated. They tried to enter but Ram Sevaks did not let them enter and violence erupted. Ram Sevaks used *trishuls* and daggers to severely beat up four local persons who it is

reported are severely injured. (Where does the quote end?) The FIR for this incident has been registered at Rudauli Po. St. as the case of Asad Ahmed, resident at Khairanpur, Dist. Faizabad at 15:20 hrs u/s 147/323/324/504/506 along with 145 of Rly. Act on the very same day. This violent and aggressive behaviour of VHP workers calling themselves Ram sevaks was also reported in a Hindi daily published from Faizabad, the *Jan Morcha*, the next day, i.e., February 25, 2002 (**See Annexure _____**) that detailed instances of provocative behaviour by *kar sevaks*, who allegedly beat and threatened Muslim passengers, insisting that they chant 'Jai Shree Ram'. They even unveiled Muslim women. Several newspapers reported the behaviour of the kar sevaks as they returned to Gujarat. Reports carried by the *Times of India* and *The Hindu* dated 28.2.2002 also reported on the provocation caused by the aggressive and violent VHP workers on the train when it reached Godhra five hours late on 27.2.2002. (**Annexure _____**).

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Sevaks did not let them enter and violence erupted. Ram Sevaks used *trishuls* and daggers to severely beat up four local persons who it is reported are severely injured.” The FIR for this incident has been registered at Rudauli Po.St. as the case of Asad Ahmed, resident at Khairanpur, Dist. Faizabad at 15:20 hrs u/s 147/323/324/504/506 along with 145 of Rly. Act on the very same day. This violent and aggressive behaviour of VHP workers calling themselves Ramsevaks was also reported in a Hindi daily published from Faizabad, the *Jan Morcha*, the next day ie February 25, 2002 (See **Annexure _____**) that detailed instances of provocative behaviour by *kar sevaks*, who allegedly beat and threatened Muslim passengers, insisting that they chant ‘*Jai Shree Ram*’. They even unveiled Muslim women. Several newspapers reported the behaviour of the *kar sevaks* as they returned to Gujarat. Reports carried by the *Times of India* and *The Hindu* dated 28.2.2002 also reported on the provocation caused by the aggressive and violent VHP workers on the train when it reached Godhra five hours late on 27.2.2002. (**Annexure _____**)

461. *Despite this contemporaneous documentary evidence from its own SIB records, and two more communications -- at **Sr No. 6, File XLI Annexure III Vol I [D-196]** a report on the Godhra incident and again **Sr No. 10, [SrNos 10, File XLI D-196, Annex III]** which is a fax message from the Home Department headed by Accused No. 1 Modi and administratively manned by Accused No. 34 K Nityanandam and Accused No. 28 Ashok Narayan -- the Gujarat government deliberately continued this misinformation obfuscating facts regarding the provocations caused by the *kar sevaks*.*
462. In its communication to the Ministry for Home Affairs (MHA) about the Godhra incident (again in no official format suggesting that it could have been tampered with) ignores the provocation caused by the *kar sevaks*. This appears to have been deliberately avoided. Criminologically, the evidence on *mens rea* is of paramount evidence in fixing the criminal liability of the offenders. It is intriguing as to why such an important fact about the *kar sevaks* shouting slogans was suppressed, though this factor would have been quite useful for tracing the genesis of rioting and arson behind the incident. This appears to have been done with a view to introduce the ‘conspiracy’ theory that entered the investigation papers a fortnight later. It appears to have been a clear-cut design and part of the overall conspiracy on the part of the Home

department under Accused No. 1, suppressing the slogan shouting and provocation which was done specifically to advance the hastily introduced conspiracy theory behind the Godhra incident. This obfuscation was critical and done with a view to generating massive collective communal hatred against Muslims all over Gujarat.

463. SIT deliberately did not probe this further and besides, ignored repeated suggestions by witness and whistleblower former DGP Gujarat RB Sreekumar and co-complainant in SLP 1088/2008 of Ms Teesta Setalvad to examine statements of the UP intelligence and police officers who were instructed to accompany the kar sevaks on their return journey from Faizabad Ayodhya to Ahmedabad as also from the Central IB. ***(Fifth affidavit of RB Sreekumar dated 5.3.2010 to the Nanavati Commission and also given to the SIT at Annexure III, File XV, D-155).***
464. In this connection it is worth also drawing attention of this Court to a Report of the **Forensic Science Laboratory, State of Gujarat**, New Mental Corner, Ahmedabad – 16, (Officer HS Dahiya) that is titled “ Spot investigation report No..2 regarding CR No.. 9/2002. Godhra Railway Police Station **(See Annexure _____)**. A team forensic experts had visited the place of offence on 3.5.2002 in which along with the under signed Shree A.N. Joshi. Scientific officer, Ahmedabad was included. In order to recreate the real picture of how the offence was committed on the day of incident, one coach of the train was kept on the same spot. With the help of different types of containers experimental demonstrations were also conducted. The conclusions of this report that the fire caught from inside warranted that the SIT question Mr Dahiya, Mr Joshi and others. An article dated March 28, 2002 in *The Times of India* quotes the IG of Indian Railways, Mr PP Agia. “...the case is still being investigated and if there was some deep conspiracy, then we are yet to find it.” Agia had then been camping at Godhra for over a month. Needless to say, the SIT failed to record even Agia’s statement though he was IG Railways at the time though his statement though it was critical in getting to the bottom of the political construction of events around the Godhra incident.
465. All that followed from 28.2.2002 onwards stemmed from the decision taken by Accused No. 1 as chief conspirator to carry Godhra to the whole State instead of containing it over night. Mrs. Ravi states that accused No. 2, Shri Ashok Bhatt, Minister for

Health and Family Welfare, was the one who had instructed her about the arrangement for the medical services. She is not asked by SIT any questions about the irregularity and illegality behind the hasty post-mortems. Mr Bhupendrabhai Lakawala, Minister for Home Guards, had also had discussions with the District Magistrate. Thereafter, A-4 Prabhat Singh Chouhan, Tourism and Civil Aviation Minister, and A-5 Gordhan Zhadapiya, MOS, Home (co-accused in the complaint) had also discussions with Mrs. Ravi regarding the overall law and order situation).

466. Mrs. Jayanti Ravi states that the work of drawing of the inquest panchnama and post-mortem was thereafter performed by the medical team and the Executive Magistrate Godhra in the presence of the police sub-inspector. She is not queried by the SIT about the haste in post-mortems giving a go-by to the procedure. She has recorded her statements before the SIT on 15.9.2009 (**Annexure I, Volume I of the SIT papers**), 26.10.2009 and 03.11.2009 (**Annexure I, Volume I of the SIT papers**) and 13.12.2010 (**Annexure I Volume II**).
467. Despite this contemporaneous documentary evidence from its own SIB records, and two more communications -- at **Sr No. 6, File XLI Annexure III Vol I [D-196]**, a report on the Godhra incident and again **Sr No. 10, [SrNos 10, File XLI D-196, Annex III]** which is a fax message from the Home Department headed by Accused No.. 1 Modi and administratively manned by Accused No.. 34 K Nityanandam and Accused No.. 28 Ashok Narayan -- the Gujarat government deliberately continued this misinformation obfuscating facts regarding the provocations caused by the kar sevaks.
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470. In this connection it is worth also drawing attention of this Court to a Report of the **Forensic Science Laboratory, State of Gujarat**, New Mental Corner, Ahmedabad-16, (Officer H.S. Dahiya) that is titled "Spot investigation report No..2 regarding CR No.. 9/2002, Godhra Railway Police Station **(See Annexure ---)**. A team of forensic experts had visited the place of offence on 3/5/2002 in which Shree A.N. Joshi, Scientific officer, Ahmedabad was also included. In order to recreate the real picture of how the offence was committed on the day of incident, one coach of the train was kept on the same spot. With the help of different types of containers experimental demonstrations were also conducted. The conclusions of this report that the fire caught from inside warranted that the SIT question Dahiya, Joshi and others. An article dated March 28, 2002 in *The Times of India* quotes the IG of Indian Railways, P.P. Agia, "...the case is still being investigated and if there was some deep conspiracy, then we are yet to find it". Agia had then been camping at Godhra for over a month. Needless to say, the SIT failed to record even Mr Agia's statement who was IG Railways at the time and his statement was critical in getting to the bottom of the political construction of events around the Godhra incident.
471. It appears clear from the plethora of phone calls exchanged between the co-conspirators (see table below) that the chief mastermind, Accused No.. 1 (Mr Modi) gave a go-ahead to chief

executor, Accused No. 21 (Mr Jaideep Patel) to unleash a communal backlash. Thus, from the afternoon of 27.2.2002 itself violent attacks on the minority are unleashed. Yet No. emergency instructions, alerts or steps are taken by the seniors in the administration to contain or prevent violence. Incidentally, records from the State IB contained in **Annexure III File XIX (D-161) at Pages 67-68 of the SIT papers**, independently show that “one person named Abdul Rashid Kalubhai Mashita Shaikh was assaulted by some Kar Sevaks who came from Baroda train at platform between 2 and 3. Abdul Rashid died and another two persons were injured. The Kar Sevaks were recorded to be shouting slogans. This message of the State IB was sent at 1500 hrs on 27.2.2002, i.e., even while senior cabinet ministers were at Godhra, the A-1 Mr Modi had not yet left by road for Vadodara (**See Annexure IV, File IX, Serial No. 250, the daily Itinerary of Accused No.. 1 and the flight schedule in SIT Papers**), the violent incidents in retaliation leading to the deaths had already begun. Moreover they were provoked by the unruly and aggressive *kar sevaks* who had been aggressively attacking members of the minority community even before the Sabarmati Express train had reached Godhra, five hours late on 27.2.2002. This violence continues and is allowed even as the train proceeded towards and reached Ahmedabad Railway station in the sensitive Kalupur area on the afternoon of 27.2.2002 while the chief conspirator is on his way to Godhra.

Hasty Post-mortem and Disposal of the Dead Bodies of Godhra Victims

472. Under Law and Procedure, strict steps that are outlined in the Gujarat Police Manual and Gujarat/Bombay Police Act need to be followed whenever there are deaths to persons after a natural or man-made disaster relating to the claims etc. of the dead bodies. The corpses of the persons who had died were under law the property of the police (since an FIR had been registered) and could be handed over only to relatives. Photographs and DNA samples needed to be taken and post-mortems of such victims also need to follow strict legal procedure. The post-mortem of the burnt bodies was performed rather hastily at Godhra Railway Yard itself on the telephonic instructions of the A-1 Mr Modi.

Decision for a Hurried Post Mortem

473. On 27.2.2002 around 12 noon, the dead bodies were removed from the S-6 coach and laid down in the yard itself and a huge crowd was allowed to gather all around. The inquest was carried out by P.I. Mirza and this was started at 13:15, completed and signed at 18:45. Under the criminal law, it is the inquesting authority who has to decide whether to send the dead bodies for post-mortem or not. But in the present case post-mortem of almost all bodies were over by 18.45 hours, the time when inquest report was signed. The question is: under whose orders was the post- mortem being conducted in the Railway Yard itself without any facility and equipments and also by doctors who were not trained to do post-mortem? Phone records show that Accused No. 2, Ashok Bhatt, was giving these illegal instructions.
474. The mobile phone records show that Mr Bhatt, Accused No. 2 (now deceased) is in close consultation with the Chief Minister who took the decision to 'finish off' the post-mortem at Godhra itself, however illegal and unwarranted that may be. The mobile phone call records are clear indicators of who was organising doctors to start the post-mortem.

Who Took the Post-Mortem Decision and Who Decided on Parading of Bodies?

Call Type	Cell-No. (Name)	Duration Secs.	Date-Time	Dialed/Received No. – Name
Out	9825039877 (Ashok Bhatt, Accused No. 2)	35	27-Feb- 2002 13:53:44	9825000836 Omprakash Singh, CMO, (PA to CM, Accused No. 1)
Out	9825039877 (Ashok Bhatt, Accused No. 2)	15	27-feb- 2002 14:50:44	9825000836 Omprakash Singh, CMO, (PA to CM, Accused No. 1)
In	9825039877 (Ashok Bhatt, Accused No. 2)	173	27-feb- 2002 15:05:09	9825000836 Omprakash Singh, CMO, (PA to CM, Accused No. 1)
Out	9825039877 (Ashok Bhatt, Accused No. 2)	43	27-feb- 2002 15:38:10	9825000836 Omprakash Singh, CMO, (PA to CM, Accused No. 1)

Who Called the Doctors to Godhra?

Call Type	Cell-No. (Name)	Duration Secs	Date-Time	Dialed / Received No. – Name
In	9825039877 (Ashok Bhatt, Accused No. 2)	38	27-feb- 2002 13:39:24	24095557 Commissioner of Health

In	9825039877 (Ashok Bhatt, Accused No. 2)	146	27-feb- 2002 17:19:09	24095557 Commissioner of Health
Out	9825039877 (Ashok Bhatt, Accused No. 2)	118	27-feb- 2002 18:37:49	24095557 Commissioner of Health
Out	9825039877 (Ashok Bhatt, Accused No. 2)	121	27-feb- 2002 18:40:10	24095557 Commissioner of Health
Out	9825039877 (Ashok Bhatt, Accused No. 2)	251	27-feb- 2002 20:41:48	24095557 Commissioner of Health

475. These doctors should have been examined by the SIT in connection with the Complaint dated 8.6.2006 given the haste in post-mortems and the overall irregularities and illegalities of decisions take at Godhra post the incident. (This is a matter for further investigation by an independent agency).

Why was the Post-Mortem done in this Hasty and Fraudulent Manner?

476. In fact, one Passenger, Haribhai M Joshi, Income Tax Officer, has deposed before Nanavati Commission stating that: "As far as I remember, no. post-mortem was done when the dead body of my wife was given to me". Yet, Dr. Yogesh Jain has signed the post-mortem report of Shri Joshi's wife though No. date was put on the report. It is reasonable to conclude that the post-mortem was carried out in great haste and completely ignoring law and procedure at Godhra itself for three objectives linked closely to the conspiracy that was hatched:

- a. The real cause of death could get obliterated;
- b. The dead bodies could be transported to reach Ahmedabad next morning to hold a funeral rally;
- c. Passions aroused through parading of dead bodies amidst shouting of provocative slogans could be harnessed for unleashing violent reprisal killings.

477. The first objective was easily achieved. All the doctors simply attributed the cause of all 58 deaths as due to "extensive shock due to burn". These doctors were hastily summoned (see table below)

by Accused No. 2 who was in close consultation with chief conspirator (Accused No. 1), giving the go-by to procedure and laws. No investigation was made as to whether the burns were anti-mortem or post-mortem. To achieve the second and third objective, the dead the bodies were handed over to A-21 Jaideep Patel, the Vice- President of VHP at 11 p.m., a non-government, non-official person at Godhra for transporting them by truck to reach the Civil Hospital at Sola, Ahmedabad, in the early morning at 2:44 a.m. on 28th February 2002. Bodies are the property of the police station where the case is registered and under the law can only be handed over to relatives. Both the District Collector of Godhra Mrs Jayanti Ravi in 2002 (before the Concerned Citizens Tribunal headed by Justice Krishna Iyer and Justice PB Sawant (**Annexure III, File 1 in the SIT papers**)) and the A-28 Addl. Chief Secretary, Home Shri Ashok Narayan in 2004 have gone on record to state that it was the A-1 Mr Modi the chief minister who took the decision to send the dead bodies to Ahmedabad. (Mrs Ravi has later denied this to the SIT). Four bodies were handed over to relatives at Godhra itself.

478. A-5 Mr Gordhan Zadaphiya (MOS Home), A-2 Ashok Bhatt, Minister of Health (since deceased), Bhupendra Lakhawala, reached Godhra in the afternoon of 27.2.2002. After Assembly proceedings were over, A-1 chief minister left for Vadodara by government chartered plane from Ahmedabad accompanied by Anil Mukim and Jagdish Thakkar. C.M. was received by Mrs. Jayanti Ravi, Collector, Vadodara, other government officials and politicians. A-1 Modi went to Civil hospital, Godhra and held a meeting thereafter at Collectorate with the government and police officers. In this meeting, A-2 Ashok Bhatt and A-5 Gordhan Zadaphia were also present. A non-governmental person, A-21 Jaideep Patel, Gujarat general secretary of the VHP was also present at this meeting at Godhra. Mrs. Jayanti Ravi has stated to SIT that in the meeting held at Collectorate, one Mr Jaideep Patel, a VHP activist was also present. ***[Malhotra Report, under Allegation No. II] (See Ravi's statement, dated 15.9.2009 in SIT papers at Annexure I, Volume 1 Serial No. 19).*** It was clearly at the instance and directives of Accused No. 1 (Modi) in close collaboration with the leaders of the VHP that the decision to transfer the dead bodies to Ahmedabad was taken. ***(see the deposition of Accused No. 28, Ashok Narayan, ACS (Home) before Nanavati Commission, 28.10.2004 available at Annexure III, File XV, D-151).***

Violation of Law and Procedure

479. In case relatives of the deceased were not available, responsible police/revenue officers could have taken charge of the dead bodies till their delivery to the next of kin or cremation. They should have been kept in a Morgue and Public Notices issued to enable relatives to claim them. The act of handing over dead bodies to leaders of an organisation (VHP) which had given a call for bandh on 28-02-2002 against the Godhra train fire incident, and notorious for its anti-Muslim belligerency, with or without the shield of verbal orders from higher formations, displays indictable irresponsibility and misconduct. Godhra District Magistrate, Mrs Jayanti Ravi, IAS (1991) and Accused No. 46, SP Godhra, Raju Bhargava, IPS (1995) remain liable for this.
480. The clear-cut instructions laid down in the Gujarat Police Manual for the disposal of unidentified dead bodies also state that:
- i. Photographs of unidentified dead bodies should not be taken if they are too mutilated or too decomposed to make identification possible;
 - ii. Revolting photographs of dead and decomposed bodies, which are obviously useless for identification purposes, should not be taken and sent for publication, except on the personal orders of the Superintendent or Sub-Divisional Officer, who should see that only those photographs are sent for publication which are likely to be of real advantage. **(Section 223, 4(vi) Volume III Gujarat Police Manual --- See Attached Table that contains Extracts from the Gujarat Police Manual).**
481. The consequences of the decision to allow widely publicised photographs of the mutilated corpses (published in colour on the front pages of newspapers like *Sandesh* and also many other publications including those published by the VHP itself, clearly must rest with the Accused No. 46, SP Bhargava and DM Jayanti Ravi for which they should have been questioned by the SIT. The SIT clearly furthering its design to cover up the intricate chain that linked the sinister conspiracy together, neither questioned them nor did it ask these relevant questions to Accused No. 25, K.

Chakravarti the top police official for the entire state. Neither were Accused 34, (K Nityanandam), Accused No. 28 (Ashok Narayan), and Accused No. 1 (Modi) queried on this.

482. According to these rules, moreover only when there is no suspicion as to the cause of death and then too, *only if the body is claimed*, should the police in who's custody and care the bodies were as properties of the FIR lodged, could the bodies have been disposed off at all. This illegal and hasty conducting of post-mortems and handing over of bodies -- for the further illegal purpose of Parading them in Aggressive and Volatile Funeral Processions -- to a VHP strongman was an intrinsic part of the Conspiracy that ought to have been thoroughly probed by SIT.
483. It is undisputed by the investigating agency that Modi arrived at Godhra by helicopter between 1600 to 1700 hours. A fax message at **Page No.87 Mes/B/D-4/2/15/Com/284/2002 dated 27.2.2002** at 1912 hrs sent by ACP, State IB, Vadodara written to IG, Gujarat State, Gandhinagar, states that the Chief Minister visited the place of incident at 1715 hrs. (The Air Traffic Controller, Gujarat of the Gujarat Government also suggests that Accused No.1, was at Godhra by 1610 hrs on 27 February 2002). His flight schedule corroborates that he departed from Ahmedabad between 1530-1600 hours on 27.2.2002 and reached the Godhra helipad at 1645 hours. He was accompanied by two persons from the CMO, Anil Mukhim and Jagdish Thakkar (**Serial No. 249 at Annexure IV, File IX, SIT papers**)
484. An important statement related to the Godhra incident which is missing from SIT investigation is the statement of the IGP, Railways, P. P. Agia.... From 8.30 a.m. just after the fire in Sabarmati Express train until 7.30 p.m. that evening repeated statements made by the Godhra District Collector that the incident was in fact not pre-planned but was an accident. (**Para 4.3, CCT report page 17, See Annexure III, File I**).
485. The decision of the accused No.1 and his co-accused, cabinet colleague A-2 Ashok Bhatt, Minister, Health (since deceased), A-3 I.K. Jadeja, Minister, Urban development in the cabinet, A-4, Prabhat Singh Chouhan, Minister Panchmahal in charge and Minister of Transportation , as also A-8 C.D. Patel, Minister, Tourism and A-12 Minister Narayan Lalu Patel, apart from MLAs,

A-6 Ranjitsinh Naharsingh, A-7 Kaushik Patel, former minister for energy, A-9 Nitin Patel, finance minister of Gujarat, A-10 Amit Shah, A-11 Anil Patel, A-13 Kalubhai Maliwad, A -14, Dilip Patel, A-15, Madhu Srivastava A-16, Maya Kodhani, apart from high level IAS and IPS officers decided to take the bodies of the Godhra victims to Ahmedabad. Initially the Accused No. 1 wanted to take the burning coaches onwards but the district and railway administration advised against this. Ashok Narayanan, ACS Home (Accused No. 28 in the complaint dated 8.6.2006) has stated in his deposition before the Nanavati Commission on..... that the decision to bring the bodies of the Godhra victims to Ahmedabad was a high level decision of the Gujarat Government.

Decision to hand over dead bodies to a VHP strongman

486. The only effort that SIT makes is to exonerate her (Mrs Ravi) and Accused No. 1 of the blatantly irregular and illegal decision to hand over the bodies of the Godhra victims, essentially the property of the Godhra police in the criminal case registered at the Godhra police station to a strongman of the Vishwa Hindu Parishad, an organisation known and recognised in law enforcement circles as a man with rabid anti-Constitutional and anti-minority views. She states that at this stage 58 corpses (26 women, 12 children and 20 men) were found.
487. It is apparent from this affidavit of Smt. Ravi that it was only after Shri Narendra Modi (accused No.1) had visited the site that the decision was taken to convey the corpses to Sola civil hospital outside Ahmedabad city.
488. Some of the family members of 5 persons who had died included those from Sanpadiya Tal, Khanpur, Dist. Panchmahal, Dadho and Vadodara were handed over to their respective heirs. Mrs. Ravi states on record that the corpses of the remaining persons were given to A-21 Mr Jaideep Patel of VHP to transport to Ahmedabad with police escort. Between her affidavit and deposition before the Nanavati Commission, and her statements before the SIT, it is evident that she now wants to pin the blame for a high level decision taken while Accused No. 1 was present, to hand over bodies to a private individual belonging to a rabidly communal organisation, A-21 Jaideep Patel, on a junior public servant, Mamlatdar M.L. Nalwaya. Nalwaya produces a letter along with his

affidavit made before the Nanavati Commission dated 5.9.2009. It is after this that the SIT records his statement on 28.10.2009 (**See Annexure I Volume I, Serial No. 27 SIT Papers**). The said affidavit can be read at **D-43, Annexure III, File IV of the SIT papers**. Smt. Ravi had in this fax sent by her to her superior in the Gujarat administration, Accused No. 28, Ashok Narayan, admitted that it was she who was responsible for the bodies being sent in a motor cavalcade to Ahmedabad. The SIT has not queried her on this letter. She states in this communication that *“After Modi left the district, I went to the site of the incident at 2145 hours and sent off the all the dead bodies at 2220 pm/hours. After this (sending off the dead bodies) I again checked the situation in all of Godhra.”* These 54 bodies were sent with escort... She then gives details of the vehicles that transported the bodies. Clearly this controversial, irregular and illegal decision was acquiesced to by the DM under pressure from Accused No. 1 and co-conspirators. The table annexed at (**See Annexure III, File IV, D-43, Page 13**) details the vehicles that carried the bodies with police escort.

489. This document, provided by Nalvaya annexed to his affidavit can also be found in the records submitted by the SIT produced by OSD to chief minister, Sanjay Bhavsar and A-28 Ashok Narayan, formerly ACS (Home). (**Annexure IV, File IX, No. 240**), described as Copy of the Fax Message sent by the Collector, Panchmahals to ACS (Home), on 27.2.2002 at 2141 hours providing information about the Godhra incident. This document, retrieved from two sources, corroborate the previous statement on oath by Ravi on 7.6.2002 before the Nanavati Commission. Neither she nor Narayan were queried on this fax message.
490. Narayan's statements were recorded by the SIT on 12.12.2009, 13.12.2009, then again on 6.4.2011 and 17.1.2012. The SIT had not included any details about this fax message in either of its reports or even commented that such crucial documents had been made available. Jayanti Ravi's statement was also recorded on several dates -- on 15.9.2009 (**Annexure I, Volume I**) 26.10.2009 & 03.11.2009 (**Annexure I Volume I**), 13.12.2010 (**Annexure I Volume II**).
491. A perusal of Mrs. Ravi's affidavit and annexure before the Nanavati Commission soon after the incident, i.e., on **5.7.6.2002** clearly shows that the minutest instructions related to law and order

situation in Godhra were being given by her and monitored by her carefully. It is hence extremely unlikely that a decision of handing over the dead bodies of the victims of the Godhra train burning to a private person, that too from an organisation like the VHP, could have been taken by any Mamlatdar level officer. The SIT that repeatedly put these questions to Nalvayya, deliberately omitted querying the DM/Collector Ravi on her fax to Gandhinagar where she claims responsibility for the decision. The SIT clearly wishes to find a fall guy for an irregular and unlawful action. In a bid to protect the powerful accused present at Godhra from being implicated for this grossly illegal and irregular act, the SIT in a shocking attempt has tried to blame it on the Mamlatdar.

492. In a communication made by DM Panchmahals to Accused No. 28 (Ashok Narayan) on 28.2.2002 **(annexed to her affidavit before the Nanavati Shah Commission)** an interesting fact vis-a-vis the identification of the victims of the Godhra train burning comes to light. Smt. Ravi states in her communication to the CS, Home, one day after the Godhra incident that only three of the persons who died of burning (out of 58 at that time) could be identified – one Neetabeheh of Ahmedabad, Panchal aged 45 years, Neetalbhai Prajapati resident of Amraiwadi, Ahmedabad and Ramshir wife of Hariprasad Madanal Sharma, resident of Detershwar Pratapnagar, Vadodara. The other charged bodies, according to the Collector could not be identified. This is an important factor to note. Normally, under the Gujarat Police Manual, Gujarat Police Act and other statutory directives under which the administration has to function including the circulars on communal peace issued by the Government of Gujarat, there is strict procedure to be followed by the administration in connection with unidentified bodies and disaster whether man-made or natural. According to this, the procedures that are to be followed must involve the due process of attempting identification through proper inspection, proper giving of notice not this extremely motivated and hurried processions and cremations. This well-enumerated process also includes, if necessary, keeping the identified bodies in the morgues while such public notices are sent out and response solicited. This gives an opportunity to the family of the dead persons to respond, seek identification, for the authority to verify this claim with a trained team etc. and thereafter to hand over the bodies to the respective families. The undue haste with which all the unidentified bodies of the Godhra tragedy were captured by the Gujarat Government

under accused No.1 and his co accused cabinet colleagues, handed over to a VHP man (accused No. 21) and summarily cremated in a public display of aggression and hatred was unlawful, illegal and the first enduring display of the conspiracy that has been seriously alleged.

493. *The SIT makes contradictory assessments on this grossly illegal act. In a bid to exonerate A-1 and several powerful co-accused the SIT refuses to pin blame in its Accused wise section of the reports (12.5.2010, 14.5.2010). In the sections on Allegations it criticises this criminal decision. The fact remains that a mini-cabinet meeting with powerful accused under A-1 were physically present takes the decision to hand over the bodies of the Godhra victims to a strongman of the VHP, an organisation with rabidly criminal and communal antecedents, the official letter is given to Jaideep Patel/Hasmukh Patel of the VHP, it is they and they alone who lead the motor cavalcade, causing violence in their wake (Nadiad, Ghodasar etc) and A-21 Jaideep Patel who hands over the dead bodies at the Civil Sola hospital. SIT sees this, mentions it but shockingly exonerates all accused of this act since it would and does indict A-1 completely and utterly.*

Bandh Call Supported by Accused No. 1

494. Rarely does it happen that the government in power itself supports a bandh call given by any organisation. Here the bandh call was given by the VHP and the government, none less than the Chief Minister himself announces support to the bandh. Supporting the bandh, not declaring curfew as the situation demanded, not undertaking preventive arrest or hauling up communal goondas, allowing incendiary processions all over Ahmedabad, all of them together ensured that the orgy of violence, right from the attack on the high court judges to the innocent residents of Naroda Patia, Gulberg society, Kalupur etc. in Ahmedabad and all over Gujarat could proceed with impunity. The SIT has not cared to investigate all the circumstances where the ruling party of the state actively participated in the Bandh also allying with an organisation like the VHP. No question was put to the accused No.1, any of his co-accused cabinet colleagues, any of its co-accused MLAs, any of the other co-accused about whether such a practice declaring support for the bandh was at all normal or was supported under the circumstances.

Bandh Call given by VHP

495. The decision of the rabidly communal VHP to capitalise on the tragedy at Godhra and declare a Bandh on 28.2.2002 that was promptly and vocally supported by the government through Accused No. 1 (Modi), coupled with a carefully formulated conspiracy to neutralise the police and administration from fulfilling their Constitutional and legal obligations was clearly aimed at allowing deliberately fuelled and provoked anger generated by hurriedly conducted post-mortems, widespread publication of photographs of mutilated bodies burnt at Godhra and the planned parading of these bodies in several locations of the state in aggressive funeral processions. These became the launching pad for violent, widespread and brutal daylight attacks as a neutralised police and administration looked on. In districts like Bhavnagar, Bharuch and Surat, violent mobs were contained and curtailed by the brave and stoic refusal of SPs and DMs of these districts to comply with the sinister design of the political leadership in conspiracy with the VHP. In each of these districts where violence was contained, those responsible for swift and strict action, have over the past decade suffered at the hands of a vindictive chief minister and government.
496. Abundant and voluminous documentary evidence is present in the SIT investigation papers that document the alerts and warnings being sent out by district police units and the SIB warning of the consequences of this communal mobilization. None of this material has received even cursory attention by the SIT. Neither has any study or analysis of these documents been made to confront those accused of conspiracy, abetment and gross dereliction of duty leading to mass murder and destruction.
497. All this incriminating evidence, when finally made available to the Complainant through an Order of the Magistrate dated 11.4.2012 and the remaining after the Supreme Court's Orders dated 7.2.2013 is in the SIT records **only in Gujarati**. Clearly the high-level SIT -- appointed by the Supreme Court under Dr Raghavan, AK Malhotra and YC Modi -- has not accessed or analysed these documents. It is no wonder that the Ahmedabad Crime Branch that has been galvanized by the SIT to perform its task, and is at the end of the day under the political control and clout of A-1, the Chief Minister/Home Minister has chosen to completely ignore and

bypass this evidence. It is also therefore now understandable why the SIT, appointed for probity and accountability in this sensitive and critical case, went to the extent it did, first to delay filing its closure report (after the Supreme Court Order of 12.9.2011) without giving any notice to the Complainant, to actually resist compliance of the SC Order and give access to these records and documents.

498. It is clear from a message conveyed by the SIB after the Assembly discussions on Godhra at 1300 hours and before 1600 hours on 27.2.2002 that the VHP had declared its Bandh and that a special meeting of the VHP had been called at 1600 hours on that day. It is but obvious that the police and intelligence officers – all under the political jurisdictional responsibility of A-1 and A-5 (Modi and Zadaphiya), and administratively under A-34 (K Nityanandam, then Home Secretary), A-28 (Ashok Narayan, then additional Chief Secretary, Home) and A-60 (G. C. Raigar, then ADGP, Home) were and should have been questioned and held responsible. They were fully aware of the Bandh call, aware of the political support to it from the government and that Accused No.1 was extending his, his government and party's full support not just to the VHP's call for the bandh but also behind any actions that followed. Given the track record of the VHP in general, but specially the VHP in Gujarat since November–December 2001 -- all of which was closely documented in SIB records and documents and in the knowledge of the government especially Gujarat Chief/Home Minister (Accused No. 1, Modi), the police administration and the Intelligence authority -- this open and official alliance with an organisation that is clearly communal and vents regular hatred against the minority apart from launching armed physical attacks with deadly weapons, displayed an open connivance and conspiracy by accused No.1. This connivance was brazenly displayed within hours of the tragedy at Godhra and can be seen reflected in the statements made on the floor of the State Assembly, in public and specifically through his actions.
499. The fact that the SIT did not in any way go into these aspects of the malevolent alliance behind the Bandh call, despite the fact that the 8.6.2006 complaint of Mrs Zakia Jafri clearly insinuated this allegation, is one more evidence of the clear-cut desire of SIT to gloss over the seriousness of the offences committed, ignoring the vital material evidence that is available through the documents they had collected during the investigation and moreover the communal

role of the defence that the various accused produced in the statements recorded before the SIT. This method and manner of investigation is utterly and completely unprofessional and makes a mockery of the technique of investigation. Moreover in the case of this complaint, where the accused are powerful persons still in power 11 years after the conspiracy was committed and continues to be committed, the SIT had clearly displayed compromise and bias.

500. There is also a set of documents which were, curiously, not procured by SIT directly in the course of their investigation that had been ordered by the Hon'ble Supreme Court, ***Annexure IV File XVIII, XIX, XX, XXI, XXII*** were five files with voluminous documents collected by SIT in the course of their further investigation from document submitted by the government of Gujarat to the Nanavati Mehta Commission of Enquiry recording "instruction/messages issued by the DGP office Gujarat for controlling riots and action taken by the concerned police unit between 27 February 2002 to 31 May 2002".
501. It should be a matter of deliberation why the SIT did not directly seek access to these documents when they had been conducting a high level enquiry under the aegis of the Hon'ble Supreme Court. It is only when these records become public after they were summoned by the Nanavati Mehta commission that the SIT took them on board in their investigation.
502. There was clearly no real desire on the part of the SIT to get to the bottom of the matter or to investigate the truth or the allegation contained in the complaint of Mrs. Zakia Jafri dated 8.6.2006. A brief summary of these records revealed are important.
503. Several messages from various district police units record the inherent dangers with the VHP-called and ruling party-supported Bandh on 28.2.2002. A message which is in the official format contained in Annexure IV File XIX sent out at 1635 hrs on 27.2.2002, at page No. 822, from the Dahod District police to all CBPOs records that dead bodies of VHP workers were being taken by train at 3 O'clock (1635, 3 o clock?) today and there would be processions in those areas. This message already sent at 1435

hours clearly records the decision for VHP bandh proposed for the next day and for the parading of the dead bodies.

504. Most importantly, these messages say that apart from the aggressive funeral procession held in Ahmedabad which was supposed to be a matter of this investigation not just in Ahmedabad but also in Dahod, Modasa, Kadbrahma, wherever bodies of the dead Kar Sevaks were returned by train on 27.2.2002, in all these places aggressive funeral processions were taken as part of a calculated strategy to inflame passion and ignite aggressive attack on the minority communities.
505. On 27.2.2002, a message marked 8297 of 120 and 150 hrs from District police, Narmada (***Annexure IV File XVIII, XIX, XX, XXI, XXII***) to all the police stations in Narmada district records that Gujarat Bandh call had been given by the VHP, so law and order situation should be maintained. (This message is not in its official format). In the same file, another message dated 27.2.2002 page No. 8396 showing the time as 1040 hrs, issued from ADGP(Int), Gandhinagar to Commissioners of Police, to all ACPs etc. shows that kar sevaks were shouting slogans in the train during the travel from Ayodhya to Ahmedabad and after the incident at Gandhinagar train burning the police should keep bandobast. At 3.00 p.m. on 27.2.2002 at page 8394 there is a fax message from Sanjiv Bhat at the office of ADGP (Int), Gandhinagar, addressed to CPs, ACPs, Western Railway of DGP range officers as also to the PS to MOS, Home at Gandhinagar. This message states that after the train burning incident of 27.2.2002 at Godhra, funeral processions are likely and therefore necessary action should be taken. The message also states that in view of the Gujarat bandh call made on 28.2.2002 by the VHP, law and order should be maintained.
506. Another message from the District Police at Narmada to the PS, Rajpiple, Sagwada, Kediya pada, Tilakwad, Kevadia, Garudi is sent which can be read at ***Page 8296 of file Annexure IV File XX***. This message is sent out on 1810 hrs. This is yet another message from an official record of the police that internally records that after the coach burning incident at Godhra, injured VHP workers (there is also mention of dead bodies) reached by train at 3 p.m. from Godhra to Ahmedabad and then on 27.2.2002 itself an aggressive procession of funeral takes place in the area where these workers live. The message tells the various police stations in Narmada

district to take strict action on the occasion of Gujarat Bandh call given by the VHP for 28.2.2007 and that law and order should be maintained **(See detailed tables and summaries about these messages at Annexure _____)**. One such message sent by the Gandhinagar police to all district police stations and the entire police force at 1925 to 2000 hrs on 27.2.2002 which can be read at **page 8395 of Annexure IV File XXX**, asks the district police and the commissioner to report every two hours from 8 a.m. onwards on 28.2.2002 to the Home control room on telephone No..3252957, 3221476 and fax No. 3221008 if any incident had occurred or happened. This message is particularly revelatory. It has been sent almost three hours before the controversial meeting held at the Chief Minister's residence on 27th February 2002. It suggests that the DGP and his office were taking steps to ensure regular feedback from all the police stations as would happen when such an incident like Godhra incident would take place in Gujarat or anywhere else.

507. There is however nothing in the question put by SIT, answers given by the DGP or the Sr. Policemen about such regular reports that were sought every two hours. The SIT has not investigated whether such reports which had been sought by senior police administration were actually filed and what they contained. This is one more example of the casual investigation by SIT and concealment of such regular reports sought from all the district SPs and police commissionerates by Accused No-25, (DGP, A. Chakravarti).
508. A very crucial message can be read at page 8297 sent at 1142 p.m. on 27.2.2002. This was sent by Sanjiv Bhatt from the office of ADGP (Int), Gandhinagar to all CPS, all ACPs with Western Railway, all DGP range officers, as also to PS to MOS, Home, Gandhinagar. This message cautions all the police officers about the Gujarat bandh call given by VHP on 28.2.2002 and requests maintenance of law and order.
509. The following message describes the gravity of the situation already prevailing in the State of Gujarat on 27.2.2002:-
 - a. At page **8413 of Annexure IV, File XX** dated 27.2.2002 (No. timing given). The Surat district police sent messages to PI Badoli and all police stations in the district asking its staff to remain alert with lathis,

weapons and helmet wear with uniforms with appropriate bandobast. This wireless message is in the official format.

- b. At page 8417 of the same file on 27.2.2002 there is another message from the Surat District police on the same issue.
- c. At page 8441 of the same file a message dated 27.2.2002 (time not given) is sent to all CPs, all District police officers etc. asking them to maintain a detailed register about offences that take place on 27.2.2002 and thereafter, details of the FIR etc. (The timing is not shown on this message and it is not in the format). [two of the messages contained in this file are in the name of Sanjiv Bhat sent from ADGP (Int.) office regarding the burning train incident to various police stations regarding Godhra incident. The SIT had been at pains to discredit this officer and it is imperative for the Ld. Court to note that these papers and documents would not have come on to the record of this investigation but for being summoned by the Nanavati Commissioner and thereafter submitted by the government of Gujarat. The SIT makes no reference to the conclusion that ought to be drawn after an analysis of these messages]

510. There are many more messages of this kind dated 27.2.2002 which are messages asking local police stations to be prepared and warned about possible repercussion and fall out of the Godhra incident. These messages (***see Table created from with Annexure IV File XXI in Annexure _____***) that explain how from 11.15 a.m. on 27.2.2002, then again at 11.30 a.m. and as late as 2025 hrs on 27.2.2002, Accused No. 25 (DGP Gujarat, K. Chakravarti) was sending messages to different police stations cautioning them and asking them to take preventive action. (Note:— one message in this file is controversial because it is on a plain blank paper and not in the official format which is at page 8889 sent on 27.2.2002 at 0015 hrs. The reason for this message likely to be fabricated is that it is left after the time the controversial meeting at Chief

Minister's residence. There is a similar fabricated message not in the format also contained in Annexure IV File (ICR 624 of 02 which is a message supposedly sent at 00.05 hrs on 27.2.2002). Between 11.05 hrs and 11.40 hrs on 27.2.2002, the District police at Dahod and the DGP's office at Gandhinagar are sending cautionary messages.

Parading of Bodies and Funeral Processions Part of the Conspiracy

- 511 .Already by the afternoon of 27.2.2002, while the Accused No. 1 Modi set off for Godhra, the decision to mobilize large funeral processions with volatile and aggressive mobs who were members of the VHP, RSS and BJP had been collectively taken by the Accused No. 1 (Modi), Accused No. 2 (Bhatt), Accused No. 5 (Gordhan Zadaphia, then MOS, Home) and Accused No. 4 (Prabhatsingh Chauhan, the then Minister of Civil Aviation & Pilgrimage) who are in close touch with Accused No. 21 (Jaideep Patel) and who are in close telephonic touch. In fact, Accused No. 1 and Accused No. 21 meet at Godhra according to the statements to the SIT of DM & Collector Jayanti Ravi and former MOS, Home, Gordhan Zadaphiya. The decision to systematically organize volatile and aggressive funeral processions while a bandh call is given to facilitate the mobs in their ugly and pre-determined task has already been taken by the time Accused No. 1 leaves for Godhra.
512. A fax message from the official records sent by DySP Dahod to all police stations under him as early as 1635 on 27.2.2002, while Accused No. 1 is still due to reach Godhra is fully aware of the decision by the VHP to call a Bandh the next day, i.e., 28.2.2002 and of another decision collectively taken by Accused No. 1 and other co-Accused in and out of government to encourage and allow funeral processions: "*smashan yatras*". This message sent on the official format of the district police states, "Today at 7.15 a.m. in a communal incident, the dead bodies of VHP workers who died at Godhra will be taken by train at 3 o'clock today and thereafter in their areas, *smashan yatras* will be taken out. Clearly it was being propagated that there would be funeral processions in many areas. So, keep necessary bandobast and inform every 2 hours to the control room because of

Gujarat bandh call by VHP on dated 28.2.02.” The SIT was in possession of these documents collected from the Nanavati Commission and yet has completely ignored the evidence. **(See Annexure IV File XIX Page No. 8222 of the SIT records).**

513. It is therefore clear that the records of the Gujarat Police that are part of the investigation papers itself reveal that the Gujarat police was warning its police stations of the possible outcome of violence along with the *smashan yatras* (funeral processions). Yet, the SIT has concealed this critical evidence from the Hon’ble Supreme Court.
514. Of the 35 bodies handed over to relatives, 25 were claimed by relatives from Ahmedabad, 2 from Mehsana (Kadi), 5 by residents of Anand, 2 by residents of Sabarkantha and 1 from Rajkot. It is apparent by this break up that 19 bodies still remained unidentified.
515. After the high level meeting at Godhra called by Accused No. 1, it was decided to give the bodies, which were in a ghastly condition to a person who represented an organization known for its rabid and unconstitutional views. Even after Accused No. 1 left Godhra and his co-conspirator Accused No. 5 Gordhan Zadaphiya stayed back in Godhra there was continued mobile phone contact.
516. The continued contact by mobile phones reveals the unfolding of the conspiracy. These mobile phone call records show that constant contacts were being made between the PA to CM, Chief Minister’s Office (CMO), a link to Accused No. 1 (Modi), Jaideep Patel (Accused No. 21), Gordhan Zadaphia (Accused No. 5), DCP Sawani and the VHP office at Ahmedabad. These clearly indicate that the details of this conspiracy were being hatched at Godhra.

Type	Secs	Date-Time	Dialed / Received No. Name	Cell-Name
Out	55	27 th Feb. 2002 20:02:01	796631365 VHP Office	9825049145 Zadaphia
Out	158	27 th Feb. 2002 20:03:25	9825023887	9825049145

			Jaideep Patel	Zadaphia
In	48	27 th Feb. 2002 20:39:36	9825023887 Jaideep Patel	9825049145 Zadaphia
In	87	27 th Feb. 2002 21:11:20	9825049198 DCP (ZONE 5)	9825049145 Zadaphia
In	204	27 th Feb. 2002 21:13:11	9825023887 Jaideep Patel	9825049145 Zadaphia
In	138	27 th Feb. 2002 21:16:54	9825049198 DCP (ZONE 5)	9825049145 Zadaphia
In	186	27 th Feb. 2002 21:20:19	9825023887 Jaideep Patel	9825049145 Zadaphia
In	97	27 th Feb. 2002 22:08:24	9825000836 Omprakash Singh, CMO, (PA to CM)	9825049145 Zadaphia

517. DGP Chakravarti (Accused No. 25) has also said that the decision to transport bodies to Ahmedabad was taken by the Government. (Therefore, it is clear that the decision to transfer the dead bodies from Godhra to Ahmedabad was taken by the government led and inspired by A-1--Accused No. 1, Accused No. 2, Accused No 4, Accused Nos 5, Accused Nos 12 The government was aware that bringing of dead bodies to Ahmedabad will escalate the tensions and this was informed to the government by the police officers including Jayanti Ravi, Collector, Vadodara.

Contradictions in the SIT Two Reports:

518. The evidence gathered by the Concerned Citizens Tribunal headed by Justices VR Krishna Iyer and PB Sawant is corroborated by the deposition of Gujarat's additional chief secretary (Home), Ashok Narayan, made before the Nanavati Shah Commission when he says that it was a decision taken and orders issued by senior functionaries including the chief minister at Godhra before the bodies of the tragic Godhra train arson were handed over to Jaideep

Patel, general secretary of the Gujarat Vishwa Hindu Parishad.

519. The SIT first stated that the decision to shift the bodies to Ahmedabad was taken after a closed door meeting between Jayanti Ravi, Jaideep Patel, cabinet minister Ashok Bhatt, civil aviation minister Prabhatsingh Chauhan, Gordhan Zadaphiya and Modi. But, bizarrely, when it comes to the question of who decided that the bodies should be handed to the VHP, the SIT blames only the Mamlatdar, Nalvaya. **(Page 23-24 of the PE report, dated 12.5.2012)** and even recommends departmental action against him. M. L. Nalvaya, executive magistrate of Godhra at the time, has testified before the SIT that the bodies of 54 victims were indeed handed over to VHP leaders Jaideep Patel and Hasmukh Patel on the instructions of Jayanti Ravi, who was the Godhra district magistrate at the time. But Ravi, an IAS officer, denies this and claims Nalvaya, who was her subordinate, took the decision on his own.
520. It is curious that the SIT however does not hold Jaideep Patel to account since the letter is in his name, nor questions the ministers who obviously concurred with the receipt for the handover being made in the name of an office bearer of the VHP. Neither does the SIT ask the obvious question about whether Nalvaya, a lower-level officer, could have taken such an irregular decision on his own? Why is the SIT willing to believe Jayanti Ravi's version over Nalvaya's version?
521. Even on this issue there are contradictions between the SIT's report dated 12.5.2010 and its conclusions submitted before the Learned Magistrate dated 8.2.2012. Here is what the SIT says: "SIT enquiry revealed that there was in fact a discussion at Godhra on the final disposal of bodies of those killed in the Godhra carnage. This was during chief minister Narendra Modi's visit to the town on the afternoon of February 27, 2002. It was held at the collectorate. It is not clear who all were present or consulted. Apart from the district collector, the presence at least of Gordhan Zadaphia (MoS Home) and Jaideep Patel, VHP activist has been confirmed.... The district collector categorically denied to the

SIT that the decision was taken against her wishes... Most importantly, the 54 unidentified bodies were transported to Ahmedabad around midnight, when there were hardly any crowds en route. By next afternoon, 35 of these bodies were handed over to relatives at Sola Hospital, after identification... The charge that bodies were taken in a procession and paraded is therefore not established. **(Pages 19-23 of the preliminary enquiry report, 12.5.2010; Page 2-3 Chairman's comments, 14.5.2010.)**

522. Two years later, the SIT states in its Final Report: "It may thus be seen that the journey from Godhra to Ahmedabad started around midnight and the dead bodies reached Sola Civil Hospital sometime between 0330 to 0400 hrs.... Further, though a letter had been addressed by ML Nalvaya in the name of Jaideep Patel of VHP and the dead bodies were acknowledged by Hasmukh T Patel of VHP, yet the dead bodies were escorted by the police up to Sola Civil Hospital, Ahmedabad situated on the outskirts of Ahmedabad City. At Sola Civil Hospital, Patel handed over the letter to the hospital authorities and the local police as well as the hospital authorities took charge of the dead bodies..." *(Page No. 463 of the SIT Conclusions submitted on 8.2.2012)* "...Nalvaya, Mamlatdar acted in an irresponsible manner by issuing a letter in the name of Patel in token of handing over the dead bodies which were case property and therefore, the government of Gujarat is being requested to initiate departmental proceedings against him". **(Page 463 of the SIT Conclusions submitted on 8.2.2012)**

INCIDENTS THAT OCCURRED ALL OVER GUJARAT FROM 27.2.2002 AND EARLY ON 28.2.2002.

523. An analysis of the police files and documents contained in Annexure IV File XIV **(See Tables attached at _____)** clearly show that violence had started occurring in different parts of the State soon after the conspiracy to bring the dead bodies of the tragic incident of Godhra to Ahmedabad was hatched at the highest level of the State cabinet, with the Chief Minister present and with a view to politically capitalise on the killings in Godhra. Through mobile phones and swift

communications bands of the front organisation VHP and its collaborator the BJP began spreading communal poison in several locations in Gujarat from the early afternoon of 27.2.2002 itself. No substantive measures were taken at the higher levels of the administration to arrest and contain the violence.

524. State Intelligence Bureau Reports given by ADGP-Intelligence, RB Sreekumar to the Chief Election Commissioner, James Lyngdoh on 31.7.2002 (**See Tables Annexed at _____**) are a brutal reflection of the spread of the violence. As many as 152 of the 182 Assembly Constituencies in the state of Gujarat had been affected.

525. A closer scrutiny later has led to the conclusion and analysis that among 26 police districts and four (4) Commissionerates, in eleven districts, namely, 1) Amreli, 2) Narmada, 3) Ahwa-Dang, 4) Jamnagar, 5) Navasari, 6) Porbandar, 7) Surat Rural, 8) Valsad, 9) Surendra Nagar, 10) Rajkot Rural and 11) Kutch-Bhuj, there was no death due to riots, whereas the casualties were negligible (lesser than toll in the previous communal violence in these places) in five districts and in the Commissionerates of Surat and Rajkot cities. The five districts, are 1) Bharuch (two deaths due to violence), 2) Junagadh (two), 3) Patan (four), 4) Vadodara Rural (four) and 5) Bhavnagar (two) and in the Commissionerate of Rajkot city (4 deaths due to violence). In Surat city, violence statistics is quite unique. The city, the second populous city in Gujarat, did report only seven deaths due to violence though, in previous communal disturbances, particularly in the 1992 post-Babri Masjid demolition violence, hundreds of citizens were killed. The commendable performance of Surat City Police Commissioner (Shri V. K. Gupta, IPS 1977) and his team is in contrast to 326 killings in Ahmedabad city and 32 in Vadodara city in mass violence. Despite the best efforts of the conspirators led and instigated by Accused No. 1 to ensure that even these districts burned, it was the resistance and control by the police and district administration that restrained and contained the violence and consequent loss of lives and properties in these districts.

526. In nine other districts violence was deliberately allowed to fester. **(See Tables and Map annexed at _____)**. The districts of the major genocidal violent incidents, firing, attacks and arson, including the Naroda Patia and Gulberg society carnages, in complete absence of any prohibitive orders and curfew (curfew was inexplicably declared very late, only at 12.40 p.m. on 28.2.2002 after the mobs were in full control of the streets; Panchmahals, Mehsana district (Sardarpura & Deepda Darwaza incidents apart from widespread other attacks), Sabarkantha district, (Kidiad incident), Ode village in Anand district, Best Bakery (in Vadodara city) wherein more Muslims were killed in police firing, in Surat city where only seven people died in riots, while ten Hindus and one Muslim offenders were injured, in police action.

DEGREE OF VIOLENCE (27.2.2002 TO 7.8.2002) DESCENDING ORDER

527. (i) Ahmedabad City (326 deaths in riot),
- (ii) Panchmahals district (93),
- (iii) Western Railway (64),
- (iv) Mehsana (61),
- (v) Vadodara city (36),
- (vi) Ahmedabad Rural District (33),
- (vii) Sabarkantha (32),
- (viii) Kheda (31),
- (ix) Dahod (24),
- (x) Banaskantha (20) and
- (xi) Anand (15).

These figures do not factor in the Missing Persons **(See SIB table at _____)** that number over 450 for the entire state, nor the police station wise deaths by police firing **(See Table at _____)** or deaths not registered by the police.

528. Rangewise position of eight ranges is as follows: (Figures for Ahmedabad range are missing in list below)

- i) Vadodara range (125),
- ii) Gandhinagar (97),
- iii) Ahmedabad Rural (79),
- iv) Western Railway (64),
- v) Border (24),
- vi) Junagadh (4),
- vii) No. death in Surat and Rajkot ranges.

(These casualty figures do not include those died in police firing and missing persons). It is remarkable that Surat city had only seven deaths and Rajkot city four deaths. In Surat city, the death in communal violence after Babri Masjid demolition was nearly 300. Moreover, in six other districts violence was negligible and deaths were below four. Highest number of Islamic buildings, symbols of Muslim culture from the medieval times (dargah, masjid etc) were destroyed in Ahmedabad range (181 institutions).

529. The clearly partisan and targeted aspect of the violence unleashed can be deduced from the fact that **(See Map at _____)** in the areas of the high concentration of anti-minority violence in police action, overwhelmingly higher number of Muslims were killed. For example it is apparent from SIB figures that:- 60% of deaths *in police firing and seventy seven percent 77% of casualties of mob violence.* **(Source: Appendix (v) of RBS Second Affidavit to the Commission dated 06-10-2004 (No.. 9129/04) available at in SIT Investigation Papers)**

Preparation for violence after Godhra.

State IB messages detailing the Preparations for Violence

530. **Communal Mobilisation by VHP from 28.2.2002**

As stated in paragraph above, ample indication and evidence is available from the record including minutes of the State I.B. contained in **Annexure III File XXI(D-166)**, that show the desire,

motivation, intent, *mens rea* in criminal justice terms, of the co-accused and individuals and organisations to fully capitalise on the tragedy at Godhra and incite violence in several districts of Gujarat.

531. At page 365, message No. 73/02 dated 28.2.2002, the ACP(Int) Surat Region (**Annexure III File XXI(D-166)**), intimates his boss at Gandhinagar that between 9 to 10 hours on the morning of 28.2.2002 a meeting was held at Vapi town at Sardar Chowk where Dinesh Kumar Behri of VHP and Acharya Brahmbhatt of Bajrang Dal , Jawahar Desai of BJP and Vinod Chowdhary of RSS were all present. They called upon Hindus to unite and made inflammatory speeches regarding the incident at Godhra. At this meeting, Kapil Swami from the Swami Narayan Sect were there as chief guest. Once again, the entire might of the political organisation of the BJP and RSS, the socio-politico organisation of VHP and the socio-politico religions of Swami Narayan Sect were together in a joint conspiracy being mobilised to ensure violence post-Godhra and ignite and inflame sentiments to make that violence happen.
532. Another message in the same file page no.126, Annexure III File XIX, Message no.D/9/SA/VHP/73/02 that a meeting between 9.10 a.m. and 10 a.m. on 28.2.2002 was held at Vapi town by leaders of BJP, VHP, Bajrang Dal and RSS . Among the people present in the Sardar Chowk meeting at Vapi were Dinesh Kumar Vahar, Haryan Bhanushali Leader of Bajrangdal , Jayashri Das of BJP, Vinod Choudhary of RSS and Kapil Swami of Swami Narayan Sect was also present. The SIB message states that among the aggressive speeches made related to Godhra incident at which 100 to 200 people were present including the local police were Hindus were asked to unite and act. It again becomes clear from this SIB message that systematic communal mobilisation was taking place from the length and breadth of different districts of Gujarat in a calculated manner as part of a wide conspiracy. The SIB had also provided details to the Chief Election Commissioner and the National Human Rights Commission about the number of offences committed by organisational members of the BJP, RSS, VHP, Bajrang Dal. Attached hereto this protest petition is a copy of the State wide offences registered against members of these organisations. (**Annexure_____**)It is not surprising that except for some of the more brutal carnage cases that were taken up by NHRC, Supreme Court and other legal rights organisations

the Gujarat police have hardly investigated or prosecuted any of the organisations mentioned in the list to the FIR.

533. Incidents of violence already taking place from 27.2.2002 itself have also been enumerated in the section on Violent Reprisals post 27.2.2002 (Ahmedabad and Statewide). Several files of the documentary evidence collected in investigation point towards this violence. At **page 256, File Annexure III File XIX**, which is a message set out from ACP (Int) to DIG(Int) at 1001 hrs on 28.2.2002, it is mentioned that at the outpost at Sathamba Tal. Bayad between 2200 hrs to 2400 hrs on the day before, i.e. 27.2.2002, 12 cabins (small shops) selling pan masala and vegetables were burnt near the bus stand at Sathamba village (Bayad police station ICR No..17/02).
534. Again at page 259 of the same file (**Annexure III File XIX**) message dated 28.2.2002 from ACP(Int) to DIG(Int) states that curfew had been imposed in Sabarkantha district, tal. Khedbrahma at 1815 hrs, at Himmatnagar at 1100 hrs, Modasa at 1250 hrs and yet two Muslims minor youths were stabbed.
535. Another message at Page No. 273 of the same file (**Annexure III file XIX**) sent at 1745 hrs on 27.2.2002 from the B.M. Mohit Anand Centre to DGP(Int) stated that when the Sabarmati express (in which S-6 coach had caught fire in the morning and 58 persons had died) reached the Anand Railway Station at 1500 hrs, aggressive persons from the train had attacked 4 Muslim persons at the station, using sharp cutting weapons. Abdul Rashid aged 65 years, resident of Anand had died. Others who were injured had been sent to Anand government hospital. Once again this shows that even after the train had left Godhra following the tragedy that happened at the station, a tragedy that took place after aggressive slogan shouting by Kar sevaks following a stone pelting by a mob etc, neither the Gujarat police administration nor the Panchmahal and/or Vadodara district administrations, nor the railway police that is responsible for security on the trains and stations, took any steps to control the violent behaviour of those still in the train. Apart from Anand railway station, in far away Meghani Nagar (Ahmedabad city) on the night of 27.2.2002 at 2025 hrs, according to the message contained at page 341 (**Annexure III File XIX**), Hanif Hussain Abdul Jariwala was injured in an attack and another person Muktar Ahmed Khalak resident of Bapunagar was also

injured with a knife by a mob. Both victims died. (ICR No. 65 of 02 at Meghani Nagar on 27.2.2002).

536. It is reasonable to assume that aggressive, uncontrolled and irate members of the VHP, BJP, Bajrang Dal and RSS, including some who had travelled from Godhra by train which had arrived at the Kalupur railway station, had been allowed to carry out these attacks unchecked and unfettered by the local police administration. (Repeat message) page 350 to 360 of **Annexure III File XIX** relates to arrival of 1 to 8 dead bodies at Kalupur railway station at 1500 hrs. (SIB messages are sent before the train arrives) These bodies were sent to Dhanwantari hospital.
537. One of the patients who was injured on the Sabarmati train express on 27.2.2002 and was treated as an outpatient at the V.S. Hospital at 1930 hrs and the message at page 434 (Vardhi No..537, 2055 hrs) was released thereafter. The SIT could have examined this injured witness in the course of investigation as they could have also made efforts to record the statement of all the SIB officials who had sent messages on 27 to 28 February to the head office. No such statements have been recorded.
538. Specifically, SIT should have been at pains to find out whether in any way the provocation and aggressive behaviour of some of the travellers on the Sabarmati express continued while the train proceeded to Ahmadabad (we already know that at Anand station travellers from the train calling themselves Kar Sevaks had attacked 6 persons, one of whom had died).
539. The sloppiness and shoddiness of the SIT investigation in not probing these aspects clearly points to their compromise. It is no wonder that SIT was extremely reluctant in giving the complainant access to these documents that are part of the investigation and reveal the real situation as it existed on the ground in Gujarat. **At page 345, the message titled Vardhi No. 24 contained in Annexure III File XIX dated 27.2.2002** is sent from D.O., Ahmedabad to the Intelligence Office at Virangam (Virangam is in Ahmedabad rural district). The message states that there are 50 to 75 persons belonging to VHP and Bajrang Dal gathered at

Virangam town chali and in the Golwada area and the situation is very tense.

540. Throughout the day on 27.2.2002 and late into the night of 27-28.2.2002, the State Intelligence is continuously sending messages about the departure and arrival of Kar Sevaks in different districts. SIB is also warning the head office of the increased communal temperature and the dangers therein.
541. On the morning of 28.2.2002, as can be clearly seen from page 258 of Annexure III File XIX, message No. Com/538/28/2/02, there was also a funeral procession that was allowed to take place at Khedbrahma from where a number of Kar Sevaks who had gone to Ayodhya had returned. This procession was allowed and is likely to have been an aggressive and threatening procession. The message cited above states that while the funeral procession was taking place, 2 Muslims going to Khedbrahma was stabbed. The purpose of the funeral procession, whether at Gota or Hatkeshwar in Ahmedabad, or Modasa was clearly to trigger provocation and violence. The subsequent message at page No. 262 of the same file **(Annexure III File XIX)** mentions that 150 Bajrang Dal workers returned from Ayodhya to Khedbrahma and the situation was very tense. It would have been no problem for the SIT to have thoroughly investigated with the district police records and the administrative records as also examined the various district news papers pages that came out of Gujarat to ascertain under what sort of political climate these funeral processions took place and were allowed. Repeatedly the co-petitioner in the SLP No.1088 of 2008 Teesta Setalvad of CJP pointed out orally and in writing to the IO of SIT, A.K. Malhotra that these contemporaneous records need to be tallied and examined during investigation. The former DGP, Gujarat, R.B. Sreekumar also through written communication and further affidavit made out a strong case for investigation into these areas. However, SIT despite being responsible to the Hon'ble Supreme Court, chose consciously and deliberately not to investigate into these aspects of the crimes that were committed.
542. Another message at page 254 **(Annexure III file XIX)** – Com/574/2002 sent out at 1532 hours on 28.2.2002 states that one more victim of the tragic train burning at Godhra, Babubhai Harjibhai Patel, resident at Vaghrol, Tal. Vadali, Sabarkantha district) also was brought back and a funeral procession organised

in the town. Vadali and the areas around also witnessed calculated violence against the minorities and the Vadali relief camp was run for many days thereafter. Just as mentioned above, the SIT should have investigated whether this funeral procession was inciteful and incendiary.

543. *(Points for further investigation should also be taken from the above - The district police record gives diary etc of all the areas where the victims of the train burning held and need to be examined to find out whether such charring of dead bodies took place in all the districts, the district pages of all newspapers need to be investigated to ascertain the crowds and the organisation to ascertain whether hate speeches and communal speeches were also made ; finally were any investigation undertaken into the cases of hate speech that took place)*
544. An analysis of over 17 files submitted as part of the investigation papers – Annexure III File XVIII (D-106), then Annexure III File XIX (D-161), Annexure III File XX(D-162), Annexure III File XX1(D-163), Annexure III File XXII(D-164), Annexure III File XXIII(D-165), Annexure III File XXIV(D-166), Annexure III File XXV(D-167), Annexure III File XXVI(D-168), Annexure III File XXVII(D-169), Annexure III File XXVIII(D-170), Annexure III File XXIX(D-171), Annexure III File XXX(D-172), Annexure III File XX(D-162), Annexure III File XXXI(D-173), Annexure III File XXXII(D-174 – **a total of 4964 pages**, reveal ample evidence of the systematic attempt at creating communally inflamed atmosphere by parading the dead bodies of the persons who tragically died on 27.2.2002. Not just in Ahmedabad, as has been alleged in the complaint dated 8.6.2006, but in several other locations of Gujarat, wherever the dead bodies were systematically returned on 27.2.2002 become evident.
545. The conspiracy to politically manipulate and misuse the tragic train burning was more than imagined at the time of filing the complaint. The SIT had, in the first instant a whole year and thereafter another 18 to 20 months, to go through these papers and genuinely and truthfully investigate the conspiracy. Sadly, by completely ignoring the wealth of evidence that is available in its own investigation papers, the same investigation papers that were sought to be denied to the complainant due to SIT's unprofessionalism, its bias is established.

546. From the documents on record, it comes out that bringing dead bodies from Godhra to Ahmedabad was a joint decision of government and VHP. When the controversial meeting took place at C.M.'s residence on the night of February 27, 2002, it was quite clear that the dead bodies will be arriving at Ahmedabad which was bound to create unrest and tension. The dead bodies in fact arrived at 3.00 a.m. on 28.2.2002 and were put in public around 7.00 a.m. up to 11.00 a.m. The politicians, VHP office-bearers and BJP office-bearers etc., had visited the place where dead bodies were lying. The incident at Naroda Patiya and Gulberg society started at 8.30 and 9.30 a.m. respectively. Accused No. 1 was clearly involved in the decision to bring the dead bodies to Ahmedabad, being aware that this will generate communal tension. In the meeting, which was held at 11.00 p.m. at his residence, he made statements which show that he wanted that a lesson should be taught to the Muslims community. The police officers and administrative officials present in that meeting, in discharge of their official functions, should have immediately alerted all the districts by deploying police force. But the telephone calls which were made from the office of those who were present in the C.M.'s meeting show that it was only around 8.00 a.m. that the telephone calls are made. By that time, the carnage had already started. Therefore, subsequent aspect could be to see whether any effort was made by the police as well as administration to take steps to prevent the disturbances and whether the political machinery and the Ministers were influencing the Police and administration either not to act or act in a particular manner.
547. The decision by the government (accused No. 1) to take the dead bodies to Ahmedabad was taken when Modi was in Godhra. It is during his stay at Godhra that he also declared his support to the Bandh call by VHP. The collusion between the government and VHP becomes clear. In the incidents which have taken place as many as 106 members of the VHP and RSS are involved. This is according to SIB's own statistics annexed hereto. members are involved. It also comes out that the VHP members from Godhra and other places came to Ahmedabad and incited the violence.
548. The fact that the administration and Police machinery did not act in all the places where incidents took place show that this happened because of the clear directions given by the accused No. 1 in the meeting which was held at his residence on 27.2.2002. The fact

that the accused No. 1 had influenced and terrorized the state machinery/Police authorities as well as judiciary is clear from the report given by N.H.R.C. It is for these reasons that in Best Bakery case there had been speedy acquittals, questionable behaviour by the prosecutors etc and even in the Bilkis Bano case where fair investigation was not taking place. The Supreme Court had to intervene and direct re-investigation and re-trial and even transfer the cases outside the State of Gujarat. The Supreme Court has also passed severe strictures against the government officers for not complying with their constitutional duties to maintain law and order and to protect the lives and property of the citizens.

549. Substantial records of the investigation show that the conspiracy hatched by Modi and other co-accused involved parading the bodies in a procession, displaying them for mobs to assemble and get agitated on 28.2.2002 at Sola Civil Hospital and thereafter spare no effort to ensure that the cremation (read *smashan yatras*) processions are turned into a public spectacle to generate anger and instigate mobs to brute violence. Thereafter, all regulations related to disposal of “unidentified bodies” were flouted.
550. It is pertinent to note that P.S. Shah is a controversial officer whose presence on 27.2.2002 meeting at Chief Minister’s residence suddenly is brought on record by the Investigating agency after 9.2.2011, i.e., post the final order of the Hon’ble Supreme court. Further investigation thereafter undertaken by SIT according to the complainant had not been conducted by the SIT at all. The final closure report dated 8.2.2012 is signed by DCP of Crime Branch Himanshu Shukla and does not even bear the signature of any of the three members appointed by Supreme Court to investigate into the Zakia Jafri complaint – Chairman, SIT, R. K. Raghavan, I.O., SIT, A.K. Malhotra, Y.C. Modi the third member of SIT.

Bloody Motor Cavalcade

551. Soon after the infamous meeting at Modi’s residence between 2230-2300 hours on 27.2.2002 to give effect to the conspiracy hatched by the core accused at Godhra earlier that afternoon, the motor cavalcade escorted by Jaideepp Patel leaves Godhra for Ahmedabad. Of the 58 tragic deaths that took place in S-6 of the Sabarmati Express, four bodies that belonged to Dahod, Vadodara,

Panchmahal, Anand districts were handed over to relatives there. In all, 54 dead bodies were sent to Ahmedabad. Of these, 19 of the unidentified dead bodies were cremated by the hospital authorities on 28.2.02 at Gota Cremation ground, near the Sola Civil Hospital by the District Administration and police officers with the help of the *sarpanch* of Gota. The undue haste in carrying out these cremations while the city of Ahmedabad was on fire has not been explained by SIT. The failure to follow regular procedures related to unidentified bodies has also been left deliberately unexplored. Twelve of the brutally charred bodies were brought to Ramol, Ahmedabad since many of the persons belonged to Ramol (among them were ordinary worshippers who had joined the trip to Ayodhya wrongly dubbed *kar sevaks*) and another two of the dead belonged to Khokhra. These were cremated by about 2 p.m. at the Hatkeshwar cremation ground about 4 kms away from Ramol).

552. The investigation records tell a gory story. In anticipation of the procession of VHP activists, known for their rabid anti-minority speeches and mobilizations accompanying the bodies from Godhra, panic messages demanding *bandobast* and protection are sent from local police authorities anticipating trouble. But there is no response from either the DGP's office (responsible for law and order in the state) or the Commissioner of Police's office (responsible for the Ahmedabad Commissionerate. ***Note: Incidentally these documents were made available to the SIT only after 15.3.2011, when former Ahmedabad CP, PC Pande, suddenly produced 3,500 pages of scanned messages on CDS that in this instance are described as "Wireless Message Book of Police Control Room, Ahmedabad City Control Room for date 28/2/2002". They had been concealed by him earlier. SIT has not thought to question or penalize him for this criminal omission in a matter related to a matter of such grave importance.***
553. These critical wireless messages reveal that from 1:51 hours of 28.2.2002, and again at 1:59 hours there was panic expressed by local vans demanding protection from SRP platoon immediately. That no such enforcements were sent by the higher-ups is apparent since the conspiracy hatched three hours before of letting mobs control the streets had been cynically hatched. By 2:44 hours on 28.2.2002, the motor cavalcade had reached Sola Civil Hospital and there is another confirmatory message at 4:00 hours of this

fact. By 6:55 hours, i.e., within three hours an aggressive mob of swayamsevaks belonging to a sister organization of the ruling party, Rashtriya Swayamsevak Sangh (RSS) has already gathered at the Civil Sola Hospital **(Page No. 5794, Annexure IV, File XIV of the documents)**. Another message 20 minutes later at 7:14 hours informs the Police Control Room that is under the charge of Accused No. 29 (Commissioner of Police) that a large mob has gathered **(Page 5796 of Annexure IV, File XIV of the documents)**. Again another message three minutes later at 7:17 hours **(Page 5797 of Annexure IV, File XIV of the documents)** says that another mob of 500 was holding up the traffic. This message is received by Control and passed on to Sola 1. An hour later, at 8:10 hours, a message records that three SRP platoons were sent from Police Control to Sola Hospital for bandobast. **(Page 5826 of Annexure IV, File XIV of the documents)**. Thereafter, through the day wireless messages record that there are aggressive and tense crowds at the Hospital, en route and both locations of the cremations.

554. Worst of all, in furtherance of the pre-hatched conspiracy to ensure that a large body of armed and aggressive VHP-RSS-BJP supporters take to the streets with blood in their minds to seek revenge for the tragic killings at Godhra, Acharya Giriraj Kishore of the VHP was given VIP entry into the city of Ahmedabad so that poisonous and inflammatory speeches could be delivered during the cremation. Here is what Giriraj Kishore said to *Star News* on 27.2.2002. (Some words were censored out because they were deemed highly objectionable): Acharya Giriraj Kishore (Vice President, VHP): (Panel Discussion) (Incidents like this (Godhra) show the psyche of a community): “What is the reason for the pilgrims, they were attacked when they came from Amarnath? What was the reason? That is the psyche, I say!”....“Communal violence can be checked only...why this incident happened, who did it, what is the psyche behind it? This should be studied.”
555. The SIT Investigation reports both of Malhotra and Shukla brazenly skip a careful analysis of these records collected by them and provided to the complainant after rigorous arguments under Section 173(2). SIT also ignores the spate of virulent speeches being made before after and during the Godhra incident on 27.2.2002 To recap, the bodies could reach Ahmedabad by next morning for the proposed funeral procession instead of being dispatched to

respective districts in contravention of clear procedures laid down, in the “Gujarat Police Manual”, in an all out bid to inflame the anger of the funeralists, which could be converted into a violent communal reprisal. Ten dead bodies were taken to Ramol, and a massive funeral rally of thousands of aggressive slogan shouting “mourners” took the bodies to Hatkeshwar crematorium from 10 a.m. in the morning until evening. Around 10.30 a.m. or so, some crowds also went berserk and attacked a Muslim Hotel at Thakkarbapa Nagar, close to Naroda and also a High Court Judge belonging to the minority community. Finally the cremation took place at 1830 hours. According to the Malhotra Report under Allegation No. II: “The CM’s decision to bring dead bodies of those killed in Godhra train fire in Ahmedabad and parade them in Ahmedabad city”, 19 of the 54 dead bodies brought from Godhra which could not be identified were allowed to be cremated in a massive funeral procession, violating laws and regulations (of preserving unidentified dead bodies until claimed by relatives) at the Gota Cremation Ground, accompanied by VHP leaders like Acharya Giriraj Kishore, at a three kilometre distance from the Sola Civil Hospital. The procession encouraged by the powerful conspirators was also in violation of curfew orders that were imposed in Ahmedabad only around 1240 hours on 28.2.2002.

556. The Sola Police station is at a one-two kilometre distance from the civil hospital. The cremation that began at 1030 hours concluded only at 1830 hours (Malhotra Report) though the distance was only three kilometres. (Incidentally, the same day while this huge procession was allowed, huge mobs accompanied by at least 15,000 RSS and VHP men, led the murderous attack on Gulberg Society, Naroda Patiya and Gaam).
557. Deliberately, the top brass in the state police and city police administration did not respond to repeated pleas for security and help from the wireless vans of the police and the State IB. Detailed empirical evidence, deliberately ignored by the SIT shows how aggressive mobilization of mobs had taken place to ensure an aggressive parading of dead bodies as per the plan hatched at Godhra by accused No. 1 and other co-accused and subsequent targeted unleashing of violence. Yet, I.O. Malhotra of the SIT ignores this wealth of evidence and states that though the processions were under heavy police escort they passed off peacefully! Malhotra’s report also admits that 12 of the dead bodies

brought by Accused No. 21 (Jaideep Patel) were allowed by high level police and administrative authorities (Accused No. 30, K. Srinivas, Collector, Ahmedabad; Accused No. 29, PC Pande; Accused No. 38, Shivanand Jha) to be taken to Ramol and thereafter cremated at Hatkeshwar cremation ground 18-20 kilometres away. (Accused No. 33 MK Tandon is also punishable for the offences connected with this illegal parading of dead bodies in breach of prohibitory orders and curfew.

558. The SIT has in a clear display of utter negligence and bias misled the Hon’ble Supreme Court that no aggressive mobilisations took place around these acts of parading the dead bodies in funeral processions in such a calculated manner. A similar denial of the ground realities can be found in DCP Crime Branch, Himanshu Shujla’s report (Allegation II, Parading of Dead Bodies) dated 8.2.2012. Both reports deliberately gloss over the systematic preparations and mobilizations of crowds by the conspirators.

Documentary Evidence from Investigation Papers Ignored by the SIT

559. It can be seen from the enumerated messages from police records related to the transportation of dead bodies from Godhra to Ahmedabad (27.2.2002 and 28.2.2002) and crowd bandobast for cremation on 28.2.2002 at Ahmedabad, that there are repeated wireless messages from the ground-level policemen alerting senior policemen of the unruly and aggressive crowds gathered at the Sola civil hospital, Ahmedabad. These messages (*see Annexure Table.... from the Investigation Papers at Annexure III, File XIX and Annexure IV File XIV*) show that from as early as 4 a.m. on 28.2.2002, as many as 3,000 RSS workers had gathered and this aggressive and violent mobilisation at Ahmedabad continued right up to the cremation(s).

Annex IV File XIV (Page No.5713 to 6140)
Dead Bodies Message on Dt. 28.2.02

Sr. No.	Page No	Date & Time	Message	Remarks
1	5752	28.2.02 1:51hrs	Zone-1 must be present at Sola Civil Hospital	Informed Zone-1 (Reply is not available in SIT

				records)
2	5752	28.2.02 1:59 hrs	Send SRP Platoon to the Sola Hospital immediately	Informed SRP Control Room (Reply is not available in SIT)
3	5758	28.2.02 2:44 hrs	Dead bodies have reached at Vinzol Patiya	(Reply is not available)
4	5766	28.2.02 2:54 hrs	Police have been informed the name & address of the victims of Godhra train carnage & have been informed who received & took dead bodies.	Informed Sola-1 (Reply is not available)
5	5786	28.2.02 3:34 hrs	Dead-bodies have reached at Sola Civil Hospital	5787 Informed Sola-1, Zone---, VIP Channel State 335
6	5790	28/2/02 4:00hrs	3,000 workers (Swayam Sevaks) are present at Civil Sola Hospital	Informed Zone-1
7	5794	28.2.02 6:55 hrs	Dead body of Manglaben Harjibhai Patel residing at Ta. Kadi Dist. Mehsana, sent from Sola Civil Hospital to Kadi by Ambulance No. GJ-2Y- 9968	Informed State and Control room by Fax. Reply HCR and Control message passed to Mehsana 5795
8	5796	28.2.02 7:14 hrs	Inform Control room how a large mob has gathered at Sola Civil Hospital	
9	5797	28.2.02 7:17 hrs	About 500 persons at Sola hospital; traffic is blocked	Reply Message of 5796
10	5826	28.2.02 8:10 hrs	King Shree informed that 3 SRP Commandant sent from police control to Sola Hospital for extra bandobast	5827 Informed Sola-1, Zone-1, Bekar 8:25
11	5836	28.2.02 8:20 hrs	Sola-1 in-charge informed that unidentified dead bodies of karsevaks have left for cremation from the Sola hospital to Gota cremation house at 15:00. Keep necessary bandobast.	5837 Fax sent to State IB, ADR copy SB
12	5842	28.2.02 9:01 hrs	PI-Sola informed that 26 dead bodies identified from 56 dead bodies, and their heirs have taken their dead bodies; & other dead bodies after the procedure of identification. Inform about where dead bodies have been sent.	Informed Sola-1 9:17 pg. 5843

13	5848	28.2.02 9:15 hrs	Amraiwadi -1 informed that 10 dead bodies have come to Ramol, Jantanagar. So, informed that Zone-5, Iwary, situation is very tense in Ramol Jantanagar. Send ACP there.	Illegible
14	5865	28.2.02	Acharya Giriraj Kishorji Vice president of VHP has reached Ahmedabad airport. Send bandobast.	Time not shown Pg no.5866 Informed Naranpura -2 Depart from Akhbarnagar 10:02
15	5882	28.2.02 10:10 hrs	DGP Zone-3 informed that escort for Giriraj Kishor has not come. Send immediately.	Reply is not confirmed.
16	5894	28.2.02 11:55 hrs	Shri V.V. Rabari DIG (Int.) informed that a vehicle has been set on fire/arson on highway near Gujarat High Court. Take necessary bandobast for High Court judges.	PCB/P-1 Departure Reply is not confirmed.
17	5907	28.2.02 11:58 hrs	Amraiwadi-1 in-charge informed that 10 dead bodies have been taken for cremation ceremony from Ramol Jantanagar to Hatkeshwar Cremation Centre with crowd of 5 to 6 thousand.	Informed Amraiwadi -2, Amraiwadi Mobile, Zone-5, Tiger, CP, State Control, Reply is not available.
18	5925	28.2.02 12:50 hrs	Amraiwadi-1 informed that 8 dead bodies reached at Hatkeshwar cremation centre.	Informed Amraiwadi -1, 12:55 pg no.5926
19	5942	28.2.02 11:47 hrs	Send fire brigade immediately to Sola High Court Road	Reply is not available.
20	6035	28.2.02 14:45 hrs	2 dead bodies have been found opp. Sola Hospital and Gota Cross Road. So, immediate action to move them should be taken otherwise it is difficult to reach Sola Hospital for post- mortem.	Reply is not available.

Annexure IV, File XV

Sr. No.	Page No	Date & Time	Message	Remarks
1	6162	28/2/02 11:55 hours	Saiyed Sahab protocol officer informed Sola -1 that there were Riots at Sola Civil Hospital at High Court where dead bodies brought.	
2	6172	28/2/02 Time not shown	As per above mentioned subject-stated, URGENT and IMPORTANT that they were at civil hospital Sola, and officers, employees were surrounded had been surrounded by 500 strong mob and they could not come out. So, there was a request to provide them security to come out from the Civil Hospital at Sola	Add DM informed to PC Ahmedabad Fax Message informed Zone-1, Sola-1, Bankar at 18:25 hours

Annex IV File XVI (Page No.6541 to 6940)
Parading of Dead Bodies (Ahmedabad)

Sr. No.	Page No	Date & Time	Message	Remarks
1	6637	28/2/02 17:33	Sola Civil Hospital at Sola Police Station mob gathered. Burn Hospital.	-
2	6704	28/2/02 17:40	Dy. City Collector, Mamlatdar and his staff, 15 Doctors and two Dead bodies and injured persons and more than 300 persons mob shrouded Hospital and stone pelting at the vehicles and damaged it so, it is necessary to exit them.	-

560. Yet, Mr. Malhotra and Mr. Shukla say that the processions were peaceful. Messages from the police records (*Annexure I File XIV- Message No.. 5907 and 5925 dated 1250 hrs on 28.2.2002*) show that when 10 dead bodies were taken for cremation ceremony from Ramol Jantanagar to the Hatkeshwar cremation ground there was an aggressive and violent crowd of 5-6,000 accompanying them. This message at 11.58 hours from the official records of the wireless vans of the Gujarat police completely disproves the conclusions in both the SIT closure reports. The first message number 5907 has no reply in the records provided and the message number 5925 has a reply from Amraiwadi which has been sent at 12:55 hours but is illegible.

561. Further evidence of the fact that a conspiracy between the ruling BJP and VHP was jointly hatched and executed to politically capitalise on the tragic death at Godhra can be assessed from the fact that none less than Acharya Giriraj Kishore, Vice Chairman of Vishwa Hindu Parishad was escorted by the Gujarat police from the airport to Sola Civil Hospital and thereafter he accompanies the 5-6,000 mob in a procession to the cremation ground amidst inflammatory slogans and speeches. Shri Acharya Giriraj Kishore, international vice-chairperson, VHP, is not known for benign and peaceful speeches – examples of the venom and hatred spilled by Giriraj Kishore before 27th February 2002, on 28th February 2002 and since then will bear the test of objective scrutiny to the incendiary quality and motive behind his speeches. Kishore's

incendiary remarks were telecast on 27.2.2002 itself. *“That is the psyche, I say...communal violence can be checked only (when we understand) why this incident happened, who did it, what is the psyche behind it? This should be studied.”* Acharya Giriraj Kishore; (Newshour, Star News, 27 February 2002). Other records also corroborate the fact that Giriraj Kishore came to Sola civil hospital, ostensibly to pay tribute to the dead Kar Sevaks between 10.45 and 11 a.m. Apart from the police records made available during this investigation this fact is on record in the Sessions Court case No. 203/2009 hearing the Naroda Gaam case, when the statement of the investigating officers dated 16.5.2002 (P.N. Barot) states that Acharya Giriraj Kishore was at Sola Civil Hospital between 10.45 to 11 a.m.(This trial is ongoing). In another statement recorded by SIT, IO, Malhotra (in the Naroda Patia case, Sessions Case No. 235/2009) dated 26.12.2008, the I.O. has stated that Acharya Giriraj Kishore came before 11 a.m. on 28.2.2002 to the Sola Civil Hospital, where he spoke to one or two media persons and was there for a total of 10 to 20 minutes. The Judgement convicting 31 powerful accused in this case was delivered on 29.8.2012. Ironically, it is clear from the above that SIT that conducted further investigation into both these cases, and was entrusted with this critical, onerous and sensitive responsibility, was in the full knowledge of the fact that senior members of VHP were called to the hospital with a sinister design to whip up mass frenzy and hysteria during the funeral procession of 28.2.2002. Please refer to the detailed tabular analysis of the following files attached in the following Annexures of the SIT Investigation Papers:-

- (i) Annexure IV File XIV
- (ii) Annexure IV File XV
- (iii) Annexure IV File XVI
- (iv) Annexure IV File XVII
- (v) Annexure IV File XVIII
- (vi) Annexure IV File XIX
- (vii) Annexure IV File XX
- (viii) Annexure IV File XXI

562. Further empirical evidence of the crowd gathering can be accurately deduced from the repeated requests for bandobast, especially from the police Wireless Vans at Ahmedabad on 28.2.2002. There is a clear message at 11.55 a.m. on 28.2.2002 (Page No. 6162 Annexure IV File V) saying that “Sayyed Saheb,

the Protocol Officer had informed Sola-1 that riots have started at Sola civil hospital at the High Court where the dead bodies were brought” Again, there is another message with no indication of time (Page No..6172 of 28.2.2002) that states that the officers and employees of the hospital were surrounded by a 500 strong mob and they could not come out”. This message appeals for more security to be made available to ensure safety for the staff of the hospital. It is clear therefore that from 11.15 to 11.30 a.m. onwards, a huge crowd that had been mobilised and prepared and waiting since 4 a.m., further charged with anger and aggression after Acharya Giriraj Kishore visited the hospital between 10.45 a.m. to 11 a.m. as per the police records and made his incendiary speech that motivated the mobs of the RSS and VHP especially mobilised to launch violent attacks. Members of this motivated mob began their violent acts right there and, according to messages recorded by the Wireless Vans, were threatening the staff of the hospital seriously and endangering their safety. Constant appeals for more protection and bandobast from the wireless messages were obviously being ignored by the higher-ups in the police administration who are co-conspirators and accused in this complaint.

563. Two messages contained in Annexure IV File XIV are evidences of Acharya Giriraj Kishore, Vice-President of the VHP reaching Ahmadabad on the morning of 28.2.2002 for the express purpose of participating in parading of Godhra dead bodies before the cremation and making inflammatory speeches.
564. Message No..5865 dated 28.2.2002 from Annexure IV, XIX (time not given) states that Acharya Kishore has reached the Ahmedabad airport and bandobast from the police is requested. The message at page 5882 dated 28.2.2002, at 1010 hrs states that the DCP Zone III has been informed of the escort for Giriraj Kishore who had not come. The message asks for escort to be sent immediately. This message clearly shows that Giriraj Kishore landed in Ahmedabad for the criminal purpose of being part of the conspiracy.
565. A Message at page 6535 of Annexure IV File XV sent at 1630 hrs states that some of the dead bodies had now begun to be taken for cremation (this suggests a slow movement and massive mobilisation) and ironically message at page No. 6539 (i.e. after the

earlier message) but with an earlier timing of 1606 hrs states that the City Collector (Accused No. 30, K. Srinivas) should be asked not to allow the funeral ceremony procession to begin until there was sufficient bandobast from the Sola hospital where the procession was to start. The message ends by saying that though they were demanding police bandobast, they were not getting it. This again points to a calculated design behind allowing an uncontrolled, aggressive, politically motivated mob to be unleashed on the city of Ahmedabad by the highest in the government and the administration. It is clear that this massive and aggressive mobilisation was to generate aggressive crowds to enable an atmosphere conducive for the attacks on Gulberg and Naroda Patiya and other areas of Ahmedabad.

566. Wireless messages from the police records (*Annexure IV, File XIV – message No. 5894 dated 28.2.2002 at 11.55 hrs*). This violent, aggressive and motivated mob even attacked a judge belonging to the minority community around 1155 hours. Sola Civil Hospital comes under the direct jurisdiction of A-38 Shivanand Jha, Records show that Mr V Rabari, DIG(Int) was informed that an arson (burning) incident had take place very close to the Sola civil hospital that is also close to the Gujarat High Court and a respected member of the Gujarat judiciary was the target of the mob attack. The message says that “necessary bandobast should be provided to the High court Judges.”
567. It is reasonable to assume that the same aggressive and incited crowds that were present at Sola civil hospital from 4 a.m. onwards, having been brought to Ahmedabad in the custody of Accused No. 21 Jaideep Patel of VHP, not any official person, were further incited through the incendiary rhetoric of the VHP leader, Acharya Kishore and inspired to attack. Accused No. 21 (Jaideep Patel) having been in constant touch with the chief conspirator and accused number 1 (Modi) ever since the morning of 27.2.2002, and was part of the execution of this conspiracy. This attack on a High Court judge from the minority community travelling in a vehicle in the vicinity of Sola Hospital was also part of the sinister conspiracy that unfolded.
568. Despite this wealth of contemporaneous and empirical evidence available, neither SIT’s Preliminary Report by Shri A.K. Malhotra, SIT, submitted to the Hon’ble Supreme Court on 12.5.2010, nor the report of the further investigation and subsequent closure filed by

Himanshu Shukla dated 8.2.2012 make any reference to the unruly and aggressive mobilisation taking place at Sola Civil Hospital as part of a concerted plan and in furtherance of a conspiracy to use the tragic Godhra train burning incident as a launching pad for a sustained and barbaric attack on the State minorities, a conspiracy that was hatched and supported by both the government and police and administrative head of the civil services but all of co-accused in the complaint of Smt. Zakia Jafri dated 8.2.2006. Despite the final Order of the Hon'ble Supreme Court in Crl. Appeal No. 1765/2055 arising out of SLP (crl) No. 1088 of 2008, dated 12.9.2011, directing clearly that the SIT should, in the event of giving a clean chit to all powerful accused, give due notice to the complainant and also make available all documents that are part of the Investigation Papers, the SIT in violation of the Hon'ble Supreme Court order doggedly denied these documents to the complainant. It took the complainant a year to avail of these rights.

569. Instead of taking the empirical evidence contained in the investigation papers collected by the SIT itself (and now obtained by the complainant) seriously, both the SIT reports go out of their way to suggest that the subsequent two cremations held at Godhra and Hatkeshwar was peaceful and quiet. It is important to emphasise the extent to which the investigating agency, entrusted with the sensitive duty has gone to mislead both the Hon'ble Supreme Court and make a mockery of this enquiry into this state-wide breakdown of law and order and public justice. It is no wonder that the same investigating agency did all it could before the Ld. Magistrate in Ahmadabad not to make these documents available to enable the complainant to put forward a strong and viable defence.

570. Nowhere does the SIT investigation connect the evidence of the conspiracy in the complete breakdown of law and order that not just took place but appears to have been encouraged and celebrated by the co-conspirators all over the State in Gujarat. During the pendency of Special Leave Petition No.1088 of 2008 in the Hon'ble Supreme Court, co-petitioner Teesta Setalvad, Secretary, CJP had during her repeated interaction with the SIT urged that contemporaneous records, including CD and media coverage of the funeral processions etc. should be objectively analysed by the

SIT to finally arrive at a conclusion whether or not there was a design behind parading of the dead bodies in Ahmedabad with a calculated bid to inflame passion and incite mobs to attack and brutalise the minority community.

571. An analysis of File XVIII, Annexure III at Page No. 188 (An SIB message from I.O. of the SIB), BF Kumpavat to PIs CJ Bharwad and PI Macwana sent at 12.30 p.m. dated 27.2.2002 shows that it clearly records that dead bodies of 8 VHP workers who had died at Godhra were expected to arrive at the Kalupur Railway station (Ahmedabad) by (it says 28.2.2002) at 1500 hours and “that these dead bodies of karsevaks after reaching Ahmedabad *would be taken to different areas where funeral processions will follow and communal tension is likely and preventive steps need to be taken.*” The message has been signed by BM Kodekar (see Table of Annexures). Never mind the obvious confusion of the dates in the message, it is clear that it was well known and expected by the SIB and police that aggressive funeral processions had been planned by the VHP and fully supported by the ruling BJP under the specific directions of accused No. 1. (Further Investigation: SIT should have recorded statements of all these officers: Further Investig by Inde Agency Court should Order) Another message in the same file, i.e., Annexure III, File XVIII (D-160) at Page No. 19 Message No. 531 is from SIB Police to KR Singh at 1810 hours on 27.2.2002. It is also from the Ahmedabad region. This message indicates clearly that the VHP brigade with complete state patronage and impunity and part of the wider conspiracy hatched between accused number 1 and other co-accused had been given *carte blanche* to commit violence and murder. The message reads that, “on 27.2.2002 at 4.30 p.m. when the train arrived at the Ahmedabad Railway station, the kar sevaks were armed with ‘dandas’ and shouting murderous slogans ‘Murder for Murder’ and ‘Bharat Mata ki Jai’.”
572. It is important for the Court to understand that all this empirical data exists in the records of the state government (Annexure III, File XVIII are copies of Fax Messages sent by the regional offices of the SIB to the ADGP -Intelligence for the month of February 2002). It is a matter of great concern that neither of the SIT reports has even cursorily mentioned them, neither has Accused No. 60 (GC Raigar), or Accused No. 25 K. Chakravarti, referred to the fact that the ADGP Office (under the DGP) was sending out such intimations, warning of the spread and intensity since the tragic

Godhra incident on 27.2.2002. Neither does the SIT confront either of these accused with these specific messages, nor do these accused volunteer critical information relating to the conspiracy hatched which was unfolding. Another message in the same file, Annexure III, File XVIII, at Page 188 is a message sent at 20:38 hours on the day of the Godhra train burning tragedy, i.e., 27.2.2002, that clearly warns of the following: "Dilip Trivedi the General Secretary of VHP and Joint Secretary Dr. Jaideep Patel and Kaushik Mehta in a Joint Statement issued by them have declared that innocent Ram Bhatt's are attacked and hence. Gujarat Bandh has been declared. They have also stated that the attack on the Ramsevaks returning from Ayodhya was pre-planned by the Muslims and are mercilessly killed and hundreds are injured. Innocent ladies are molested and compartments are set on fire and Ramsevaks are burnt alive." This message clearly records that Dilip Trivedi, Accused No. 21 (Jaideep Patel) and Accused No 18 Kaushik Mehta were making grossly provocative statements following the Godhra incident with a clear-cut intent to use the Godhra tragedy to launch further violence and that they enjoyed the full protection of the state (Accused No. 1, Modi).

573. The SIT has clearly not confronted Dilip Trivedi for these provocations even though he is also one of the advocates against whom allegations of partisan behaviour as a prosecutor have also been made in the complaint dated 8.6.2006. Trivedi was appointed special PP by the law department which was at the relevant time under accused No. 2 (Ashok Bhatt) and in the handling of the serious carnage cases at Mehsana he was accused to have collaborative behaviour with powerful accused. The National Human Rights Commission (NHRC) was the first to point to this clear attempt to subvert the criminal justice system even after the crimes had been committed. Subversion of the criminal justice system was also part of the ongoing conspiracy that was hatched to shield powerful accused and to teach a brutal lesson to the minority community. He was removed as PP after the Hon'ble Supreme Court took cognisance of the partisan investigations and prosecutions in the post-Godhra cases. (It also needs to be noted that as was proven later, no instance of molestation had taken place during the Godhra train incident. But this baseless allegation was widely used as a provocation to incite angry mobs to attack and kill. Even the 'Sandesh' newspaper collaborated in this exercise. At least three officers of the Gujarat Police had

recommended prosecution for such incendiary writing. However, due to continued collusion between Accused No. 27 (Subba Rao), Accused No. 34 (Nityanandam), Accused No. 28 (Ashok Narayan) and Accused No. 25 (K. Chakravarti) on the police and administrative side and Accused No. 1 (Modi) as cabinet minister for home (in charge of security, peace, law and order), Accused No. 5 (Gordhan Zadaphiya), Accused No. 2 (Ashok Bhatt) on the political side, the co-conspirators failed to hold any individuals, organisations or institutions responsible for unlawful provocations to violence. This inaction, bad in law and governance, was a clear and strategic part of the conspiracy to reward collaborators who helped fuel and spread intra-community hatred and attack innocent lives.

Communal Mobilisation and Widespread Incidents on 27.2.2002

574. Alerts and messages relayed by the SIB field officials to their headquarters on 27.2.2002 clearly establish the following points:

(i) The ruling BJP, VHP, RSS and the Bajrang Dal were functioning in constant and close collaboration on all actions and decisions following the tragic Godhra train burning incident on 27.2.2002. This is borne out not just by the critical and controversial presence of Jaideep Patel, General secretary of VHP Gujarat unit at Godhra where according to DM Jayanti Ravi in her statement to the SIT he met accused No. 1 (Modi) but is also evident through several meetings and assemblies held across the state on that day. Be it Vadodara, Kodinar, Porbandar, Modasa, Junagadh, Bhavnagar, Kadi, Ahmedabad, the ruling BJP and its organisational members were working in complete accord with VHP, RSS and the Bajrang Dal to spread aggression and violence. This was clearly done with instructions from the top that had effectively neutralised the police and administration.

(ii) This is also evident from the call for the Gujarat Bandh on 28.2.2002 given by the VHP on 27.2.2002. Knowledge of the Bandh call is available with the State Intelligence and the police authorities by 12 noon or 1 p.m. on 27.2.2002 and every district in the state knew that violent mobs are already mobilising their support for the Bandh and these organisations and their leaders

were making their intentions clear by attacking and terrorising the minority community.

(iii) Curfew and when it is declared is also a matter of serious agitation in Smt. Zakia Jafri's complaint dated 8.6.2006. Details of the curfew orders are not clear at all. Exact details are missing. It is very clear that the curfew was not either dealt to be declared at Ahmedabad, but a controversial decision was in place which was called earlier was not strictly implemented.

(iv) Right from 27.2.2002, the State Intelligence and other agencies including the media were recording and telecasting the incidents of aggressive hate speech by numerous leaders of the ruling BJP, RSS, VHP and Bajrang Dal. Yet, despite this being noted no action is taken either immediately or in the weeks and months to follow. It must be noted that accused No..1 in this complaint is not only the Chief Minister of the State but had unquestioned control of the Home portfolio since his accession to power in 2001. As cabinet minister for home affairs, he is responsible for not just the breakdown of law and order the failure to take preventive measures including curfew declaration, failure to call and deploy army in time but also for the failure to grant sanction for the prosecution for hate speech. Conspiracy under the Indian Penal Code is defined as a calculated meeting of minds and commitment of serious crime. This is one of them.

575. Another State Intelligence Bureau message at page 341 (Vardhi No. 534) 2025 hrs dated --- records that there was an attempt on the life of Hussain Abdul Jariwalla at Meghani Nagar (ICR No..65/02) and he succumbed to his injuries. Another person, Mushtaq Abdul Katki, a resident at Bapunagar was injured by a mob when he was with his wife and he died at the Saralaben hospital at 1945 hrs. Similarly on page 347 (Vardhi No. 8535) message at 2030 hrs records that Vishnubhai Shukla who was going to Narayan Nagar, Paldi was injured by stone pelting at 1920 hrs and admitted to hospital for treatment. Another person, Abdul Rahman Dhobi of Memdabad, who had come to Ahmadabad railway station at platform No.1 was also injured and admitted to hospital when persons attacked him with weapons at 1700 hrs. Similarly, a message sent at 2130 hrs on 17.2.2002 at page 348

(Vardhi No. 541) records that Hamid Khan Sayyed Khan of Juhapura was injured by unknown persons at V.F. Hospital. Ibrahimbhai Vijibhai Talat was also attacked by 50 unknown persons at Low Gad, Ahmedabad (L.S. Bridge ICR No.116 of 2002) according to the State Intelligence Bureau message at page 351 (Vardhi No. 549 dated 27.2.2002) at 425 hrs.

576. Similarly an SIB message at page 355 of annexure III file XIX (Fax at Vardhi No. 525) sent at 1220 hrs; no date is mentioned) states that on 27.2.2002, 8 dead bodies of the VHP workers were brought to Ahmedabad at the Kalupur railway station at 1500 hrs. This suggests that quite apart from the motor cavalcade that left Godhra that night, 8 bodies had been brought on the train itself because this message that appears to have been sent on 27.2.2002 expresses its apprehension that now the bodies have been brought to Ahmedabad there might be a procession in their areas leading to communal tension and hence preventive action needs to be taken. This message also records the announcement of the Gujarat Bandh call by the VHP for 28.2.2002. Similarly, at pages 356 to 360 (Annexure III File XIC) a State Intelligence Bureau message (Fax No. Out/184/02) dated 27.2.2002 marked "political and discrimination" informs the ADGP at Gandhinagar that 8 dead bodies of VHP workers were brought already to Ahmedabad from Godhra and had reached the Kalupur railway station 1500 hrs. This message states that on 27th February itself there were likely to be processions in the various areas and violence could take place in the city of Ahmedabad. This message also records that preventive action needs to be taken due to VHP's Gujarat Bandh call. Incidentally, nowhere has SIT analysed or recorded in either of their reports, either to the Hon'ble Supreme Court (12.5.2010, A.K. Malhotra; or 8.2.2012, Himanshu Shukla) that out of these 8 bodies that had reached Kalupur railway station at 1500 hrs two of them were sent or taken to Dhanwantri hospital at Bapunagar where a large condolence meeting of Bajrang Dal and VHP workers were organised. This message also talks of the possibility of the Gujarat Bandh on 28.2.2002.
577. This is a very detailed message and mentions that the train that had seen the unfortunate burning of S-6 coach at Godhra was proceeding onwards to Ahmedabad. According to this message of the SIB and the information received by the Kalupur railway station, 27 injured Kar Sevaks had gone to Vadodara railway hospital for

treatment where senior medical officers treated them as outdoor patients. It was also reported that 18 Kar Sevaks who were seriously injured were treated at the Godhra civil hospital. The message states that the train departed at 1420 hrs from Vadodara to Ahmedabad and was likely to reach Ahmedabad at 1630 hrs. The message states that aggressive and eager Kar Sevaks including Ashok Sharma, President of Hindu Swarajya, Shiv Sena, Krishna Vardan Bhanushali (corporator Ahmedabad) accompanied by 200 to 250 activists of BJP and VHP were assembled at Kalupur railway station. We must remember that this is on 27.2.2002 itself. The message calls for police bandobast and mentions that repeated request for bandobast has been made by this officer.

578. The same message also records that on 27 February 2002 itself a mob attacked both AMTS (Ahmedabad Transport) and ST buses at Bapu Nagar at 1500 hrs and broke glasses of the buses. Yet the message that shops have been forcibly shut down and as the Sabarmati express train arrived at 1613 hrs at platform No.1, BJP workers and Kar Sevaks were shouting slogans like '*Khoon Ka Badla Khoon*', '*Mandir Vahin Banayenge*', '*Jai Shri Ram*' and '*Bharat Mata Ki Jai*'. The message records that no dead bodies came in the train, the dead bodies were given to the heirs at Godhra civil hospital. This message clearly records that Kar Sevaks had given interviews to E-TV stating that "*Amari Sathe Gaddari Karwama Avi Che Miyao Amari Upar Tuti Padel che Ane Miyaone Kapi Nakho*". They used abusive language in this interview. 9 bandhs were called by VHP in Virangam.

CONSPIRACIES HATCHED IN DIFFERENT PARTS OF THE STATE IN FURTHERANCE OF THE DECISION TAKEN BY THE CHIEF MINISTER AND HIS CABINET AT GODHRA WHERE VHP'S JAIDEEP PATEL WAS ALSO PRESENT.

579. The State IB In its fax message No. IB/220/ 262/2002 on page 90 of Annexure III File XIV (D-161) states that at 1712 hours on 27.2.2002 the Baroda city BJP had announced a meeting to support the call for Gujarat Bandh given by the Vishwa Hindu Parishad on 28.2.2002 and the Baroda city BJP was going to meet in this connection again at 2100 hrs on 27.2.2002. Another fax message by the State IB on page 921 of the same file (Mes. IB/Com/Sankhya/281 dated 27.2.2002 Annexure III File XIX (D-161) at 1551 hours states that BJP Mayor Bharatiben, BJP leader Jitendra Sukhadia along with VHP and Bajrang Dal workers had

come to platform No.1 at 1313 hours on that day and supplied food packets and water to Kar Sevaks. The message also describes that they had shouted slogans and attacked persons from the minority community leading to one death. The same message states that at 1410 hrs VHP workers came out in the market and tried to forcibly close shops. The message records that because of this violence and attack, 60 year old Ibrahimbai was killed because of the assault by a Kar Sevak on his head and another person belonging to the minority community was injured by shrapnel.

580. *A similar message at page No.176 – Mes. D-9/HA/VHP/23/2002 dated 27.2.2002 (Annexure III File XIX, D-161) delivered at 10.53 a.m. from Kodinar states that VHP, Bajrang Dal, Hindu Dharma Raksha Samiti, Shiv Sena leaders, VHP leader, Gamubhai Hitparia were planning to meet between 1700 hrs to 1800 hrs at the Receiving Complex, Una town to discuss about the Godhra incident.*
581. *Yet another message at page 180(Mes.CID/D-9/HA/VHP/Guj Bandh/66/02 (Annexure III File XIX, D-161)dated 27.2.2002 at 1859 hrs from Porbandar states that under the leadership of VHP President Shantilal Rudhani and BJP President Ramjibhai Padaria, a meeting was held at RSS office at 1745 hrs. This meeting was also attended by BJP's Sanghatan Mantri, Mahendra Mukhi, BJP youth leader Ketan Parekh and Shiv Sena and VHP workers. Another message at page 184(MES IB/ VHP/HA/08/02 dated 27.2.2002 had actually marked at 715 This message talks of a meeting under the leadership of Kantibhai Tagrena, Sureshbhai Solanki and Veljibhai Masani at the old bus stand at Mangrol in connection with the bandh call given by the VHP. The message said that they tried to contact business persons at 1800 hrs. In Junagadh too, according to a fax message at page 218 (Mes. D-1/HA/Jaher/Sabha/Junaghad/311/02, Annexure III, File XIX dated 27.2.2002 at 1012 hrs, according the State IB, Sadhu Samaj President, Gopal Nandji is giving an aggressive speech at Junagadh Karva Chowk between 1930 to 2100 hrs. The message enumerated in Table on Hate Speech contains names of persons present there. The SIB message states that speeches full of hatred were given calling for "Hindus to unite and cut the legs and hands of enemies," Muslims who live in India with loyalties to Pakistan will not be tolerated etc.*

582. At 2022 hrs on 27.2.2002 right in the capital city of Gandhinagar, according to the message at Page 224 (Fax Mss D-16/HA/VHP/21/02) dated 27.2.2002 (Annexure III, File XIX), the VHP President of Botad Kanti Daya Patel, Jevanbhai Vithalbhai Chawda had gone around in a hired auto-rickshaw announcing the Bandh on the next day in Kutch. According to the State IB, at page 226 (Fax. mes. D-9) HA/VHP/415/02 dated 27.2.2002 at 152 hrs (Annexure III, File XIX) SIT records show that the Kutch bandh call had been given by the VHP District Maha Mantri Shashikant Patel. Equally serious was the message sent by the Regional Office of the State Intelligence Bureau to the Gandhinagar head office at 2359 hrs on 27.2.2002. This message can be read on page 237-238(Fax Mes Com/HM/550/02, Annexure III, File XIX) (Note: This message is very significant because it is received in Gandhinagar after top police officers and civil servants have been given instructions by the Chief Minister at the controversial meeting on 27.2.2002 not to act to stop violence and protect lives). This message already records 50 Kar Sevaks coming to Modasa centre, Taluka Dhansure, village Vadgaon from Ahmedabad in a special bus at 1817 hrs on 27.2.2002 and, after reaching there, making inflammatory and aggressive speeches that led to the other gathered mob burning vehicles belonging to Muslims. This means that soon after the co-conspirators accused No. 1 and other strongmen and members of the VHP had, since the incident at Godhra, begun mobilising violent mobs to attack persons from the minority in various districts. The message also records that at Kalol Centre, Tal. Kadi Basham, Village Kalupur, a shop belonging to Yasinbhai Multani was burnt on 27.2.2002.
583. On 28.2.2002 at Prantej village in Tejpur Kui, one Totu Ram was torched by a mob but fortunately there was no casualty (Pages 239, 240 and 241 of Annexure III File XIV). The same message describes how a shop owned by a Muslim was burnt by a mob on 27.2.2002 at Vijay Nagar (CR No.12 of 2002). The message also records that there was a funeral procession and that two of the persons who had died in Godhra train burning -- Manguben Harjivardan Patel and Lalitaben Karamjibhai Patel -- were from Jaidevpura village in Kadi town.
584. Other incidents are simultaneously taking place in different parts of Baroda city on 28.2.2002 as can be seen in the messages contained at page 73 of Annexure III File XIX. The areas in Baroda

that are affected are Fateganj Chali, J.P. Road and Makarpura. Curfew is finally imposed in these areas at 1730 hrs on 28.2.2002.

585. It appears that from a perusal of the same message mentioned above (Page 73, Annex.III, File XIX) that VHP persons had assembled at the Dahod railway station at 3 a.m. on the night of 28.2.2002. The message describes that at that early hour Yogeshbhai Vyas, VHP Pramukh of Dahod district had publicly announced condolence programme for the Kar sevaks to be held at 1750 hours at the Ganpati Mandir. Given the way that VHP was clearly mobilising all over the State and given the fact that by the time SIT was appointed to investigate in April, 2009 it was well known that Dahod was the third or fourth among the worst affected districts in Gujarat. It is strange SIT has not investigated how this condolence meeting at Ganpati Mandir was conducted. Were any inflammatory speeches made? Was there any unruly crowd that had assembled? Did the local newspapers and T.V. channels report on this condolence meeting? Did the SIT bother to collect any such records? These aspects should be the subject matter of further investigation. The same message records that two women and one man were killed due to police firing between 1530 and 1630 hrs on 28.2.2002. This suggests that a mob might have gathered leading to the police to take action. Again this has not been investigated. This is something that should be gone into further investigation.
586. At page 210, Annex.III, File DIX, fax message Mes D-2/Bandh/312/02 clearly records that at 1023 p.m. on 28.2.2002 the ACP (Int) of Junagadh reported that Sadhu Samaj President Gopal Nayanji and Mohanbhai Dave gave an interview to *Aaj Tak* TV about the killing of VHP worker Kantibhai. At the cost of repetition, it is stated that the content of the speech and the interview needed to have been investigated. It should be a matter of further investigation.
587. At page 233 of the same file, Annex.III, File XIX, fax message Mes.Bhuj/D-2/Com/Takedari/ Bandh/430/02 ACP(Int), Bhuj has recorded how the President of the Banaskantha unit of the BJP/VHP was forcibly shutting down shops and moreover in the process damaging a garage and a bakery. During this bout of violence between 1130 and 1300 hrs one Muslim was found dead from the Dhavera railway crossing.

588. Hate speech and inflammatory writing have been part of the ingredients of the conspiracy that was evolved pre- and post-Godhra in Gujarat in 2002. There has been sufficient evidence listed by the complainant Smt. Zakia Jafri in her complaint dated 8.6.2006 but much more evidence has now come to the fore through records grudgingly made available by SIT. However, just like different aspects and ingredients of the conspiracy have been deliberately left unaccepted by the SIT, the SIT has refused investigation into serious offenses of hate speech and communal writing. They have confined their assessment to one or two speeches of accused No.1 or any other accused rather than systematically looking at the speeches made by accused No.1 and the co-accused in the complaint, office bearers and members of the ruling BJP, VHP, RSS and Bajrang Dal. What makes this matter even more scandalous is the fact that the Gujarat police State Intelligence Bureau records themselves contain ample such examples of incendiary speeches that were used as a tool and part of the conspiracy to generate heated mobs to commit violence against innocent members of the minority community in different districts of the state.
589. At page 158 to 159, Annex. III File XIX a fax. Message Mes.D-2/15/HM/285/2002 records that at 00.50 hrs on 28.2.2002, i.e., within 16 hours of the tragic Godhra incident a 'Patrika' was being circulated in Vadodara city by the VHP. The message also records that one Muslim was killed at Vadodara railway station by Kar sevaks on that day and a meeting was arranged by Vadodara city BJP President Shabada Sharma Bhrahmabhatt at the party city office on 28.2.2002 between 2100 and 2200 hrs.
590. Despite imposition of curfew in the city of Vadodara from the early hours of 28.2.2002, the ACP(Int) Baroda region informs the head office at Gandhinagar that leaders of BJP including Rajesh Parekh Bal and others came in a crowd in Lakhipura at 1023 hrs on 28.2.2002 (Page 116 Annex.,III File XIX Fax. Mess. Mes/D-2/com/288/2002). Again at page No.114, the message indicates that Vadodara region curfew is made a mockery. A Muslim person is stabbed with a knife in the neck and chest and dies. (Kareribag

police station ICR No. 42/02). This information is contained at page 14 of Annex.III File XIX) Fax Mes. SIB/D-2/com/289/ 2002). Again, two hours later in Vadodara, VHP workers are allowed by the police to gather at Dabhoi and organise Ram Dhun shouting aggressive slogans by A-48 commissioner of police Vadodara, D.D. Tuteja despite curfew having been imposed. It is obvious that the curfew was reduced to a farce. (Page 99 Annex.III File XIX) Fax. Mes. IB/D-2/Com/291/2002.

591. The message of the State IB at page 135-136, Annex, III File XIX, Fax. Message D-2/Com/Banav/295 clearly observes that the police in Vadodara did not impose curfew with any seriousness. The message also states that the police were negligent in its duty. Further the message describes that the Karjan main highway had been blocked by the Karjan VHP President Gajanand Ambalal Gandhi and other workers on 28.2.2002 from 1000 to 1030 hrs. This message was sent out by the Vadodara intelligence to Gandhinagar by 1247 hrs. But neither was the ADGP(int) D.C. Raigar questioned about this, nor was the DGP Chakravarti asked to explain. The statement recorded by the SIT of accused No 48. (Tuteja) also reflects no questioning on the lapses in the imposition of curfew by the Vadodara or any other police in the different districts of Gujarat that were badly affected.
592. One Muslim lady, Bismillaben Zuberkbhai and one unknown Muslim male were assaulted by a Hindu mob at 1000 hrs. Curfew was imposed in Patan city only at 1145 hrs (Page 168 Annexure III, File XIX, Fax. Messge Mes. Com/567/2002) dated 28.2.2002 sent at 1214 hrs.
593. Similarly the fax message D-G/HA/VHP/Bandh/291/02 at page 222, Annexure III File XIX sent from IB, CID, Bhavnagar describes how the VHP leader Shashi Prasad Dayashankar Jani, Advocate Bhupendra Ashtiq, advocate and Parilbahen ..., lead a mob that forcibly shuts down the market at 8.30 a.m. at Ghogha gate. Bhavnagar. The Kutch VHP president, Dr. K.G. Vaid along with members of the BJP and Bajrang Dal was similarly shutting down the market and even attacking the Shimla Doodh Dairy, fishing market and an advocate's office. This is stated in the Intelligence message sent at 1.45 p.m. on 28.2.2002 that can be seen at page 230(Fax Mess) – 2/com/Takedan /426 /02.

594. At Chota Udaipur, Bapu Manojbhai Sharma gave a memorandum to the Collector (condolence ceremony of two minutes observed at 1930 hrs.). There was also a programme of Ram Dhun and a masjid was burnt at Makarpura at 1230 hrs. The IB message that can be read at page 81 of Annexure III File XIX, message 13/D-2/Com/Banav/2002 was sent out on 28.2.2002 at 1418 hrs from ACP, State IB Vadodara region to Gandhinagar. At page 216 of Annexure III File XIX, Fax. Mess. D-2/HA/Bandh/315/02, dated 28.2.2002 states that at 31 cities rallies was organised under the leadership of Gopalnandji Lalit Sukhadia, President of the VHP and Chandreshbhai Sharma of Bajrang Dal at which Prabhari K.K. Parekhia, VHP President Junagadh and Harjivan Dholaiya and Pradipbhai Khemani of BJP and Jutibhai Bindi of the RSS were also present.
595. It was after the funeral procession of Kanjiben Dapakhia Deshpande at the Jyoti society at 1000 hrs on 28.2.2002 when the mob and attacked the Makarpura Masjid. The State IB message at page 178 of Annex.III File XIX, Fax. Mess. IB/D-5/Com/294 sent out at 1714 hrs on 28.2.2002 makes an observation that though the police was present at Makarpura they did not take any steps. The message also mentions that curfew was imposed at Limdi village at Dahod district at 1300 hrs. In the remark section of this message the IB officer states it needs to be check whether Priyaben Deshpande was a Kar Sevak or not. It is clear from this message, as from many other such messages, that every single person who lost his or her life on 27.2.2002 in the tragic incident of S-6 Sabarmati express coach at Godhra, and whose bodies were sent back to the different districts where they came from, the funeral processions of these persons were appropriated by the ruling BJP and VHP to convert them into parading ceremony where violence could be unleashed.

Lawlessness spreading on 27.2.2002

596. Apart from the various locations and districts mentioned above, further analysis of the State Intelligence Bureau contained in Annexure III File XXIII D-155) at page No. 78 and 171 clearly points to the fact that the Intelligence wing of the Gujarat police was not only aware but was promptly and systematically informing their seniors in Gandhinagar about the aggressive behaviour of the organisations like VHP, the BJP (ruling party) and the Bhartiya

Kisan Singh which is the wing of BJP and RSS. At 1.52 p.m. on 27.2.2002, a message sent from the Bhuj ACP (Int) to ADGP (Int) Gandhinagar states that both in Palanpur and Deesa workers of the VHP, BJP and BKS under the leadership of VHP Mahamantri Shashikant Patel were behaving aggressively and already forcing shops and businesses to close down.

597. There is a similar warning message about possible problem arising out of the Godhra burning incident sent by Surat Intelligence (K. Morabia) on 27.2.2002 (Page 173). This message is a warning about the possible violence that followed.
598. In the file of the Investigation papers contained in Annexure III File XIV (D-166), there are similar messages that go out from the ADGP (Int), Gujarat State office in Gandhinagar to all SPs of various districts including West Port, Vadodara (possibly a short form for the railway police located at Vadodara). Though the timing of this message is not clear from the record this message details arson incident at Godhra. It states that the train Sabarmati express which arrived at Godhra at 7.15 a.m. from Ayodhya had Kar Sevaks who were raising slogans. The message further adds that a mob of Muslims gathered and started pelting stones and set it on fire. Finally the message warns that “all districts and town which are communally sensitive should take all precautions and police bandobast should be maintained”. It may be pointed out here that investigation has shown that ADGP(Int) at that time G.C. Raigar was on leave and at that specific point DCP(Int) P.B. Upadhyaya (Int-Communal) and DCP-Int (S) Sanjiv Bhat was deputing.

28.2.2002

599. Phone call records for 28.2.2002 of Dinesh Togadia, brother of Accused No. 20 Praveen Togadia, international general secretary of the VHP show that of the 45 phone records, he is in close touch with DCP Zone I, RJ Savani: at 11:26:04 (15 seconds), also to Dr Maya Kodnani at 11:55:47 (128 seconds); and also with another accused Mukesh Patel at 14:38:17 (50 seconds), 14:45:39 (55 seconds), and 15:01:40 (44 seconds). Dinesh Togadia who ran the Dhanvantri Hospital was also in close touch with Accused No. 5, MOS for Home, Gordhan Zadaphiya, at 20:16:23 (109 seconds).

600. The Government was complicit. The Chief Minister and his cabinet colleagues not only aggravated the situation but also thereafter ensured that the police did not effectively intervene or prevent the rioters from their unlawful and heinous acts. The consequent inactivity of its officers -- District Magistrates, Collectors & Police Officials -- created a situation where the rioters were enabled and emboldened to attack, kill hapless Muslims, molest and rape women and to destroy their houses and property.
601. After the unfortunate attack on the Sabarmati express at Godhra, the Chief Minister instead of taking precautionary and preventive steps, insisted on the dead bodies being brought by road to Ahmedabad and being displayed there - including bodies of those who did not belong to Ahmedabad. He did so notwithstanding the objections of the Commissioner of Police, Ahmedabad. This was narrated to Mr. R. B. Sreekumar then ADGP-SBI (CID-IB) by Mr. Chakravarti (DG) on 28.2.2002 and has been stated by Mr. Sreekumar in his Affidavit filed before the Nanavati-Shah Commission. As was only to be expected, this necessarily inflamed passions and provided the impetus for the riots that followed.
602. From the 28th morning rampaging mobs of those associated with the Bajrang Dal, VHP, BJP attacked Muslim localities, houses and business establishments. Muslim men were brutalised and killed and women were raped before being killed. Gory murders, rapes and molestations took place at:
1. Gulberg Society, Chamanpura (where 70 persons including Ex-MP Jafri were killed and 10–12 women were raped in a mob attack which lasted for 7 hours - till 4.30 p.m. Jafri had made numerous calls for help to the Commissioner P C Pande, to the Home Minister and the Chief Minister. At about 2.30, Jafri was stripped, paraded naked and cut into pieces. Police stood by and did not even try to stop the rioters. The Chief Minister who was dismissive of Jafri's calls for help later attributed the violence to firing by Jafri. Minimal police intervention took place only after 4.30 p.m.

2. Naroda Gaon, Naroda Patiya (where 96 men women and children were massacred (according to the charge sheet, deaths actually 127) and a number of women were raped, killed and burnt. P.I. Mysorewala and the SRPF jawans present provided no assistance to the victims. Instead, they taunted them and forced them towards the rioting mob & death.
3. Panchmahal, Dailol, where a number of Muslims attempting to flee were killed and women raped.
4. Anand (where 27 persons were burnt alive on March 1 and 2, 2002).
5. Mehsana where Muslims were killed in Visnagar and electrocuted in Sardarpura.
6. Dahod where men were killed and women raped.
7. Sabarkantha (where 60-65 persons attempting to flee in two tempos were burnt alive).
8. Patan, where two boys were shot dead and the FIR named the BJP MLA of Radhanpur and the chief of the BJP's Radhanpur unit and other VHP and BD members.
9. Vadodara (where 14 people were burnt alive at the Best Bakery).

10. Vadodara Rural, Bharuch, Kheda, Bhavnagar, Rajkot and many other places.

603. The Police were either absent and/or inactive, or actually supported the rioters by shooting any Muslim offering any resistance. Significantly on Feb 28th in Ahmedabad, of the 40 persons shot dead by the police, 36 were Muslims – although it was the Muslim community which was being targeted by huge well armed mobs. Repeated calls to the Commissioner of Police Ahmedabad and even the Chief Minister resulted in no assistance or response. The murders, mayhem, molestations and rape took place openly over several hours. Details of these heinous crimes have been recorded in the report of the Concerned Citizens Tribunal (CCT). The CCT report has been signed by all members, including Justices (retired) VR Krishna Iyer, PB Sawant and Hosbet Suresh.
604. The next day, i.e., on 1.3.2002 is the day when violent attacks take place in the different districts of Gujarat. February 28, 2002 was devoted to mass massacre at Naroda Patia, Gulbarga society at Ahmedabad though scattered incidents of violence had already started. From Friday, March 1, 2002 onwards the same conspiracy was extended and unleashed in the districts of Mehsana (Sardarpura incident), Limkheda (Randhikpur), Sancheti (Bilkis Bano incident), Pandharwada village (Panchmahal district), Kidiad, Limbadia Chowki, Ghodasar (Khera district), Sesan (Banaskantha district), Eral (Dahod district), Anjanwa, Pipra Darwaza (Mehsana district), Best Bakery (Vadodara) and Dailol. These are only some of the sites of the major massacres that were organised in a calculated manner on 1.3.2002.
605. At page 59 of Annexure File XIX, Fax Message IB/Dahod/Com/304, dated 1.3.2002, 1734 hrs, message records that in the village Bankadi, dist. Dahod, Limkheda, a church was burned down and children were kidnapped. The same message records that in Vadodara city under Makarba police station area in Avdhoot Nagar, a mob surrounded Muslim homes and burnt 5 persons alive.
606. Under the leadership of the VHP President, Shantilal Ramdan and BJP's Ramjibhai Padalia, a memorandum was given to the Collector and a condolence meeting organised on 28.2.2002. This can be read at page 183 of Annexure III File XIX, Fax message D-7/HA/VHP/Guj.Bandh/Rally/69/02). It is likely that this was to delay

parading funeral procession of the victims who hailed from Porbandar. *The SIT should have questioned K.K. Sharon who was the Intelligence officer who has sent his message to ascertain whether a public display was made over these processions.*

Police and Administrative Complicity

607. I say and submit that one of the serious allegations in the complaint that seeks to build a pattern of command responsibility relates to the ground level inaction by senior policemen allegedly instructed to inaction and complicity by the conspiracy at the top. Victims got no response despite scores of distress calls made to senior police officials. Survivors from Naroda Patiya made over a hundred distress calls to PC Pande, then commissioner of police but his mobile was always switched off. There was a similar callous response from most of the additional CPs and DCPs of Ahmedabad city. In many instances policemen even aided mobs in their lawlessness. There are contradictions between the SIT Preliminary Report and the Conclusions submitted before the Ld Magistrate.
608. I say and submit that the former Ahmedabad joint commissioner of police, MK Tandon, in whose area around 200 Muslims were killed, has been found guilty of deliberate dereliction of duty. (Following the 2002 riots. however, far from being censored or worse, he got one powerful promotion after another until he retired as additional DGP in June 2007). His junior, former DCP, PB Gondia has also been found guilty of allowing the massacres. But for from any penal action, he today holds the powerful post of IGP, state CID. I say and submit that the SIT says that if the two had carried out their duty, hundreds of Muslims could have been saved. (*Pages 48-50 of the Preliminary Report, 12.5.2012*).
609. I say and submit that until investigation by SIT was ordered on the complaint dated 8.6.2006 contained in the Special Leave Petition 1088/2008 by the Hon'ble Supreme Court, neither of these officers was in any way held to account by the Gujarat government. Even today we as victim survivors are agitating the trial court hearing the Gulberg massacre case to get these officers arraigned as accused. The SIT found that senior police inspector, KG Erda, had kept his superiors informed in good time. Yet, strangely enough, in the

Gulberg case it is Erda, not his superiors, who have been charge-sheeted.

610. I say and submit that the SIT Comments and Observations in 2010 are as under: “The then DCP, Zone-IV (Gondia), under whose jurisdiction Meghaninagar and Naroda Patiya police stations were located, it is well established, did not visit Gulberg Society before 16:00 hrs. In my view, Gondia virtually ran away from Naroda Patiya at 14:20 hours when the situation was very serious and virtually uncontrollable and also did not reach Gulberg Society despite the distress calls made by police inspector Erda and instructions given by Tandon and Pande. Gondia had also received three calls on his mobile phone from Dr. Mayaben Kodhani on 28-02-2002, 01-03-2002 & 02-03-2002 at 1039 hrs, 1339 hrs & 1249 hrs respectively. He had also received three calls on 28-02-2002 at 11:40 hrs, 11:52 hrs & 12:20 hrs, two calls on 01-03-2002 at 10:04 hrs & 11:35 hrs and two calls on 02-03-2002 at 11:56 hrs & 1848 hrs from accused Jaideep Patel, for which Gondia has not been able to give any explanation”. *(Page 44-51 of the Preliminary Report)*

SIT on Role of Tandon (Jt CP), 2010 SIT:

611. “The plea/defence put forward by Tandon is far from satisfactory. As per the call detail records of his mobile phone, his location remained in Bapunagar-Rakhial area between 12:25 hrs to 13:24 hrs. Further, he remained in Revdibazar, Relief road areas (Dariyapur P.S. and Kalupur P.S.) between 13:51 hrs to 15:42 hrs. His location was noticed at Meghaninagar only at 16:28 hrs.” The FIRs of serious cases of mass massacre under his jurisdiction were also scrutinised by the SIT. “The FIRs were registered only on 15-03-2002, i.e., after a period of 15 days and as such the same had been manipulated by way of receiving complaints from three PSIs of Dariyapur P.S. with a view to match the timings of the incident of Gulberg Society on 28-02-2002 to enable Tandon to explain his absence from Gulberg Society...”

612. "The delay in the registration of these four cases needs explanation. After going through the FIRs it is found that there is no mention about the presence of Jt. CP, Sector-II at the spot... The explanation given by Tandon for his absence from the Gulberg Society despite the distress messages received from PI Erda is totally unconvincing and will not cut any ground".
613. "Last but not the least, Tandon had received two calls on 01-03-2002 at 11:37 hrs for 250 seconds and 12:56 for 161 seconds from accused Jaideep Patel and two calls on 01-03-2002 at 14:58 hrs for 32 seconds and at 19:04 hrs for 61 seconds from accused Smt. Mayaben Kodnani for which he has not been able to give any satisfactory reply". (*Pages 44-51 of the Preliminary Report, SIT, 2010*).
614. "It is evident that Tandon and Gondia did not visit Gulberg Society under various pretexts. Moreover, both of them were in touch with the main accused persons, namely, Mayaben Kodnani and Jaideep Patel. This is suspicious". (*Page 44-51 of the Preliminary Report, 2010*).
615. The SIT concluded in its preliminary report that their role needs to be further investigated in Gulberg Society and Naroda Patiya case u/s 173 (8) CrPC. (*Page 51 of the Preliminary Report*). However I say and submit that I am shocked that the SIT has shifted/changed its assessment dramatically two years later reflecting a clear-cut bias.
616. I say and submit that in between, further investigation was conducted by the SIT after the amicus curiae's recommendation that Tandon and Gondia be prosecuted under Section 304A of the Indian Penal Code (*culpable homicide not amounting to murder*). However, after a superficial probe, ignoring the highly incriminating findings of the preliminary inquiry, SIT concludes that the recommended prosecution "may not be possible". In February 2012, the SIT, is forced to concede that the actions of Tandon and Gondia were questionable. However, in its view a simple departmental inquiry was all that was called for. Going back on its own earlier findings, SIT now also exonerates Tandon and Gondia for being in close telephonic contact with two accused persons: Dr. Mayaben Kodnani and Shri Jaideep Patel. (*Page 496 of the SIT's conclusions dated 8.2.2012 submitted before the Learned Magistrate*)

SIT- Role of Tandon

617. “In case of Tandon, certain actions on his part suggest his bonafide intentions to control the riots. Initially, he visited Gulberg Society and lobbed tear gas shells and dispersed the mob. Subsequently he proceeded to Naroda Patiya and on his advice curfew was imposed in Naroda Patiya area by the commissioner of police. Further, from Naroda Patiya area, he went to Dariyapur which was communally very sensitive. *(Page 496 of the SIT’s conclusions dated 8.2.2012 submitted before the Learned Magistrate)*. “Objective assessment of the situation reveals that Tandon did not appreciate the circumstances professionally and acted in a negligent manner by not taking any appropriate action about the grave situation at Gulberg Society/Naroda Patiya area. It would not be out of place to mention here that Tandon was very well aware about the situation at Gulberg Society in as much as he had sent a message to the police control room at 1405 hrs on 28.02.2002, that late Ahsan Jafri and others had been surrounded by a mob and were required to be shifted immediately. Despite the fact that he was well aware of the inflammatory situation at Gulberg Society, yet he chose not to go there”. *(Page 497 of the SIT SIT’s conclusions dated 8.2.2012 submitted before the Learned Magistrate)*.

SIT- Role of Gondia

617. “Investigation has further revealed that Gondia had left Naroda Patiya at 1420 hrs despite the fact that a huge of mob of Hindu and Muslim rioters had gathered there while the curfew was in force. His leaving the location for Pithaliya Bambha was totally unjustified, especially when there was no information of any situation being graver there than at Naroda Patiya. In case Gondia realized that he was in a position to leave the location, then he should have gone to Gulberg Society and not to Pithaliya Bambha.” *(Page 498-499 of the SIT’s conclusions dated 8.2.2012 submitted before the Learned Magistrate)*...“The conduct of Tandon and Gondia was unprofessional and unbecoming of senior police officers”.

(However) the basic requirements for prosecution under the above section (304A) are that the acts (including omission) must be rash or negligent... Considering all the circumstances, evidence on record and the defence available with the suspect police officers (Tandon and Gondia) it may not be possible to prosecute them for the offence under section 304 (A) as proposed by amicus curiae... *(Page 499-503 of the SIT's conclusions dated 8.2.2012 submitted before the Learned Magistrate).*

Important Documentary Evidence Deliberately Ignored by the SIT

Mesasges related to funeral processions

618. 12:30 pm on the 27th February an SIB officer through fax no 525 communicated to the headquarters that there were reports that some dead bodies would be brought to Kalupur Hospital station in Ahmedabad city. "So communal violence will occur in the city of Ahmedabad, So take preventive action."
619. Another SIB message numbered as Out/184/02 again warned about communal incidents if bodies were brought to Ahmedabad. "Communal violence will occur in the city. So take preventive action." the same message said that karsevaks had given explosive interviews to a TV station at Godhra and had threatened to unleash violence against the Muslims.
620. At 1:51 hours and again at 1:59 hours on the 28th February there were panic messages by wireless police vans positioned at Sola Hospital demanding immediate protection from Special Reserve Police platoons and the presence of DCP Zone 1.
621. Message at 2:44 hours on 28.2.2002, the motor cavalcade reached Sola Civil Hospital. **Page No. 5790 of Annexure IV, File XIV reveals that at 04:00 am** a mob comprising of 3000 swayamsevaks, that is the members of the Rashtriya Swayamsevak Sangh (RSS), had already gathered at the Civil Sola Hospital.
622. At 7:14 hours the PCR van again informs the Police Control Room that a large mob had assembled at the hospital. **(Page 5796 of Annexure IV, File XIV of the documents).**

623. Again another message three minutes later at 7:17 hours (**Page 5797 of Annexure IV, File XIV of the documents**) says that a mob of 500 people was holding up the traffic.
624. Ten bodies were taken to Ramol, an area near Naroda and a massive funeral rally of over 5 to 6000 mourners took the bodies to Hatkeshwar crematorium in the afternoon.
625. At 11:55 am a PCR message is sent out saying that the Hindu mob had become violent and had a vehicle on fire and was indulging in arson on the highway.
626. Message at 11.55 a.m. on 28.2.2002 (*Page No. 6162 Annexure IV File XV*) saying that "Sayyed Saheb, the Protocol Officer had informed Sola-1 that riots have started at Sola civil hospital at the High Court where the dead bodies were brought."
627. Again, there is another message with no indication of time (*Page No..6172 of 28.2.2002*) that states that the officers and employees of the hospital had been surrounded by a 500 strong mob and they could not come out". The message also made a demand for more security for the civil hospital at Sola. *Annexure IV File XIV- Message No.. 5907 and 5925 dated 11:58 hrs on 28.2.2002*) show that when 10 dead bodies were taken from Ramol Jantanagar to the Hatkeshwar cremation ground, a crowd of 5 to 6,000 persons accompanied this procession.
628. On the morning of 28.2.2002, a SIB message on page 258 of Annexure III File XIX, message No. Com/538/28/2/02 says that a funeral procession was allowed to take place at Khedbrahma, a town in Sabarkantha district. The message cited above states that soon after the funeral procession 2 Muslims on their way to Khedbrahma were stabbed and the situation had become very tense.
629. The subsequent message at page No. 262 of the same file (**Annexure III File XIX**) mentions that 150 Bajrang Dal workers were on their way from Ayodhya to Khedbrahma (20:30 hours).
630. Another message at page 254 (**Annexure III file XIX**) – Com/574/2002 sent out at 1532 hours on 28.2.2002 states that one more victim of the tragic train burning at Godhra, Babubhai Harjibhai Patel, resident at Kuvaghrol, Tal. Vadali in Sabarkantha

was brought back and a funeral procession was organised in the town.

Messages related to mass mobilisations and hate speeches

631. At page 365 of **Annexure III File XXI(D-166)** message No. 73/02 dated 28.2.2002 sent by the ACP(Intelligence) Surat Region to State Intelligence Bureau Headquarters at Gandhinagar says that between 9 to 10 hours on the morning of 28.2.2002 a meeting was held at Sardar Chowk in Vapi Town where Dinesh Kumar Behri of VHP and Acharya Brahmbhatt of Bajrang Dal , Jawahar Desai of BJP and Vinod Chowdhary of RSS made inflammatory speeches regarding the incident at Godhra and called upon the Hindus to unite.
632. Another message at page 188 in Annexure III, File XVIII sent at 20:38 hours on the day of the Godhra train burning tragedy, i.e., 27.2.2002, mentions the following: "Dilip Trivedi the General Secretary of VHP and Joint Secretary Dr. Jaideep Patel and Kaushik Mehta in a Joint Statement issued by them have declared that innocent Ram Bhatt's have been attacked and hence Gujarat Bandh has been declared. They have also stated that the attack on the Ramsevaks returning from Ayodhya was pre-planned by the Muslims. Innocent ladies were molested and compartments were set on fire and Ramsevaks were burnt alive."
633. The joint statement issued by the three senior-most office bearers of Gujarat VHP's unit was clearly designed to stoke communal passion. A reasonable response would have been an immediate government clampdown on such public utterances and if required putting all these trouble makers under preventive detention. But no such action was taken. The VHP called for a bandh on the 28th February and the BJP, the ruling party, openly supported the bandh call. The State instead of clamping down on the bandh call, gave the VHP leaders and its cadres a free reign and a license to kill.
634. **At page 345, the message titled Vardhi No. 24 contained in Annexure III File XIX dated 27.2.2002** sent from D.O., Ahmedabad to the Intelligence Office at Virangam (Virangam is in Ahmedabad rural district) stated that 50 to 75 members of the VHP and Bajrang Dal had gathered at Virangam town chali and in the Golwada area and the situation was very tense.

635. Another message in the same file, i.e., Annexure III, File XVIII (D-160) at Page No. 19 Message No. 531 from SIB Police to KR Singh at 1810 hours on 27.2.2002 said that, *“on 27.2.2002 at 4.30 p.m. when the train arrived at the Ahmedabad Railway station, the kar sevaks were armed with ‘dandas’ and shouting murderous slogans ‘khooon ka badla khooon’ and ‘Bharat Mata ki Jai’.”*
636. Fax Mes. D-1/ HA/ Jaher Sabha/ Junagadh/ 311/02 dated.27.2.02 at 10.12 pm sent by PI, CID, Int. Bhavnagar to IG, Guj. State IB, Gandhi Nagar said that Sadhu Samaj president Gopalnandji gave an agitated speech at Junagadh Kadva chowk, on dt.27.2.02 between 19.30 to 21.00 hrs. The message then goes on to name specific local VHP leaders and says that they expressed their condolences to Kar Sevaks and then delivered hate speeches and called to unite all hindus and told the audience to cut the hands and legs of our enemies. They said in their speech that the incident occurred at Godhra in the morning at 7.30am but yet no any kind of reaction was seen from the Hindus which was very unfortunate. “Muslims who lives in India with sincerity and patriotism, we don’t have any agitation against them. But we have objections against those who lived in India and favoured Pakistan and carried out activities against the country. Anti- national activities are being done in Madrasas. We have objection against it. We do not have any kind of objection against spiritual religious education to the children. Pooja prathna at the temple and pray in the Masjid but Pakistan Zindabad is not right. Above mention ideas were expressed by them.”
637. Fax Mes. Com/HM/550/ 02 Dt.27.2.02 23:59 Out No.398 from ACP, Int. G’nagar Region to IG, Guj. State IB, Gandhi Nagar says that 50 Karsevaks travelling by a special bus from Ahmedabad reached Modasa center in village Vadagam at Taluka Dhansura at around 18:30 pm on 27.2.02. “They were received by a mob of 500 people and these kar sevaks addressed the mob and told the people how the compartment of Sabarmati Express was attacked. People present in the mob got excited and 21:30 hrs people from around the village gathered and the mob swelled to a huge size. To maintain the order the force was not sufficient and about 10 paan bidi shops were set on fire. Vehicles like jeep, maruti and

ambassador were set on fire. Vehicles and shops seem to belong to Muslims. One Yasinbhai Multani's shop at Kalol center TaKadi, Bavlu PS village Kalyanpur was burnt down by the mob.

Stationing Ministers in the Control Room as Part of the Conspiracy Masterminded by A-1 Mr. Modi on 28.2.2002

638. This decision was obviously taken

- To monitor riots/interfere in police functioning
- To ensure police inaction
- Muslim residential colonies, shops & establishments had been identified beforehand and these records were available with the marauding mobs.

639. A-25 Mr. K Chakravarti, then DGP – because of the instruction he received from A-1 Mr. Modi at the controversial meeting the night before on 28.2.2002 – does not perform his duties as statutorily required. There is no message from him after the said meeting to the police stations except one on blank paper not in the official format. This message too does not issue detailed and specific under the required Standard Operational Procedure (SOP) that includes step by step directions to all jurisdictional officers to deal with the law and order situation.. This shows that A-25 DGP Mr. K Chakravarti was working for A-1 .The fact that A-3, Mr. IK Jadeja was allowed to take control of the state control room at Gandhinagar on 28.2.2002 shows that A-25 Mr. K Chakravarti was effectively neutralized and A-1 had put his own man to direct what policeman should do/should not do. A-28 Mr. Ashok Narayan ACS Home, manipulated the first information – and was abettor in the neutralization process in carrying out what A-1 Mr. Modi said. He gave no specific instructions to concerned police stations or officials about strict deterrent measures for maintenance of law and order. The fact that A-3 Mr. IK Jadeja was allowed to take control of the state control room at Gandhinagar on 28.2.2002 shows that A-25 Mr. K. Chakravarti was effectively neutralized and A-1 had put his own man to direct what policeman should do/should not do. A-25 Mr. K. Chakravarti stated before the Nanavati Commission that A-28 Mr. Ashok Narayan informed him of the decision of the government that A-2 Mr. I K Jadeja Minister of Urban Development would sit in his office and says that this decision related to the law

and order situation. A-28 Mr. Ashok Narayan says that no such instruction was given by A-1 the chief minister. A-2 Mr. IK Jadeja in his statement said that A-5 Mr. Gordhan Zadaphiya had told him to remain present in the Police Bhavan (Gandhinagar, Police HQ) to receive information and if extra police force is required to pass on the same to the Home Department. Mr. Gordhan Zadaphiya denied having given any such instruction. However, the fact remains that Mr. I K Jadeja was present in State control room at Gandhinagar. The statement of Mr. Sanjiv Bhatt regarding presence of A-3 Mr. IK Jadeja in the police HQ state has been referred to by the SIT and accepted. However, SIT brushes aside the presence of A-3 Mr. Jadeja in the control room by stating that there is no evidence to prove that he interfered or gave any direction with regard to maintenance of “law and order” and therefore no offence is made out. The SIT does not say that even the very presence of the minister at the police control room was illegal and questionable and that it was part of a planned conspiracy because A-3 Mr. Jadeja was sent to police headquarters according to statement of A-3 Mr. Jadeja himself by MOS Home, A-5 Mr. Gordhan Zadaphiya. A-1 was the Cabinet Minister for Home then and has been since 2002.

Panchmahals district, Godhra

640. It is critical to remember that Godhra district was the worst affected district in Gujarat after Ahmedabad. Relevant paragraphs of the Concerned Citizens Tribunal's (CCT) Report at 6.3, 6.4 and 6.5, Volume II at Page 20 are relevant:

“6.3 A noticeable lapse in Godhra and the anticipation and handling of the violence was the blatant ignoring of the basic principles of law and order maintenance and governance in Godhra. There was utter and complete failure of law and order maintenance and governance, particularly given the chequered communal history of the town. An investigation into the background of Godhra shows that when disturbances erupted in 1965, the then collector promptly arrested both Muslims and Hindus whose names appeared in FIRs and within a couple of days the disturbance was curbed. Even after the October 1980 disturbances, the then collector Mrs. SK Verma had immediately put the miscreants behind bars. If a similar, no-nonsense and non-partisan approach had followed the Godhra incident of February 27, by promptly apprehending the suspected criminals, tension would have been contained. And the chances of

a vengeful and a highly organised spree of retaliatory killings that demonstrate every element of ethnic cleansing and genocide would have been pre-empted. That this did not happen suggests a lack of intent on the part of those in government to take prompt preventive measures in order to de-escalate the situation. In December 1992, a similar incident of provocation had occurred at Palej near Vadodara when the state police had cracked down on the Shiv Sainiks who had abused and provoked passengers and residents and thus squashed potential communal trouble within hours.

“6.4 In Godhra, there is always one SRP Company on duty. One Railway Protection Force contingent is posted on the railway station itself. In the RPF contingent, there are supposed to be 42 policemen in all. Generally, there are two constables per reserved compartment in a running train. The fact that *karsevaks* were expected by this route and the fact that Godhra has a fragile communal history were and are themselves enough for additional precautionary deployment. Besides, as a district headquarter, Godhra has a police HQ, armed police, control room, town police station with eight *chowkies*, all equipped with telephones plus a taluka police station. It is the HQ of SRP battalion too, and it has a municipal Fire Brigade. All these factors are enough to make any responsible citizen wonder why adequate preventive deployment was absent during the Godhra arson.

“6.5 The Tribunal met and recorded the evidence of both the collector and DySP of the Panchmahals district of which Godhra town is the district headquarters. It is clear from the evidence recorded by us that on February 27, after the Godhra tragedy, though the Rapid Action Force (RAF) was called in, no adequate powers were given to it. Though curfew was declared in Godhra, the RAF men were made to sit in the officers' mess, helpless, unable to do anything. It appears that though the Fire Brigade station is only 5 minutes away from the railway station, it took a while for the fire brigade to reach the torched coach. That day, there were only 3 SRP men on duty; of the 111 GRP (Government Railway Police) officers stationed at Godhra, only 2 or 3 were on duty. Two GRP jawans reached the spot within minutes; it is a matter of serious conjecture why they did not fire shots to disperse the mob.

641. The SIT has simply not concerned itself with examining the gravity and spread of incidents post-Godhra in the Panchmahals or any other district. In none of the statements of Mrs. Jayanti Ravi recorded by the SIT on 15.9.2009, **(Annexure I, Volume I of the SIT papers)**, 26.10.2009 and 03.11.2009, **(Annexure I, Volume I of the SIT papers)** and 13.12.2010 **(Annexure I, Volume II)**.
642. Only through a careful co-relation and analysis of these, district wise, could an assessment have been made of the fallout of the conspiracy hatched and put into operation after the tragedy at Godhra happened. Statement I annexed to Godhra DM Mrs. Jayanti Ravi's affidavit reveals there were as many as 101 deaths officially recorded in the district on 28.2.2002 itself. There were a huge number of migrants with as many as 7,569 persons from the minority community being shifted to the relief camp at Godhra. According to the annexure to her affidavit, Mrs. Jayanti Ravi has stated that curfew was declared in Godhra from at about 10:55 a.m. but no other part of the district. There have been no questions put to her for this lapse. It appears from the chart that curfew and prohibitive orders were not operative in many parts of the district.
643. Panchmahal was the worst affected district after Ahmedabad in the extent and brutality of the killings that took place right up to mid-late March 2002 after the train fire tragedy at the Godhra railway station on 27.2.2002. In her affidavit and deposition made before the Nanavati Commission, Collector & DM of the District, Mrs. Jayanti Ravi states that Sabarmati express train had arrived at the Godhra railway station 4 hours 58 minutes after its scheduled time of arrival. ***(The affidavit dated 7.6.2002 and deposition dated 6.1.2003 respectively are available at Annexure III, File X, D-106 in the SIT papers)***. To explain, the schedule time of arrival of Sabarmati express strain from Ayodhya Faizabad is 2:55 a.m. but on 27.2.2002 it arrived at 7:43 a.m. In the first information provided by her to A-1 (chief minister's office), A-28 and A-34 (home department) and the Revenue department at Gandhinagar, the provocative sloganeering by kar sevaks leading to the stone throwing has been mentioned. After stopping at the station for about 4 minutes according to the affidavit of the Collector, the train started for Baroda at 7.48 minutes. Mrs. Jayanti Ravi mentions that there were 2 incidents of chain pulling that took place, the first time somebody pulled the chain when only three or four compartments had left the station. Within seconds the train restarted and when it

had reached 1 km away, again somebody pulled the chain when it had stopped near Signal Falia. Mrs. Jayanti Ravi says that as per the telephonic message received by her at 8:26 a.m. from the SP Godhra, stones were being thrown by local elements on the Karsevaks returning from Ayodhya and as the fire took place in the Sabarmati Express train approximately 200 to 300 passengers got crushed at the railway station and some of them were injured. A representation had been made to make arrangement to convey them safely to Ahmedabad and their respective stations by road. Mrs. Jayanti Ravi states that after being informed of the incident by the SP, Raju Bhargava (A-46), at 8:26 a.m., she had immediately contacted the Additional Chief Secretary Home, Gandhinagar, Principal Secretary Revenue, Gandhinagar and the Chief Minister's office Gandhinagar. From this it appeared that the A-1 Chief Minister would have been in the knowledge of this incident by 8:45 a.m. to 9:00 a.m. Mrs. Jayanti Ravi states that to ensure that the injured persons got immediate treatment she had told the civil surgeon at the Godhra hospital to send a Mobile van with a team of doctors to the place of incident. Moreover, the Collector and the District Magistrate Mrs. Jayanti Ravi states that she had instructed the Nagarpalika Godhra, Kalol, Limdawada to send the fire brigade and had also consulted the Regional Transport Officers of Godhra ST to make arrangement for ST buses to convey the passengers who are pouring out of the compartments to their respective stations. Mrs. Jayanti Ravi states that she had instructed the Dy. Collector, Election Office, Godhra, Dy. Collector, ADM Godhra, sub-divisional officer, Godhra and Mamlatdar, Godhra for the relief work and maintenance of law and order. Further she said that given the fact that Sub Divisional Officer Godhra was on leave on the day of incident, and she had instructed that the supply officer Godhra should take over the work of the sub-divisional magistrate at Godhra.

644. Paragraphs 1.8, 1.9, 1.10, 2.1 and 2.2 of the *Concerned Citizens Tribunal Report* at Pages 13, 14 and 15 Volume II titled 'Godhra' are relevant. The Report is part of the Investigation papers at Annexure III, File I:

1.8 It may be stated at this stage that the full capacity of the train is 1,100. But in fact the train at that time had about 2,000 passengers, of which about 1,700 were *karsevaks*. As far as Coach S-6 of the Sabarmati Express is concerned, the reservation

capacity is 72. However, it was jam-packed on that day. Only one coach was burned and even in that coach one is not sure how many passengers were *karsevaks*. The train had 11 coaches with vestibule connection and the *karsevaks* were spread all over the train. So why did anyone target Coach S-6? If 2,000 Muslims had gathered there, could they not have attacked the other coaches? Again, did anyone try to come out from the other coaches? If it is reasonably presumed that some of the passengers, including *karsevaks*, rushed out, did anyone attack them? On all these questions there is no satisfactory answer.

1.9 In all, 58 bodies were found in S-6 compartment out of which 26 were that of women, 12 of children and 20 of men. It appears that 43 persons sustained injuries of which only five were admitted to the hospital. The rest were treated for minor injuries like bruises, and were allowed to go. Out of the five admitted in the hospital, one died, and the rest were discharged after 3 or 4 days.

1.10 Since the bodies were charred beyond recognition, it was not possible to identify anyone on the basis of physical features. The collector of Godhra told the Tribunal that only five bodies could be identified on the basis of articles or things that were on their person. One was the local stationmaster's wife who had boarded the train at Godhra to go to Baroda. She had a metal tiffin box in her hand and she was thus identified. Thus, no one could say with certainty that the dead bodies were all of *karsevaks*.

2. *Mystery of the fire*

2.1 A very significant fact is that coach S-6 was the only one that got burnt. The fire did not even spread to the other coaches. It is also not clear whether the train was stopped because of the fire in the coach or the coach was set on fire after the train stopped. If it was the latter, why was the train stopped at all? It is reasonable to presume that because of the fire in the coach, someone must have pulled the chain and the engine driver stopped the train.

2.2 As the train left Godhra station, the windows and doors of S-6 were all closed. Since there was stone throwing on the train, it is reasonable to presume that similar was the situation in all the other coaches. In other words, as the train stopped, nobody from outside was in a position to identify any particular person in any particular

coach, so as to target any particular person/s. If the target was *karsevaks*, they were overwhelmingly present in the entire train and the whole train could have been set on fire. The fact that the fire did not even spread to the remaining coaches is a clear indication that the fire originated in that compartment itself. That also explains why only persons in that coach died. In all probability, as the fire broke out, there was extreme panic, and the compartment being over-packed, many of the able-bodied persons managed to escape through the vestibules to the other coaches, leaving mostly women and children behind, who must have succumbed to the smoke and the suffocation and fell down in a pile, one over the other. The evidence also suggests that the passengers had stacked their belongings against the doors and it was just not possible for anyone to escape from or enter into the coach.

645. Within minutes of the incident, i.e., by 8:50 a.m. Mrs. Jayanti Ravi had reached the place of incident and had begun the relief work. She states that the fire fighter ambulance had come with a team of doctors and immediately 43 injured persons had been removed to the hospital for treatment. She had also made arrangement for food packets and drinking water for other passengers. Mrs. Jayanti Ravi states that while ST buses had already arrived for their transportation, following conversation made with the local authority as also after telephonic talk with the higher officers in Mumbai, Baroda and Delhi, it was decided to convey the passengers who had got left out of the train not by road but by train on account of safety. This means that there appears to have been a collective assessment that it was better not to transport them by road.
646. Mrs. Jayanti Ravi kept in touch with three point officers in Gandhinagar and had also demanded additional police force. She states that as per the information she was given later, the police had to fire 30 tear gas shells and 22 rounds of shots to control the mob and 2 persons had died from the crowd. Curfew had been declared in Godhra at 10:55 a.m. and the SP of Godhra (A-46), Mr. Raju Bhargava, was instructed to maintain law and order. Mrs. Jayanti Ravi states that the work of extinguishing the fire was still going on and it had become possible to douse the inside of the said compartment only at 12:00 noon. She states that she entered the entrance of the said coach and the fire was still being extinguished while there was smoke everywhere. Immediately, 30 dead bodies were found. At this stage coach No S-5 (which had sustained

partial damage and S-6 (which was completely burnt) were detached from the train and the remainder of the bogeys and train were joined and the train allowed to depart to Ahmedabad at 12.40 p.m. (These facts stated by Mrs. Ravi in her affidavit corroborate the messages of the State IB received and sent recording that the train that left Godhra arrived at Kalupur railway station around about 3:00 p.m. on 27.2.2002). What is not clear however is whether there were only injured persons or even some dead bodies on that train).

647. This fax message at Sr No 242 contains the following details. This fax message (Fax No 21008 No Mag/Ws/550/2002 dated 27.2.2002 annexed by Mrs. Jayanti Ravi to her affidavit and available in SIT papers) states that the fire brigade of Kalol Mahanagar Palika were used to douse the fire in coach S-6 of the Sabarmati Express. The driver of the Kalol Mahanagar Palika had responded promptly. There are several blank portions of the message suggesting that crucial paragraphs cannot be read. The affidavit of Mrs. Jayanti Ravi also states that it was Kalol Mahanagar Palika's fire brigade that was summoned and which extinguished the fire. Mrs. Jayanti Ravi states in her affidavit that as per the conversation she had with the local authority and with the officers of the railway police in Baroda, Mumbai, Delhi, passengers on the rest of the train were conveyed to Ahmedabad by them immediately. She also states that 30 tear gas shells and 22 rounds of firing had to be used to quell the mob in which 2 persons had died from the crowd. Mrs. Jayanti Ravi states that A-2 Mr. Ashok Bhatt Minister of Health and Family Welfare was the one who gave her instructions about his talk with the Prime Minister etc.
648. According to Mrs. Jayanti Ravi's affidavit she had discussions with co-accused A-4 Mr. Prabhatsinh Chauhan, Minister for Civil Aviation and Tourism and co-accused A-5 Mr. Gordhan Zadaphiya, MOS Home and had discussions about the law and order situation. She clearly states in her affidavit that before and after discussions with the Chief Minister's office, A-1 who visited the site the decision to convey the corpses from Godhra to Ahmedabad were taken, that those identified corpses would be sent to the relevant districts, and even those who were unidentified would be sent along with the others to the Sola Civil Hospital, Ahmedabad. She admits through her affidavit, a fact that is now relevant through the information provided to the complainant "wireless message from PCR van" as

well as “SIB filed reports” that a total of 5 corpses who belonged to Sanpadia, Tal. Khanpur, Dist. Panchmahal, Dahod and Vadodara were given to their heirs and sent by road to these districts. The documentary evidence clearly shows that in these different locations too aggressive funeral processions had been held by the collaborative VHP and BJP obviously to ensure that public anger was fanned about the tragedy at Godhra. She clearly states that at 22:30 hours on 27.2.2002, 54 of the 58 corpses were sent by the VHP Gujarat Secretary, A-21 Mr. Jaideep Patel (A-21) along with police escort to Ahmedabad.

649. Mrs. Jayanti Ravi's affidavit also contains details about the instructions given by her to all Mamlatdars, Sub-Divisional officers of Godhra district to remain present in the control room and to take precautionary measures for the maintenance of law and order. She states that since VHP had given call for the bandh on 28.2.2002 she had instructed A-46, Mr Raju Bhargava, the Superintendent Police also a co-accused to keep special vigilance in sensitive areas and round up anti-social elements. She also states that she had instructed them to take all possible steps for successful imposition of prohibitive orders and curfew.

Delay in Calling the Army

650. It is clear from her affidavit that the very first time that Mrs. Jayanti Ravi even asks for the army is on 1.3.2002 and the first time that the army reaches Godhra is early morning of 2.3.2002, that too in Godhra city. It must be noted here that the wide scale of barbaric violence that took place in the Panchmahal district, of which Godhra is the district Headquarters, and over which Mrs. Jayanti Ravi had constitutional responsibility to maintain law and order had erupted already on 27.2.2002, 28.2.2002 and worst of all, on 1.3.2002. The SIB messages that have been analysed which are part of the investigation show that the Intelligence Wing of the police was already warning of communal mobilisation build up from 27.2.2002 onwards. However, it is a matter to be noted that the Collector, D.M. and the A-46 S.P. did not think it necessary that the rural areas in the Panchmahal district that were being racked by violence should be protected. This can be deciphered from a further affirmation in the affidavit that after the army reached Godhra from Ahmedabad in the early morning of 2.3.2002 she arranged a meeting with them at 9:00 a.m. at which it was decided to conduct

flag march rescue operation and to open 8 of the main roads for movement and for constant patrolling. She further adds that the army had conducted the flag march as also “rescue operations at difference places”.

651. Her affidavit states that the army, RAF, SRP, local police and district administration together had rescued 7,569 persons of the minority community and shifted them to several places, and that these safe places - 10 relief camps gave shelter to 10,872 persons. Ten thousand persons displaced is a massive number and yet she has not been asked by the SIT about the effectiveness and the promptness of her overall response. Clearly it was wanting. She does not however enumerate in her affidavit when and where these widespread acts of violence in the Panchmahal district had taken place.
652. It is only when you peruse the communication sent to the ACS Home dated 28.2.2002 that one can make a list of the different incidents that started in the Panchmahal district from 27.2.2002 onwards.

STATEMENT –1

No	Name of Taluka	Name of village	Date	Number of deaths
1	Khanpur	Pandharwada	28-2-02	1
2	Ghoghamba	Rajgadhd		1
3	Kalol	Kalol		4
4	Khanpur	Pandharwada		21
5	Khanpur	Khanpur		1
6	Kadana	Divda colony		1
7	Kalol	Kalol		4
8	Halol	Halol		4
9	Ghoghamba	Ranjitnagar		1
10	Ghoghamba	Kothaydi		1
11	Morva (Hadaf)	Deloch		1
12	Khanpur	Limadiya		15
13	Santrampur	Rayaniya		4

14	Kalol	kalol		14
15	Ghoghamba	Ranjitnagar		1
16	Lunawada	Lunawada		1
17	Halol	Abhetwa		1
18	Halol	Rameshra		2
19	Santrampur	Batakwada		1
20	Ghoghamba	Vavnimuwadi		1
21	Kalol	Aeral		7
22	Santrampur	Anjanwa		11
23	Kadana	Rathda		1
24	Godhra	Godhra		1
25	Godhra	Godhra		1
			Total	101

Sd/-

Dist Magistrate

Panchmahal Godhra

STATEMENT –2

The statement showing the detail with regard to shifting the persons to safe places by doing the work of saving by Dist. Administration, police and army. Dist. Panchmahal, at the end of 31-5-02.

No	Name of village	Number of persons shifted to safe place
1	2	3
1	Godhra	1,065
2	Mora	465
3	Malwan	70
4	Aeral	60
5	Pandharwada	22

6	Kalol	1,032
7	Boru	1130
8	Derol station	203
9	Derol	18
10	Pratappura	5
11	Lunawada	843
12	Santrampur	1199
13	Limadiya	50
14	Ghoghamba	314
15	Antalwada	130
16	Biliya	13
17	Patapur	12
18	Anjanwa	126
19	Ramshera	34
20	Movasa	85
21	Shivraipur	14
22	Shahera	76
23	Rajgadh	16
24	Jambughoda	4
25	Karanta	29
26	Vandeli	19
27	Malav	186
28	Aeral	220
29	Delol	149
	Total	7569 (7592)

Sd/-
Dist. Magistrate
Panchmahal Godhra.

STATEMENT –3

The details of curfew order issued under section 144 of the Criminal Procedure Code-1973 for the period from 27/2/2002 to 31/3/2002 in context with the Sabarmati Express train carnage took place on 27/2/2002 on Godhra railway station in the Godhra city area.

Sr. No.	Order No./Date	Name of Taluka	Details of villages of Taluka	Time of curfew	Time of relaxation in curfew	For whom
1	2	3	4	5	6	7
1	No.-U-MKM-PLS-WS, 2702 dated 27/2/2002	Godhra	Entire area of Godhra city police chowky No.1 to 9	For indefinite period from 10.00 am	-	For all
2	No.-U-MKM-PLS-GO-MU-WS, 2702/676/1 dated 3/3/2002	Godhra	Godhra city police chowky No.1,2,8,7	-	15-30 to 16-00 hours	For all
3	No.-U-MKM-PLS-GO-MU-WS, 2702/676/2 dated 3/3/2002	Godhra	Entire areas falling under Godhra city police chowky No.1 to 9	For indefinite period from 16.00 hours	-	For all
4	-	Godhra	No order is passed from this office	-	15-00 to 17-00 hours	For all
5	No.-U-MKM-PLS-GO-MU-WS, 2702/676/4 dated 8/3/2002	Godhra	Entire area of Godhra city police chowky No.1 to 9	-	15-00 to 17-00 hours	For all
6	No.-U-MKM-PLS-GO-MU-WS, 2702/676/5 dated 9/3/2002	Godhra	Godhra city area	-	8-00 to 12-00 hours	For all
7	No.-U-MKM-PLS-GO-MU-WS, 2702/676/7 dated 9/3/2002 until further orders	Godhra	Entire area of only chowky No. 8 and 9 of Godhra city area	-	For full time	For all
8	No.-U-MKM-PLS-GO-MU-WS, 2702/676/8 dated 10/3/2002	Godhra	Entire area of chowky No. 1 to 7 of Godhra city area	-	From 9-00 am to 15-00 pm	For all
9	No.-U-MKM-PLS-GO-MU-WS, 2702/676/9 dated 11/3/2002 until further orders	Godhra	Entire area of chowky No. 1 to 7 of Godhra city area	-	From 7-00 am to 19-00 pm	For all
10	No.-U-MKM-PLS-GO-MU-WS, 2702/676/10 dated 17/3/2002 until further orders	Godhra	Entire area of chowky No. 1 to 7 of Godhra city area	-	From 6-00 am to 21-00 pm	
11	No.-U-MKM-PLS-KA-WS, 2703 dated 28/2/2002	Kalol	Delol, Kalol, Vejalpur and Derol areas of Kalol taluka of	For indefinite period from 12-00 noon	-	For all

			Panchmahal District			
12	No.-U-MKM-PLS-KA-MU-WS, 2703/1 dated 5/3/2002	Kalol	Kalol (Burough) area	-	From 16-00 pm to 18-00 pm	Only for children and ladies
			Vejalpur	-	From 15-00 pm to 18-00 pm	Only for children and ladies
13	No.-U-MKM-PLS-KA-MU-WS, 2703/2 dated 6/3/2002	Kalol	Kalol Nagar Panchayat (Burough) area	-	From 10-00 am to 14-00 pm	Only for children and ladies
			Derol station	-	From 11-00 am to 14-00 pm	Only for children and ladies
			Delol	-	From 11-00 am to 14-00 pm	Only for children and ladies
			Vejalpur	-	From 11-00 am to 18-00 pm	Only for children and ladies
14	No.-U-MKM-PLS-KA-MU-WS, 2703/3 dated 6/3/2002	Kalol	Kalol Nagar Panchayat (Burough) area	-	From 16-00 am to 18-00 pm	Only for children and ladies
15	No.-U-MKM-PLS-HA-WS, 2704 dated 28/2/2002	Halol	Kalol Nagar Palika area of Panchmahal District	For indefinite period from 17-25 hours	-	Only for children and ladies
16	No.-U-MKM-PLS-HA-WS, 2704/1 dated 4/3/2002	Halol	1. Area of Arad road to Swaminarayan chowky and Kothi faliya towards east	-	From 13-00 pm to 15-00 pm	Only for children and ladies
			2. All society area towards west of Vadodara-Godhra road and other area	-	From 13-00 pm to 15-00 pm	Only for children and ladies
			1. All part of Kasba area. Internal area	-	From 15-00 pm to 16-00 pm	Only for children and ladies
			1. Area from Swaminarayan temple to Jain temple (Main Bazar)	-	From 16-00 pm to 18-00 pm	Only for children and ladies
			2. Part of area between Main bazar Bombay House to Godhra road	-	From 16-00 pm to 18-00 pm	Only for children and ladies
17	No.-U-MKM-PLS-HA-MU-WS, 2704/2 dated 5/3/2002	Halol	1. Area of Arad road to Swaminarayan	-	From 12-00 noon to 15-00 pm	Only for children and ladies

			chowky and Kothi faliya towards east			
			2. All society area towards west of Vadodara-Godhra road and other area	-	From 12-00 noon to 15-00 pm	Only for children and ladies
			3. All part of Kasba area. Internal area	-	From 12-00 noon to 15-00 pm	Only for children and ladies
			1. Area from Swaminarayan temple to Jain temple (Main Bazar)	-	From 15-00 pm to 18-00 pm	Only for children and ladies
			2. Part of area between Main bazar Bombay House to Godhra road	-	From 15-00 pm to 18-00 pm	Only for children and ladies
18	No.-U-MKM-PLS-HA-MU-WS, 2704/3 dated 6/3/2002	Halol	Entire area of Halol Nagar Palika	-	From 12-00 noon to 18-00 pm	Only for children and ladies
19	No.-U-MKM-PLS-MO(H)-WS, 2706 dated 2/3/2002	Morwa (H)	Areas of Mora, Rampur (Kasanpur), Natapur, Morwa (H) of Morwa (H) taluka of Panchmahal District	For indefinite period from 15-40 pm	-	For all
20	No.-U-MKM-PLS-MO(H)-WS, 2706/1 dated 4/3/2002	Morwa (H) dated 4/3/2002	Curfew relaxation in the entire area of Rampur (Kasanpur), Natapur, Morwa (H) village	-	Permanently from 22-00 pm onwards	For all
		From 5/3/2002 until further orders	Curfew relaxation in the entire area of Mora village	-	Daily from 7-00 am to 18-00 pm only	For all
21	No.-U-MKM-PLS-GHO-WS, 2705 dated 28/2/2002	Ghogham ba	Ghoghamba Gram Panchayat area	For indefinite period from 23-15 pm	-	For all
22	No.-U-MKM-PLS-GHO-MU-WS, 2705/1 dated 5/3/2002	Ghogham ba	Ghoghamba Gram Panchayat area		From 16-00 pm to 18-00 pm	Only for ladies and children

ATTESTED BY **Sd/-Illegible**
Sd/-Illegible **Sub-Divisional Magistrate,**
Executive Magistrate, Godhra Prant, Godhra.
Godhra, Dist. Pms.

Statement showing the details of curfew imposed in Lunawada Sub-Divisional area. (As on 31-3-2002)

Sr.No.	Order No. and Date	Taluka	Name of village falling under curfew	Time of curfew	Time of relaxation in Curfew	Ceaseure of curfew
1	2	3	4	5	6	7
1.	No.PLS-MJS-WS, dt. 28-2-2002	Lunawada Nagarpalika area	Lunawada	For indefinite period from 2.00 am (night)	-	-
2.	No.PLS-MJS-WS, 632 dt. 6-3-2002	"	Towards north from Polan School and towards south from Polan School	-	From 9-00 to 10-00 From 11-00 to 12-00	-
3.	No.PLS-MJS-WS, 633 dt. 6-3-2002	"	-	-	From 8-00 to 12-00	-
4.	No.PLS-MJS-WS, 643 dt. 7-3-2002	"	-	-	8-3-2002 From 7-00 to 13-00	-
5.	No.PLS-MJS-WS, 651 dt. 8-3-2002	"	-	-	9-3-2002 From 7-00 to 14-00	-
6.	No.PLS-MJS-WS, 653 dt. 9-3-2002	"	-	-	10-3-2002 From 6-00 to 16-00	-
7.	No.PLS-MJS-WS, 656 dt. 10-3-2002	"	-	-	11-3-2002 From 5-00 to 17-00	-
8.	No.PLS-MJS-WS, 664 dt. 11-3-2002	"	-	-	12-3-2002 From 5-00 to 19-00	-
9.	No.PLS-MJS-WS, 667 dt. 12-3-2002	"	-	-	13-3-2002 From 5-00 to 20-00	-
10.	No.PLS-MJS-WS, dt. 13-3-2002	"	-	-	14-3-2002 From 5-00 to 22-00	-
11.	No.PLS-MJS-WS, 706 dt. 14-3-2002	Lunawada Nagarpalika	-	-	15-3-2002 From 5-00 to 22-00	-
12.	No.PLS-MJS-WS, 714 dt. 15-3-2002	"	-	-	16-3-2002 From 5-00 to 22-00	-
13.	No.PLS-MJS-WS, 733 dt. 16-3-2002	"	-	-	17-3-2002 From 5-00 to 24-00	-
14.	No.PLS-MJS-WS, 735 dt. 17-3-2002	"	-	-	18-3-2002 From 5-00 to 24-00	-
15.	No.PLS-MJS-WS, 736 dt. 18-3-2002	"	-	-	19-3-2002 From 5-00 to 24-00	-
16.	No.PLS-MJS-	"	-	-	20-3-2002 to 26-3-	-

	WS, 739 dt. 19-3-2002				2002 From 5-00 to 24-00	
17.	No.PLS-MJS-WS, 747 dt. 26-3-2002	“	-	-	27-3-2002 to 3-4-2002 From 5-00 t 24-00	-
18.	No.PLS-MJS-WS, 579 dt. 1-3-2002	Santrampur Nagarpalika Burough area	Santrampur	For indefinite period from 1-3-2002 18-30 pm	-	-
19.	No.PLS-MJS-WS, 627 dt. 5-3-2002	“	“	-	5-3-2002 From 11-30 to 12-30	-
20.	No.PLS-MJS-WS, 629 dt. 5-3-2002	“	“	-	6-3-2002 From 11-00 to 13-00	-
21.	No.PLS-MJS-WS, 634 dt. 6-3-2002	“	“	-	7-3-2002 From 9-00 to 12-00	-
22.	No.PLS-MJS-WS, 642 dt. 7-3-2002	“	“	-	8-3-2002 From 9-00 to 17-00	-
23.	No.PLS-MJS-WS, 644 dt. 7-3-2002	Santrampur Nagarpalika Burough area	Santrampur	-	9-3-2002 From 9-00 to 12-00	-
23.	No.PLS-MJS-WS, 648 dt. 8-3-2002	“	“	-	8-3-2002 From 13-30 to 14-30	-
24.	No.PLS-MJS-WS, 649 dt. 8-3-2002	“	“	-	9-3-2002 From 9-00 to 17-00	-
25.	No.PLS-MJS-WS, 652 dt. 9-3-2002	“	“	-	10-3-2002 From 9-00 to 18-00	-
26.	No.PLS-MJS-WS, 655 dt. 10-3-2002	“	“	-	11-3-2002 From 8-00 to 19-00	-
27.	No.PLS-MJS-WS, 663 dt. 11-3-2002	“	“	-	12-3-2002 From 8-00 to 19-00	-
28.	No.PLS-MJS-WS, 666 dt. 12-3-2002	“	“	-	13-3-2002 From 7-00 to 20-00	-
29.	No.PLS-MJS-WS, dt. 13-3-2002	“	“	-	14-3-2002 From 7-00 to 20-00	-
30.	No.PLS-MJS-WS, 705 dt. 14-3-2002	“	“	-	15-3-2002 From 7-00 to 20-00	-
31.	No.PLS-MJS-WS, 711 dt. 15-3-2002	“	“	-	16-3-2002 From 7-00 to 20-00	-
32.	No.PLS-MJS-WS, 732 dt. 16-3-2002	“	“	-	17-3-2002 From 7-00 to 20-00	-
33.	No.PLS-MJS-WS, 734 dt. 17-	“	“	-	18-3-2002 From 7-00 to 20-00	-

	3-2002					
34.	No.PLS-MJS-WS, 737 dt. 18-3-2002	Santrampur Nagarpalika Burough area	Santrampur	-	19-3-2002 From 7-00 to 20-00	-
35.	No.PLS-MJS-WS, 738 dt. 19-3-2002	"	"	-	20-3-2002 From 7-00 to 20-00	-
36.	No.PLS-MJS-WS, 741 dt. 20-3-2002	"	"	-	21-3-2002 to 24-3-2002 From 7-00 to 20-00	-
37.	No.PLS-MJS-WS, 745 dt. 24-3-2002	"	"	-	24-3-2002 From 7-00 to 21-00	-
38.	No.PLS-MJS-WS, 744 dt. 24-3-2002	"	"	-	25-3-2002 to 26-3-2002 From 7-00 to 21-00	-
					27-3-2002 From 7-00 to 22-00	-
					28-3-2002 From 7-00 to 23-00	-
39.	No.PLS-MJS-WS, 782 dt. 28-3-2002	"	"	-	29-3-2002 to 31-3-2002 From 7-00 to 22-00	-

Sd/-
Sub-Divisional Magistrate,
Lunawada
ATTESTED BY
Sd/-Illegible
Executive Magistrate
Godhra Dist. Pms.

653. As stated above, the Statement No.1 clearly admits that as many as 101 reprisals killing had already taken place in the district at 25 locations on 28.2.2002 itself. The question that begs examination then is why did the District Collector, Mrs. Jayanti Ravi ask for the army only on 1.3.2002. Another moot question is why the SIT has simply not bothered to analyse this co-relation between conspiracy hatched and violent fall-outs in districts.
654. A communication by Mrs. Jayanti Ravi to A-28 ACS Home, Mr. Ashok Narayan reveals that already on 27.2.2002 acts of aggression against members of the minority community in the district had begun.

655. At Dairol, Tal. Kalol on 27.2.2002, unknown persons had burnt down the saw mill, all planned using wood tracts and wires, a crowd of 60 to 70 persons had set fire to the shops and galas and Idgah belonging to the minority community. The PSI at Lunawada even had to fire one round to disperse the crowd using 8 shells. Several crowds had gathered all over Godhra city on 27.2.2002 itself. An interesting message sent by the DM Mrs. Jayanti Ravi to the A-46, SP, Mr. Raju Bhargava and copy to the ACS, Home Department is very revealing. ***It states that despite her instructions by telephone and fax and wireless regarding the serious situation of break-down of law and order at Godhra, Kalol, Halol had Lunawadi Tal. of the district "the same is not being taken seriously at your level and by the officers under your control".*** She thereafter tells the SP that he should strictly implement her instructions that suggest that he is not doing so. The SIT has however simply not bothered to question her or A-46 Raju Bhargava in this matter.
656. Another fax message from the DM Mrs. Jayanti Ravi to the ACS, Home dated 1.3.2002 lists the following incidents that took place under her command from 27.2.2002: She states that an unlawful assembly of 200 to 300 unknown persons gathered and attacked the MM Bohra Service Station, a factory in the name of Navjivan Paints, a garage, tea cabin and East India Motors and Shops on the Chitra Road. She clearly states that this offence occurred during the Gujarat bandh of 28.2.2002 establishing that curfew and prohibitive orders were being violated even here. She states that attacks were also made on the members of the minority community at Vaghipur of Shahera Tal. Rinchaya village of Ramjighat police station of Ghoghamba Tal. where one Mr. Haji Ganibhai Aslambhai aged 65 years had even died due to the attack.
657. Several incidents of arson as mentioned by her had taken place in her district, namely in the Santrampur police station area, in the Pandharwada village in the Naglod village, in the Halol GIDC area etc. She states in this communication that the situation in her district is very tense. Several messages of 1.3.2002 and 2.3.2002 issued by Mrs. Jayanti Ravi's office indicate that various villages of her district were under siege of violence on 1.3.2002 and 2.3.2002. It is a moot question therefore why the army that came in by the late night on 1.3.2002 was not immediately despatched to these areas. The record of the DM's office shows that the first

communication to the ACS Home about the attacks on Pandharwada village (this caused death officially of 21 persons in the most brutal fashion on 1.3.2002) was on 2.3.2002. News of this ghastly incident however was relayed much later. Similarly, a 2.3.2002 communication sent by DM, Mrs. Ravi to the Accused No. 28 (ACS Home) enumerates incidents up to 16.3.2002, containing details of an incident that has led to killing and attacks on sections of the population.

658. Despite the army arriving in Godhra city and a flag march being conducted from 2.3.2002 onwards, it is clear from other fax messages attached by Mrs. Jayanti Ravi to her affidavit before the Nanavati commission that even on 3.3.2002 the minority was under attack, e.g., a village Palla, Tal. Ghoghamba. Another fax message No 607 dated 3.3.2002 further enumerated six incidents where the minority was under attack in Panchmahal district. These tables can be referred to from the SIT papers.
659. An order of the Collector, Mrs. Jayanti Ravi contained in message No 585 states that the following officers were appointed by her to perform duty as Liaison Officers in the Talukas – (i) Mr. MD Parmar, Dy. Director, Animal Husbandry, Godhra was put in charge of the Ghoghamba Tal, Mr. MB Patel, Director District Leal Development Agency was put in charge of the Khanpur Tal(Bakor), Mr. MS Bidor, Collector, Stamp Duty, Godhra was put in charge of Halol Tal., Mr. PM Machhar, District Town Planning Officer, Godhra was put in charge of Tal. Kalol, Mr. ML Desai, Dy. Conservator of Forest, Godhra was put in charge of Morva (H) Tal., Mr. SK Nanda, Dy. Conservator of Forest (SV), Dohrar was put in charge of the Kadana Tal., Mr. HK Upadhyaya, Dy. Director Development Officer, Panchayat Godhra was put in charge of Santrampur Tal., Mr. RB Shah, Dy. District Development Officer (Rev), District. Panchayat Godhra was put in charge of Shahera Tal. and Mr. NM Tabiyar, Dist. Registrar (SM), Godhra was put in charge of the Jambughoda Tal. of the district. This order of the DM also spoke of the powers under Section 144 of the CrPC to issue prohibitive orders normally with the SEM to be also given to these officers. Surely a genuine investigation by the SIT under the order of the Honourable Supreme Court should have compelled it to record the statement of all these 9 liaison officers. The fact that SIT has not done their job is further example of completely lacklustre, superficial and biased investigation that was not intended to get to

the bottom of the truth but simply to hide the role of the powerful accused. A subsequent message contained in the annexures of Mrs. Jayanti Ravi's affidavit No 586 dated 3.3.002 gives the powers to ensure prohibitive orders to these liaison officers. It would appear therefore that attempts were made by Mrs. Jayanti Ravi at the time to delegate the crucial talks of maintenance of law and order, including effective implementation of prohibitive orders to deputed officers and it would have been incumbent on the SIT to probe this. It also appears therefore that S.P. Panchmahal, A-46 Mr. Raju Bhargava, was clearly not performing his statutory duties. This was clearly part of the conspiracy to allow unchecked violence to be perpetrated shamelessly on the minority community.

660. A further communication by Mrs. Jayanti Ravi which is also communicated to the ACS Home in Gandhinagar A-28 states that 5 persons were appointed by her to specifically look after and supervise the maintenance of law and order in Lunawada Taluka – Mr. PP Patel, AME, R&B, Lunawada, Mr. P.M. Patel, AME R&B Lunawada, Mr. BR Patel, Small Irrigation Lunawada, Mr. MN Parmar, DO, Tal. Panchayat Lunawada and Mr. AB Panchal, Dy. EE, Bhadar Kanai SD Lunawada.
661. It is clear from this message that repeatedly the Collector is trying to enlist the support of her district administrative officers to ensure law and order is maintained which suggest a complete breakdown on the part of the district police.

VIOLENCE CONTINUES EVEN AFTER 28.2.2002

662. In a gory incident that took place in Kalol district was when 7 Muslim persons were burnt alive on 1.3.2002. The IB message can be read at page 82 of Annexure III File XIX Fax Message. IB/D-2/com/306/2002.
663. A further communication by the DM to ACS Home Gandhinagar lists 13 serious incidents of communal violence that were registered by the Godhra police on 2.3.2002 (message No 609 dated 4.3.2002). Similarly, message No 620 dated 5.3.2002 lists another 13 incidents that have taken place in the Panchmahal district that resulted in death, serious injuries and destruction of properties and place of worship of minority community. *The SIT should have meticulously co-related whether the home department under A-1 Mr*

Modi was relaying messages faithfully to the public or not including the MHA New Delhi. MHA New Delhi and the Governor of Gujarat's office repeatedly refer to discrepancy in figures supplied by the home department under A-1 (SIB figures give a different picture) and non response to distress calls and memorandums being made by citizens of the minority community from all over Gujarat. If the SIT had carried out an honest exercise district by district it could have arrived at a realistic assessment of whether and where honest, sincere and lawful efforts were made by the DMs, SPs and collectors and where they were deliberately not. The SIT has simply not done this clearly violating its required mandate. Apart from bias and unprofessionalism, SIT has shown a tardiness that does not befit the thorough and intrepid role that it was expected to play.

664. The continuing distress, agony and insecurity being experienced by the minority community in the Panchmahal district continues right up to and beyond 5.3.2002 when according to the message No 619 by Mrs. Jayanti Ravi to ACS Home, details of the situation and continuing the curfew orders is given. Another message No MAG/Vashi/636 dated 7.3.2002 sent by DM and Collector Mrs. Jayanti Ravi to ACS Home in Gandhinagar is a detailed tabulation running into several pages. This message lists the gravity of the incident and the number of rounds that needed to be fired by the SP even on 4.3.2002 at Santrampur. In the table that is contained as part of this communication, there is mention of the seriousness of the situation due to which there are deaths on the account of firing by the army. Two separate incidents recorded in CR No 22 of 2002 and 21 of 2002, both dated 4.3.2002 state that one death was caused because of firing by the army at Rajghar police station.
665. Anarchy and involvement of official persons in violence can be gauged by the fact that an attack on Ghoghamba was conducted by not less than the Mamlatdar of the village and other locals. (CR 22/202). In other cases, an armed person along with a crowd of 50 had to be stopped in their track by the army. Such incidents on 4.3.2002 in which the army had to intervene including the one in Santrampur (see table annexed (C.R. No 38 of 202 dated 4.3.02, CR No 39/02 dated 4.3.202, 40/02 and 41/02 dated 4.3.2002, 37/02 of 4.3.2002, the one on Morva (H) (CR No 23 of 02 dated 4.3.202); CR No 24 of 02 dated 4.3.2002. These cases registered by the police record the aggressive attacks that continued in Morwa and Santrampur and other parts of the district right up to 5.3.2002. This means that

despite the presence of the army attacks by aggressive mobs were taking place. This is communicated by Mrs. Jayanti Ravi in her letter MAG/Vashi/6364 dated 7.3.2002. There are over 16 serious attacks on the members of the minority community by aggressive mobs in Santrampur, Sehra, Rajgharh, Halol, Godhra Tal. Shambughoda, Ditvar as late as 5.3.2002 and 6.3.2002. It is however strange that while all the details have been supplied by Mrs. Jayanti Ravi the exact distribution and deployment of army columns throughout the district does not appear to be there.

666. *In any case that was the job SIT ought to have done applying a district by district assessment of when army was summoned, scale of the violence, when it arrived, when it became operational etc. This is why the SIT did not despite repeated reminders by the co-petitioners not record any statements from the Army or seek any records about army deployment at all.*
667. A table listing offences that occurred in the Panchmahal on 7.3.2002 show that 7 serious incidents have taken place in Godhra Tal. Morwa, Halol and Khambughoda Tal. A further communication contained in fax message No MAG/Vashi/653 dated 11.3.2002 lists a few incidents that were recorded even on 8.3.2002. Another document contained in the Annexure lists the offence as registered on 9.3.02. This is a comprehensive list of offences registered on 2.3.2002 and others on 9.3.02 and some even before. This message contains details of the visit of Jamiat-e-Ulema leaders to the Godhra relief camp and Godhra train burning site on 11.15 a.m. on 9.3.2002.
668. Interestingly, a subsequent communication from the DM's office contained a list of incidents that occurred in various parts of the Panchmahal district on 27.2.02 that have been provided to her by the Godhra police letter No MAG/ Vashi/654. Mrs. Jayanti Ravi's statement recorded by SIT on 15.9.2011 clearly states that A-2 Mr. Ashok Bhatt and Mr. Bhupendra Lakhawala, the Guardian Minister for the District, arrived before hand and that disconnecting of the two bogies effected and the train left Godhra around 14:00 p.m. for its destination. She states that she received the information that the A-1 the Chief Minister was arriving at Godhra by helicopter and it was somewhere between 1600-1700 hours, that he arrived in Godhra accompanied by his OSD Mr. Anil Mukim. As per protocol, she proceeded to the helipad along with A-2 then health minister

and from the helipad they went to the scene of the occurrence outside the railway station. By this time A-5 Mr. Gordhan Zadaphiya, then Minister of State for Home and A-4 Mr. Prabhatsinh Chauhan had also arrived as also administrative and the police officers including the then IG of the Godhra Range, Mr. Deepak Swaroop. Mrs. Jayanti Ravi now states before SIT (a departure from her earlier statements to the Concerned Citizens Tribunal and that made by her on affidavit before the Nanavati Commission) that it was a unanimous decision to take the bodies of the kar sevaks to Ahmedabad by road. However, in May 2002 before the Concerned Citizens Tribunal and importantly in her affidavit to the Nanavati Commission dated 7.6.2002, i.e., within months of the incident she had stated that as per the discussions made with him it was decided to convey the corpses to Ahmedabad. In her statement before the SIT she very casually states that transportation of these dead bodies numbering more than 50 were arranged in trucks on the night of 27.2.2002 and that it was Dr Jaideep Patel, Gujarat General secretary of VHP who accompanied these bodies. (At this stage there is no attempt at all in her statement to place the blame for handing over the bodies to a non-governmental person, moreover to a person from a rabidly communal organisation like the VHP on the Mamlatdar, Mr. ML Nalvaya. After the first statement of Mrs. Jayanti Ravi had been recorded on 15.9.2009 the SIT investigation proceeded to record the statement of the Mamlatdar on 28.10.2009. Mysteriously, 12 days before this, a further statement of Mrs. Jayanti Ravi is recorded which according to the dates mentioned at the start of the statement suggests that it began to be recorded on 22.10.2009 and then continued after a gap of 7 days on 3.11.2009. In between the short statement that was recorded by her the SIT has recorded Mr. M. L. Nalvaya's statement.

669. She now states in her statement dated 26.10.2009 and 3.11.2009 that four of the identified dead bodies of the deceased from the district of Dahod, Vadodara, Panchmahal and Anand were handed over to the heirs or guardians after identification. (Earlier she had stated that 5 bodies had been identified at Godhra). She confirms in her statement that Dr. Jaideep Patel had accompanied the bodies that had left Godhra by road at 2240 hours.

670. She states in her further statement that she has been shown a copy of the letter dated 27.2.2002 (a contemporaneous document fresh on the date of the incident) addressed by Mr. M.L. Nalvaya, Mamlatdar, Executive Magistrate to A-21 Mr. Jaideep Patel in which he mentions that 54 dead bodies were being sent in 5 trucks as detailed in the letter. Suddenly, Mrs. Jayanti Ravi who had consistently maintained from 2002 onwards, before the Concerned Citizens Tribunal, then in her affidavit submitted before the Nanavati Commission and also in her first statement before the SIT dated 15.9.09, now claims that it was a collective decision taken by the A-1 along with others and that a unanimous view was taken to transport the bodies to Ahmedabad and Dr. Jaideep Patel was to be handed over these bodies. Mrs. Jayanti Ravi suddenly tries to shift the responsibility for the handing over of bodies to VHP persons, Dr. Jaideep Patel and Mr. Hasmukh Patel on to a low level officer, i.e., the Mamlatdar. She now tries to suggest that the letter in question produced by Mr. M L Nalvaya was sent without her knowledge and tries to explain away the above position by saying that an impression is sought to be given that Dr. Jaideep Patel accompanied the bodies because many of those dead were VHP members. At this stage, the SIT apparently asks her about the statement given to the Concerned Citizens Tribunal, she conveniently states that the statement was recorded before Ms. Teesta Setalvad and Ms. Aruna Roy, ignoring the fact that Justice PB Sawant, retired Supreme Court Judge, and Justice Hosbet Suresh, retired Judge of the Bombay High Court, who headed the Tribunal were the ones who had closely questioned her about the incidents in 2002. Justice Sawant and Justice Suresh have also recorded their statement before SIT.
671. On 28.10.2009 the statement of Mr. ML Nalvaya is recorded. He states that he was posted as Mamlatdar and Executive Magistrate between 2002 and 2004. He states that after arrangements were made for the crime minister and other emergency arrangements following the incident of train burning at Godhra, 4 dead bodies were identified by their relatives and handed over to them as per the orders of both the DM Mrs. Jayanti Ravi and ADM, late Mr. BN Damor. He states that these 4 dead bodies were arranged to be transported through 2 ambulances, one Maruti van and a tempo to their respective places at Anand, Dahod, Vadodara and Lumawadi, Panchmahal. The remaining 54 bodies could not be identified and as such, according to Mr. ML Nalvaya, Mrs. Jayanti Ravi, DM

Godhra and late Mr. Damor ordered that these should be transported to Ahmadabad. He further states that as per the instructions given by both the DM and the ADM, these dead bodies were officially handed over to Dr. Jaideep Patel and Mr. Hasmukh Patel of VHP through a letter dated 27.2.2002. He confirmed the letter shown to him by the SIT that was addressed to Dr Jaideep Patel and the same bears his signature, which he confirms too. He states that this letter had been prepared by one of the staff members and it was accompanied by a list of dead bodies which were tagged. The receipt of the dead bodies was acknowledged by Mr. Hasmukh Patel of VHP who had signed the letter in his presence. He states that neither A-21 Mr. Jaideep Patel nor Mr. Hasmukh Patel was known to him and these dead bodies were handed over as per the instructions of the DM and the then ADM, Godhra. He states that he is not aware who the police officer accompanying/ escorting the dead bodies to Ahmadabad was. He also states that the facts have been stated by him in his affidavit submitted to the Nanavati Commission in response to a clarification sought by the Commission and a copy of this affidavit was produced by him on the date of the recording of the statement, i.e., on 28.10.2009. He also stated that a report in this regard was also seen by Mr. Damor, then ADM, to the Addl. Chief Secretary Home Department on 27.2.2002, a copy of which he also produced.

MISSING RECORD

672. Produced here is a copy of a letter dated 27.2.2002 addressed to A-21 Mr. Jaideep Patel bearing Mr. ML Nalvaya's signature concerning the receipt of the dead bodies accompanied by Mr. Hasmukh Patel, neither of the reports were sent by the ADM, ACS Home on 27.2.2002... all copies produced by Mr. M L Nalvaya before the Nanavati Commission should also be given to the complainant (formally) as part of the investigation papers. *The court should summon these documents. These have not been made available by the SIT.*
673. There is a further statement recorded by Mr. M L Nalvaya after Mrs. Jayanti Ravi's statement. Obviously this statement is now recorded by Mr. Himanshu Shukla, in the further investigation. In response to a specific question regarding the Inquest Panchnama of all the dead bodies and the post mortem missing of the dead bodies and those killed inside S-6 coach, Mr. ML Nalvaya clearly

states that these post mortem examinations were conducted by the doctors of the Godhra civil hospital in the railway yard of Godhra railway station itself. In reply to the specific question about handing over of the 54 unidentified dead bodies, he again clearly states that the D.M. Mrs. Jayanti Ravi gave him oral instructions to make the necessary arrangement for the transporting of the dead bodies to Ahmedabad and that on the basis of this oral instructions of both Mrs. Jayanti Ravi and Mr. BN Damor he had officially handed over the 54 unidentified bodies to Dr Jaideep Patel and Mr. Hasmukh Patel and moreover had taken their signatures on the receipt.

674. However, when interrogated by Mr. Himanshu Shukla, DCP Crime Branch (who now mysteriously takes over the SIT investigation), about whether local police escorted the trucks carrying the dead bodies from Godhra to Ahmedabad Mr. ML Nalvaya had stated that as far as he recollects local police had been given the responsibility for escorting the truck carrying the dead bodies but he could not recollect the name of the officer. He states in his statement before Mr. Himanshu Shukla, DCP Crime Branch, Ahmedabad that he had officially handed over 54 dead bodies of the victims to Dr Jaideep Patel and Mr. Hasmukh Patel of the VHP and had taken their signature on the receipt. When asked under which legal provision he had handed over the dead bodies to private individuals when bodies were the case property and the offense registered for the Godhra railway police station, Mr. ML Nalvaya replies that he is not aware of any legal provision which authorises him to hand over the dead bodies which were the case property of the police to private individuals. He adds however that due to law and order situation at Godhra it was the then DM and ADM who had instructed him to hand over the dead bodies to Dr Jaideep Patel and Mr. Hasmukh Patel. He further states that he does not know them personally and adds that when he had asked about the identity of these two they had identified themselves as workers of VHP which was responsible for arrangement of the to and fro movement of Karsevaks from Ahmedabad to Ayodhya.

675. When asked whether he had any discussions with his senior officers and the reasons behind handing over of the dead bodies to the workers of VHP instead of relatives as per the proper procedure, Mr. Nalvaya states that there was no discussion regarding the handing over of the dead bodies to private individuals instead of their relatives. He also stated that he has no knowledge

of any discussions between the Chief Minister and Dr Jaideep Patel on 27.2.2002.

676. Mr. M L Nalvaya filed a detailed affidavit before the Nanavati Shah Commission following his interrogation by the SIT. This affidavit of Mr. ML Nalvaya can be read in the SIT papers. The letter dated 2.2.2002 addressed by Mr. M L Nalvaya, Mamlatdar, to A-21 Mr Jaideep Patel that was part of his affidavit to the Nanavati Commission can be found at D-43, Annexure III File IV. This letter at the outset states that the corpses from the S-6 Sabarmati Express train had been despatched to Ahmedabad in the following vehicles – GJ-16-7 9253-12, GJ-17-7 7557-15, GJ-17-T 7327-12, GJ-17-7 5055-12 and GJ-17 X 3225-3. The affidavit of Mr. Mahendrabhai Laljibhai Nalvaya submitted to Nanavati Commission is dated 5.9.2008. He states that around 8:00 a.m. on 27.2.2002, the Sabarmati Express was passing by Godhra station and due to the fire that was caused and after this incident he had filed an affidavit dated 3.6.2002. According to this affidavit, he says that it was Mrs. Jayanti Ravi, IAS officer and District Magistrate along with Mr. BN Damor, ADM, Panchmahal who had completed the formalities related to the identification of the said dead bodies after which he was orally told that the rest of the unidentified bodies should be sent under the police escort to the Sola Civil Hospital, Ahmedabad and that leader of the VHP Dr Jaideep Patel was to be handed over the bodies. A letter to this effect, No. Pulse/major/bodies/transportation/vashi/2002 dated 27.2.2002 was prepared and a receipt accepting the bodies was signed by Dr Jaideep Patel and Mr. Hasmukh Patel. In this connection Mr. ML Nalvaya also refers to the letter written by Mrs. Jayanti Ravi, No. AMAGE/Vashi/550 of 2002 written to the Addl. Chief Secretary, Home Mr. Ashok Narayan. “In this AHWAZ District magistrate has at 21:45 hours, after visiting the scene of the incident, sending the dead bodies at 22:20 hours.” This has been clearly stated in this letter that it was the DM who formally sent the dead bodies and it was at their oral instruction that they were handed over to the VHP person. Mr. ML Nalvaya, Mamlatdar at this stage hands over the communication between DM Mrs. Jayanti Ravi and ACS Home to the Nanavati Commission. This is on 5.9.2009. This communication to ACS Home by the District Magistrate Panchmahal, Mrs. Jayanti Ravi clearly states the following that she had sent off the dead bodies by 1020 (this is a fax message contained as annexures to her affidavit).

677. Interestingly, it is important to note that ACS Home A-28 Mr. Ashok Narayan, was receiving these communications from various districts and whose statements have been recorded repeatedly by the SIT and which stated clearly in his statement before the SIT and again before the Nanavati Commission in his affidavit and deposition that it was a high level decision taken to transport the bodies from Godhra to Ahmedabad (Deposition of Mr. Ashok Narayan before the Nanavati Commission) There is another very interesting document available which is a document showing the details of various messages sent to the DSP Control Room (A-46 Mr. Raju Bhargava) from the control room of the District Magistrate.
678. This gives a detailed log of the kind of messages being sent from the DM's office to her subordinates particularly in a district where there was widespread violence from 27.2.2002 right up to 18.3.2002. It was important for the SIT to evaluate details about the deployment of army to various places in the Panchmahal district. This district was among the worst affected and close to the geographical site of the tragic Godhra train burning incident. No such details of the army deployment had been sought or provided by the SIT.

Message about Violence in Bhavnagar

679. Another message on page 149 at Annexure III File XXIV D-166, message No 306/02 dated 1.3.2002 is significant. It is a message sent from the ACP (Int), Junagadh region to ADGP, Gandhinagar. The message mentions that on that day, i.e. 1.3.2002, workers of the Shiv Sena under the leadership of Mr. Ramabhai Ahir and ... Mr. Bhatt met at 16:00 hours at Goga gate Chowk. Thereafter at 16:30 hours a rally of Sants and Swayamsevaks (priests and RSS workers) was taken out and vehicles arrived with this rally at Tapsi Bhavaniwadi, accompanied by Sant Tripaldas, Shri Ramchandra Dagji, KP Swami of Swami Narayan sect Mr. Dharnesbhai was also there for about 14 minutes during which Tripaldas Maharaj, according to the State IB made a very inflammatory speech saying that the Hindu Shastras demanded that Hindus should use Shastra (weapons) and deal with foul with foul means. The message says that the Collector of Bhavnagar after this speech at 17:59 hours was given a memorandum. This memorandum (as part of the calculated conspiracy post-Godhra), according to the SIB message says that Madrasas were running in the city and preaching hatred

against the Hindus. The message says that the memorandum demanded that the Madrasas should be closed. The SIB message says that after giving the memorandum to DM/Collector of Bhavnagar, the mob went towards Navarangpur and thereafter near the Kabristhan, the cabin belonging to Muslims was set on fire and a shop of oil and vehicle was also set on fire. The message records that the situation in Bhuj after this communal mobilisation is very tense.

680. This officer saved the lives of 400 children living in the madrasas. Was this warning of communal and hatred speeches mentioned by Mr. Rahul Sharma so that he could take action. It is clear from this message that was recorded at Junagadh that some plans were afoot and they publicly stated about the possible attack on madrasa. How far is Junagadh from Bhavnagar? Why did Junagadh not erupt in violence? *Again this message is evidence of the State Intelligence Bureau being fully aware of the intentions of communal organisations. The SIT ignores this documentary evidence at Page 40, Message No P/1/HA/297/02 Annexure III File XX dated 1.3.2002 it is clear that Mr. Mahant Ramchandra Das had through a press note given to Gujarat Samachar in Bhavnagar, stated that a huge rally of Sadhus and Sants would be taken out there. The press note, according to the State Intelligence Bureau message, mentioned above stated that they would move along the main road chanting 'Jai Sri Ram!'. The SIB message mentions that no route was decided for this procession and no permission was given.*
681. *Was the DM Bhavnagar questioned about this intention of Sadhu Sant message declared on 1.3.2002 by SIT when they questioned them? Did the SIT question the DM Junagadh or SP Junagadh about the message mentioned in the earlier incident.*

Mehsana

682. The fax message sent by the SI that can be read at page 17 of Annexure III File XX-(D-164), Fax Message IB/414/Info/402/02 dated 2.3.3002 sent from SP Mehsana to the ADGP (Int) at Gandhinagar is very important. This message gives details about the systematic attack on the Sheikh Mohalla at Sardarpura and moreover records how road blocks of stones and trees were put by the conspirators with certain amenable sections of the local police to prevent help from reaching the targeted victims. The message

states that violent mob had gathered at 19:45 hours and the mob which was 3 to 4000 strong had set fire to the cabin belonging to Muslims. The message sent by the SP also records that PSI Mr. Parmar fired one round and also requested State Mobile room for fire brigade and even had to send a Mobile van to get the fire brigade to reach the village. His efforts were obviously unsuccessful and at around 23:00 hours on 1.3.2002, 33 women, children and men had been burnt alive in a targeted attack at Sheikh Mohalla, Sardarpura. It is critical for the Learned Court to ascertain and analyse as to when A-1's Public Relation machinery acknowledges this ghastly incident.

683. *It is also important to analyse whether MHA that was being given twice a day report was informed about the incident which SIT has not done. None of the systematic attempts at provocation, hate speeches, communal mobilisation and build evidenced in SIB messages before 27.2.2002, on that day and thereafter from all over the State were at all conveyed by A-1 and the home department under him to the Ministry of Home Affairs (MHA) Delhi. This was a deliberate act. The SIT has of course not looked into this aspect at all.*
684. It appears from a perusal of the records that up to a certain date the messages going to the MHA were signed by ACS Home A-28 Mr. Ashok Narayan. Thereafter, the messages to MHA began to be signed by Mr. PS Shah, Additional Secretary in the Home Department and not by A-28 Mr. Ashok Narayan. Could this be because the messages of A-28 Mr. Ashok Narayan were more candid and cautionary and were actually asking the A-25 DGP, Mr. K. Chakravarti to investigate all reports of continuing violence. Could it be that A-28 ACS Mr. Ashok Narayan was suddenly stopped from sending reports and Mr. PS Shah was given that duty in a calculated manner to sanitise and dilute the messages that went to Delhi.
685. The sheer scale of violence that was unleashed in the state of Gujarat was unprecedented in the history of reprisal communal violence in the country. Details of the state-wide violence have been given and elaborated upon using records provided by the investigating agency after great resistance and which have been deliberately ignored by them.

686. In all the cases there was deliberate inaction and neutralization of the police, no replies to distress calls for protection, neutralization of the fire brigade in all of these cases, use of inflammatory materials, *trishuls* and guns that should have been investigated systematically by the SIT. This was deliberately not done.
687. Breach of the prohibitory orders was allowed with impunity as part of the conspiracy, the Bandh calls, first for 28.2.2002 and then extended to 1.3.2002, provided a conducive environment for marauding mobs to have a free reign of the streets while the police watched. Worst of all, no arrests were made when the build-up was happening after the call to arms at Godhra on 27.2.2002. Not only were there no preventive arrests but even as large mobs were out, having taken full control of the streets, in cities and villages, secure in the impunity granted from the very top by A-1 Mr. Modi and Accused No. 5, Mr. Zadaphiya, the police in none of the cases made any arrests while the criminals were visible out in the open carrying out their murderous acts. Thereafter began yet another level of subversion, the delayed registration of offences, the dilution of the evidence, dropping the names of powerful accused etc.
688. *Given the high trust placed in the SIT by the Hon'ble Supreme Court, they should have investigated every aspect and manifestation of the unfolding of the high level conspiracy. Their reluctance and failure to do so is a clear indication of their bias.*
689. Even before the attacks on Sardarpura, Pandharwada, Best Bakery were allowed and took place, a SIB message dated 28.2.2002 at Message No.D-1/HA/VHP/83/02 at 10.53 hours, sends out a warning of the build-up at Mehsana. This message sent in the morning speaks of the efforts of the VHP in collusion with A-1, Mr. Modi to instigate persons. There are 400 plus supporters at this time and the SIB warns of the need for proper bandobast. A-36 AK Sharma has not been questioned on this at all.
690. Another message in the same file page no.126, Annexure III File XIX, Message no. D/9/SA/VHP/73/02 states that a meeting between 9.10 a.m. and 10 a.m. on 28.2.2002 was held at Vapi town by leaders of BJP, VHP, Bajrang Dal and RSS. Among the people present in the Sardar Chowk meeting at Vapi were Mr. Dinesh Kumar Vahar, Mr. Haryan Bhanushali, leader of Bajrang Dal, Mr. Jayashri Das of BJP, Mr. Vinod Choudhary of RSS. Kapil Swami of Swami Narayan Sect was also present. The SIB message states

that the aggressive speeches made related to Godhra incident at which 100 to 200 people were present, including the local police, were Hindus were asked to unite and act. It again becomes clear from this SIB messages that show that a systematic communal mobilisation was taking place across the length and breadth of different districts of Gujarat in a calculated manner as part of a wide conspiracy.

- 1 27.2.02, 1:52 p.m. Palanpur and Deesa, Kutch District: Aggressive Mobilisation by Kar Sevaks.
- 2 27.2.02 at Por Village in Gandhinagar district; a mob of Hindus has set fire to the 15 homes belonging to Muslims as well as a Mosque. Fire was still raging on 28.2.2002.

285	6/0/2002 1.3.02 Time: Illegible	ACP (Int.) Gandhinagar Region
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Annexure III File XXI D-163 Part-II

- 3 27.2.02, 15:51 hrs; at Vadodara BJP, VHP and BD workers distributed food and relief packets to kar sevaks on the station at around 1345 hours; attacked Muslims and one person, 60-year-old Mr. Ibrahimbhai is killed at 1410 hours and one other is injured.
- 4 27.2.2002; about 50 Karsevaks came to Modasa center, taluka Dhansura Village Vadagam, from Ahmedabad in a Special bus on 27.2.02 at 18:30 hours (these are from those who got off the Sabarmati train at Ahmedabad at 1413 hours). At the same place a speech was made by them and as a reaction or fallout of the speech the mob burnt vehicles of Muslims. Another attack at Kalol center Ta. Kadi, Bavlu PS, village Kalyanpur took place with the shop owned by Mr. Yasinbhai Multani being burnt by mob.

39	237 238	Fax Mes. Com/HM/550/ 02 Dt.27.2.02 23:59 Out No.398
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Annexure III, File XIX, D-161

691. On 28.2.02, at 11:48 hours Vapi Surat region, Surat: Hate speech and Mobilisation was attempted At Vijaynagar PS Village Antarsuba, the shop of one Muslim was burnt by a mob on 27.2.02. A complaint was filed at Vijaynagar PS first CR No.12/12/2002. The post mortem was done on the dead body at the place of offence. On 28.2.2002, at Prantij PS, village Tajpur kui, one Tata Sumo was burnt by a mob. There was no casualty. Fax Mes. Com/Guj.band/583/ 02Dt.28.2.02 Annexure III, File IX, 40, D-161
Annexure III, File XIX, D-161.
692. On 28.2.02, 12:47 hours, the police was not strict in its application of curfew and were negligent in their duties. Karjan main highway has been blocked by the Karjan VHP President Mr. Gajanand Ambalal Gandhi and other workers on 28.2.02 at 10.00 to 10.30 hrs. 28.2.02 Rally and Procession during Bandh to be organised by BJP, VHP at Porbandar. 28.2.2002, Funeral Procession at Dahod, 16:00 hrs VHP President Mr. Hukamchand Bilaori organized the condolence programme at Dahod.
693. On 28.2.2002, a funeral of Punjiben Dipakbhai Deshpande at Jyoti Society was completed on 28.2.02 at 10:00 hrs. Thereafter - a mob attacked a mosque at Makarpura P.S. Police was present there but they did not take any steps. Curfew was imposed at Limdi village at 13:00 hrs at Dahod district.
694. On 28.2.2002 at 3 p.m., a Junagadh Rally organized under leadership of Mr. Gopalnandji and members are as under: Mr. Lalit Suhagiya, VHP President; Mr. Chandeshbhai Herma, Bajrang Dal, Mr. Prabhari K.K. Parekhiya, VHP President and others.
695. On 27.02, 10:23 p.m. inciteful hate speech by Sadhu Samaj president, Mr. Gopalnandji and Mr. Mukundbhai Dave. They also gave an interview to Alfa TV describing the injuries caused to VHP worker Mr. Kamalbhai.
696. (Another message): It was an inciteful speech by Sadhu Samaj president, Mr. Gopalnandji at Junagadh Kadva chowk, on dt.27.2.02 at 19.30 to 21.00 hrs. As per this fax message Fax Mes. D-2/HA/Bandh/ Banav/318/02 dated 28.2.02 sent at 6.15 a.m. from the Junagadh region there were complaints of one Mr. Salim Habib being assaulted by a Bajrang Dal worker with a knife.

697. On 28.2.2002, 1.45 p.m. Kutch VHP president Dr. K.G. Vaidh, BJP/Bajrang Dal organised a rally and shut down the market and damaged the Shimla Doodh Dairy, Fish Market and an advocate's office.

Annexure III, File XIX, D-161, pg 230

698. On 28.2.2002, Mr. Suresh Gupta, President of Banaskantha and other workers come out on the streets and shut the market at Disha city. They damaged shops, a garage and bakery between 11.30 to 13.00 hrs. They assaulted one Muslim, a dead body of another Muslim was found.

38	233	Fax Mes. Bhuj/D-2/com/ Takedari/ Bandh/ 430/02 Dt.28.2.02 Out no. 307
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699. The SIB had also provided details to the Chief Election Commissioner and the National Human Rights Commission about the number of offences committed by organisational members of the BJP, RSS, VHP, Bajrang Dal. Attached here to this protest petition is a copy of the state wide offences registered against members of these organisations. It is not surprising that except for some of the more brutal carnage cases that were taken up by NHRC, Supreme Court and other legal rights organisations, the Gujarat police have hardly investigated or prosecuted any of the organisations mentioned in the list to the FIR.

Violence Continues even after 28.2.2002
Mehsana was the third worst affected district in Gujarat

700. Fax message at *Annexure III File XXII D-164 Part-I*, Fax msg.LIB/414/Info./402/02 dated 2.3.02 states that the SIB field officer is describing the Sardarpura incident wherein 33 persons were burnt alive.

701. The message says that “Because of Gujarat and Bharat Bandh, Bandobast was there. At about 19.45 hours it was learnt at Vijapur police Station that mobs gathered at Sardarpura village had started torching cabins belonging to Muslims. Hence PSI, Mr. Parmar and mobile staff were sent but the road had been blocked with stones

and chopped trees. Removing this block they rushed and saw that a mob of 3-4,000 was setting fire to cabins. PSI Mr. Parmar fired one round and requested the control room for fire brigade. When the fire brigade reached them, the PSI sent his mobile unit to the highway to escort the fire-fighters as the mob was obstructing the fire brigade. There was also trouble at Ladol village. At about 23.00 hrs., mob had set fire to the house of Muslims at Sardarpura.

702. *A part of the conspiracy in which A-36 Mehsana SP, AK Sharma was clearly involved, included not arresting the leaders of the mobs who were attacking minorities after Godhra. The deposition of PSI Mr. Parmar and his account is also doubtful as the evidence in SC No.275/02 shows.*
703. According to the messages in the tables below, there is initially an order to send the SRP company to Mehsana which is then cancelled. Why? *Why did the SIT not question A-36 SP AK Sharma on this strange and mysterious lapse?*
704. According to message dated 1.3.02 at 22:45 p.m. Head Constable Mr. Pathan, Vejalpur Po. Sta. had informed A-36 SP Mehsana to send police urgently. But the police and DySP Mr. Gehlot reached the place of massacre only at about 2:30 a.m. dated 2.3.02, ostensibly because the roads were blocked by the aggressive mob with the full sanction of conspirators and the accused who were preventing the Fire Brigade from reaching Muslim homes at Shaikh Mohalla that had been surrounded.
705. - Though messages regarding worsening communal situation were sent to the SP constantly by messenger, proper and effective police bandobast and sufficient protection to minorities was not arranged.
 - Mr. Gehlot who reached the place and scene of offence helped the victims and removed the electrically connected iron rod used to torch the house.
 - The ghastly Sardarpura incident that included the setting on fire of a Muslim house about 8:30pm on 1.3.02 killed 33 persons. The fire went on till next morning because the Fire Brigade simply did not do enough to control it.
 - SIT has taken statement of Fire Brigade employees.

- Mehsana Collector's office had informed the Fire Brigade that a mob had set homes at Sardarpura village on fire and they should reach immediately. But, inexplicably the fire brigade departed only at 23:45 hrs.

-SIT did not bother to collect any information about the matter: how manytimes the Fire Brigade received distress calls, what time they reached, howlong it took to douse the fire. Ironically none of the Fire Brigade employees were summoned to Court by the SIT.

PSI Mr. Mahendrasinh Lalsinh Rathod, Vijapur Police Station

706. He left the scene of the crime when minorities were under brutal attack. Though small shops (gallas) were set on fire while he was on the spot, no accused were arrested by him or any offence registered by him. No steps were taken by him to call the Fire Brigade. While the massacre at Sardarpura was going on in his presence, he did not arrest any accused, nor provided any protection to victims.
707. Appointments of public prosecutor belonging to the VJP/Bajrang Dal were deliberately done in this case. Survivors and civil rights groups had to move the Hon'ble Supreme Court for a transfer of investigation.
708. Mr. Dileep Trivedi was the main PP appointed in 2002 at Mehsana Dist. While he was a PP, he did not oppose the accused getting anticipatory bail. His name also figures in *Tehelka's* sting Operation *Kalank*. (Mr. Dilip Trivedi, Transcript published in *Tehelka* on 3.11.2009, Page No.58).
709. Fifty five accused were released on bail while Mr. Dilip Trivedi, a VHP leader was special PP. in the Mehsana Dist. Government pleader before the Nanavati Commission, Mr. Arvind Pandya stated in the sting operation by Mr. Ashish Khaitan that Justice KG Shah (formerly the judge who was with justice Nanavati on the Commisison before his demise) is our man, or our side and Nanavati is working for money. *Tehelka* sting operation, June 2009 (Mr. Arvind Pandya Transcript, in *Tehelka*).

710. As per his statement recorded by SIT on dated 18.11.2009, special PP Mr. Dilip Trivedi stated he did not know anything about the February 2002 meeting held at Sardarpura village held by VHP leaders like Mr. Haresh Bhatt attending. *Yet, the SIT has simply not probed the conspiracy angle seriously.*

Table showing SIB Messages from the Records of the Trial Court in SCR 732/02 and 743/02

1.3.02	SCR 732/02	7884	Police Gandhinagar	S.P., Mehsana	Send SRP Company to Mehsana and report to me.
1.3.02	SCR 743/02	7885	Police Gandhinagar	S.P., Mehsana	Order of sending SRP Company to Mehsana is cancelled.

Annexure IV File No.19

1	1.3.02	SCR 710/02	7880	Police Gandhinagar	S.P., Mehsana	Bharat bandh today in relation to the call there will be communal provocations and you must keep constant surveillance.	-
2	1.3.02	SCR 732/02	7884	Police Gandhinagar	S.P., Mehsana	Send SRP Company to Mehsana and report to me.	-
3	1.3.02	SCR 743/02	7885	Police Gandhinagar	S.P., Mehsana	Order of sending SRP Company to Mehsana is cancelled.	-
4	1.3.02	SCR 741/02	7886	Police Gandhinagar	S.P., Mehsana	Use one platoon of SRP for Visnagar incident.	-
5	2.3.02	SCR 830/02	7887	Police Gandhinagar	S.P., Mehsana	Sent 70 recruits from SRP platoon to Vijapur police station.	-
6	2.3.02	SCR 850/02	7888	Police Gandhinagar	S.P., Mehsana	Sardarpura still tense, people in fear. Do necessary urgently.	-
7	2.3.02	SCR 850/02	7892	Police Gandhinagar	S.P., Mehsana	Situation is tense and people are in fear so, arranged bandobast.	-
8	3.3.02	SCR 960/02	7894	Police Gandhinagar	S.P., Mehsana	Two platoons distributed to Mehsana and sent to Kadi police station.	-
10	2.3.02	SCR 827/02	7913	Police Gandhinagar	S.P., Mehsana	Send information of incident forwarded to the Chief Minister otherwise the official concerned will be	-

						considered responsible.	I
11	1.3.02 11:00pm	SCR811/02	7954	Police Gandhinagar	S.P., Mehsana	As possibility of attack on Muslims by Hindus in Sardarpura village, take necessary steps to prevent violence.	-
12	1.3.02 22:45	Log No.100/02	7955	HC Pathanbhai Vejalpur Po.Sta.	S.P., Mehsana	Attack on Sardarpura village requested to send police urgently.	-
13	2.3.02	-	7965	Nareshkumar Gangaram Raval Leader of opposition party	P.I., Vijapur, S.P., Mehsana	Mob out of control at Ladol Sardarpura Kukalvada. They attacked and killed persons from Ladol and Sardarpura village. Arrange police bandobast.	-
14	3.3.02	-	7966	Police Gandhinagar	S.P., Mehsana	Hurdles put on the highway road to keep police away	-
15	27.2.02	329/02	7987	-	S.P., Mehsana	To keep police bandobast at S.T. Depot for protection to employees and travellers because of bandh called by VHP.	No time

711. *The SIT should have probed the lapses in responses to the messages, lapses in Fire Brigade response, the build-up and VHP-BD meetings prior to the Godhra incident and analysed the role of the PP, a VHP leader. The SIT has simply ignored all these aspects of conspiracy as it unfolded in Sardarpura.*

712. Thus, the heinous offences committed against the Muslim community during the riots were not properly investigated and all attempts were made to block a fair trial. Deliberate loopholes were left in the investigation and statements of witnesses were recorded in such a manner that they created contradictory meaning. In short, the whole investigation lacked sympathetic attempt to reach to the truth and nab the culprits.

713. As per the evidence provided in this case, first a crowd consisting of Hindus, mostly rowdy Patels of the village on 28-02-2002 burnt some cabins near the primary school and Panchayat building. Then on 01-03-2002, at about 9.00 or 10.00 at night, an unlawful assembly of Patels of Sardarpura village had come shouting and making shrill cries near the Muslim locality with intention to take revenge for the Godhra killing. They burnt down the wooden cabins but the crowd dispersed temporarily when the police came. Again

the same crowd came back, shouting and shrieking – “*kill Miya bhai, cut them, burn them alive*”. They attacked Sheikh Mohalla, started plundering and setting fire to houses. This crowd consisted of around 1,000 to 1,500 persons. They had with them inflammable substances like petrol and kerosene. To save themselves from the attack of the crowd, unprotected Muslim women and children ran to the house of Mr. Mahmudbhai and took shelter there. However, the attackers broke open the windows and threw petrol, kerosene and set fire to the house. The crowd was unmoved against the cries of the helpless persons who were pleading to be saved.

714. At about 2.30 at night, police came and opened the door of Mr. Mahmoodbhai and found dead bodies of persons living in the locality. At one place, there were 28 innocent Muslim men, women and children. The entire unlawful crowd was guilty of looting, stone-pelting, arson, killing and inflicting grievous injuries. The accused that were identified by witnesses before the Hon. Court belonged to the same village. They (the witnesses) knew the culprits and their names were given to the police as well as to SIT by them. The defence lawyer had argued that since it was night time, it was not possible for the witnesses to identify the culprits. However, as part of the pre-planned strategy, the culprits had installed halogen lamp, the proof of which is with the Hon. Court.
715. (1) Witness No. 48 Sabir Hussein Kadarmiya,
(2) Witness No. 65 Akbarmiya Nathumiya,
(3) Witness No. 56 Ayubmiya Rasulbhai,
(4) Witness No. 54 Sharifmiya Bhikhumiya and
(5) Witness No. 60 Bachumiya Imammiya
had seen culprits Ambalal Kapur, Patel Amaratbhai Somabhai, Patel Kanubhai Joitaram and Patel Mathurbhai Trikamdas making arrangement for electric light. At the same time G.E.B. Official, Mr. Dineshbhai Bhagwanbhai Patel (witness no 86, exhibit 664) had admitted in his testimony that he had switched on the lines which were dead. That did not mean that all lights in that area were dead. Thus, at the time of rioting, electric lights were on and for that sufficient proof is provided. The culprits had themselves made arrangement for light, so that they could carry out their cowardly acts with ease. Besides, the crowd had set fire to Muslim houses and in the flames of that fire, it was easy to identify the culprits.

716. When the event took place, persons who were involved in the crime, against them enough and reliable body of proof is available. It is as follows:

Key witnesses deposed about the Criminal intent and conspiracy.

Sabirhussein Kadarmiya Sheikh – PW No 48:- The witness had given the name of Mathurbhai Ramabhai as one who was in the crowd and who was indulging in criminal acts. The accused was also identified before the Hon. Court. On 1-3-2002, Bharat Bandh was announced. At about 10.00 at night, the Patels of our village attacked Sheikh mohalla with scythes, sticks, pipes, kerosene and petrol. They set fire to three cabins which were near the entrance of the mohalla. There was focus light installed and I could see in its light that there was Patel Ambalal Maganlal, Mathurbhai Ramabhai, Chaturbhai Kanabhai and others. They were instigating the crowd and setting fire to the houses. They were pelting stones from their houses because their houses were at a height. The Patels were pelting stones from the graveyard. The stones were coming from all sides... I was hit on my neck. All persons in the crowd had some weapons with them. They were entering the Sheikh mohalla with intention of setting fire to houses. They were proceeding towards the house of Mehmudmiya Hussein miya. They broke open one window and from there, they threw kerosene, petrol and burning rags inside the house. There was one iron pipe and an electric wire was attached to it. This was kept in the room. Persons from inside the house were shouting for help and to be saved. The cries were heard outside. Thus, the testimony of the witness is very important and cannot be ignored.

Bashirabibi Bachumiya Sheikh – witness no 78 :- The husband of this woman was killed in the incident and as per the custom of her community she had to remain inside her house, observing *iddat*. She gave her testimony before SIT on 22-5-2008. In that she had stated that she had given her statement to the police on 17-4-2002. In that statement she had mentioned names of 10 accused one of who was Rajesh Punjabhai. In her testimony before the Hon. Court, she stated that on the day of the event, a crowd of Patels had come near Sheikh Mohalla. It was shouting slogans, like “kill miyabhai”, “no one should be spared”. Those in the crowd were setting houses on fire and looting the same. The witness had seen all this with her own eyes. She was afraid and so she had gone to Mehmudmiya’s house to save her life. Her husband Bachumiya Nathumiya, her brother’s wife, nephews, and three sons were with

her. Mehmudmiya's house was surrounded from all sides by the mob. They were trying to break the window of the house and were throwing petrol and kerosene inside, along with burning rags. The witness had seen accused Rajesh Punjabhai. In this attack, her husband Bachumiya, her elder brother Abbasmiya, sister-in-law Ruksanabibi, sister-in-law Mumtazbib, niece Sairabibi, were all burnt alive. The witness was also injured. Her legs and face had suffered burn injuries. Her small son Ilias had also received burn injuries, on his left ear and left leg. The witness had identified accused Rajesh Punjabhai before the Hon. Court. Thus, there is enough proof against the accused of his involvement in the event. The issue of wider conspiracy is crucial and has been ignored by the SIT.

717. A-36, Mr. Arun Kumar Sharma, then SP, Mehsana, has filed two affidavits before the Commission. In the first affidavit dated 28.6.2002, there is no mention of the incident of the carnage at Sardarpura, Mehsana on 1.3.2002/2.3.2002 in which about 33 Muslims were killed. As a part of a conspiracy, an attempt was made to deliberately keep the Commission in the dark with regard to this incident. Moreover, in his second affidavit dated 28.9.2004, Mr. Sharma has spoken extremely casually and superficially with regard to the communal riots of severe nature in village Kadi, Vijapur, of Gujarat on various dates after the Godhra carnage as also about violations regarding the sections of Explosive Act and Bomb blast and incident of sprinkling inflammatory liquid on Mr. Sultanbhai, S.T. bus conductor, on Chhatral Road, Kadi.
718. In spite of the fact that these offences had occurred in the year 2002, Mr. Sharma has avoided, as part of a larger conspiracy, to give a transparent representation to the Commission with regard to such severe offences in his affidavit of 2004. Nothing was mentioned with regard to the number of actual accused arrested in the severe offences, what happened in the investigation with regard to their offences and with regard to the court proceedings against them. Thus, A-36 was part of a conspiracy. By not submitting the true facts of the communal riots occurred in 2002, he has tried to ensure such facts do not come out before the Commission.

719. That the reprisal killings post-Godhra in many parts of Gujarat state in 2002 were part of a larger conspiracy, is clear from the affidavit of IPS officer, Mr. Gehlot, submitted before the Hon'ble Court. He states that inspite of demanding the SRP for police bandobast from the State Police Control Room, sufficient help was not made available. This clearly indicts A-25 DGP (Mr. K. Chakravarti), A-28 (Mr. Ashok Narayan), A-5 (Mr. Gordhan Zadaphiya) and A-1 (Mr. Modi). Mr. Gehlot states that he was not even sent help from the members of Home guards and Gram Rakshak Dal.
720. It is also revealed from his affidavit that at 9.30 at night on 28.2.2002, two platoons were sent to Mehsana for bandobast. This means that the carnage took place in Shaikh Mohalla in Sardarpura despite the presence of two platoons. The police as part of the larger conspiracy hatched by A-1 had been effectively neutralized.
721. *The SIT should have probed why the SRP remained passive, whether they had been instructed from above as a part of conspiracy not to take action. Moreover, Mr. Gehlot states in his that when the Hindu mob started gathering in Sardarpura, he started getting urgent messages on his mobile phone from the people for help. And that even if he instructed to use effective force, his men were not listening. No effective steps were taken by the police to prevent the massacre of Muslims of Sardarpura village. This massacre, as also the 300 incidents all over the state were part of the conspiracy masterminded post-Godhra.*
722. It is also revealed from the affidavit of Mr. Gehlot that the Patels of Kansa village who attacked the local minority community from all sides had earlier purchased large quantity of petrol from nearby petrol pumps and were hell-bent to burn them to death. This fact itself makes it clear that the communal violence was targeted and pre-meditated.
723. It is also revealed from the affidavit of Mr. Gehlot that even though instructions were issued for the mobile vans and officers to reach Sardarpura village and to resort to the effective firing if needed, no report of the situation of Sardarpura village was forthcoming for a long time. When he decided to travel Sardarpura village himself, a distance of 5 kms., from Ladol to Sardarpura village, obstacles were placed in his way and there were burning tyres all around. It was clearly part of a pre-meditated conspiracy to prevent police

help from reaching the targeted minority community. Refer to Mr. Gehlot's affidavit before the Commission.

724. It is also revealed from the affidavit of Mr. Gehlot that 3 Pls, 12 Police Sub-Inspectors, 105 Police Constables and 16 Women Police Constables had been sent from Mehsana district to Gandhinagar for the Vidhan Sabha bandobast. This was a conscious and deliberate attempt to deplete police presence in Mehsana district where incidents of violence had started from 27.2.2002 onwards. (see Tables on violence). Kadi and Unjha had already been hit by violence. Obviously, the VHP marauders wanted the district cleared of police so that resistance could be minimized and the post-Godhra reprisal hatched by A-1, Mr. Modi along with his co-conspirators could be unleashed. A deliberate move to un-man the district was taken at Gandhinagar.
725. With regard to the carnage in Sardarpura village of Mehsana district from 1.3.2002 to 2.3.2002, in which 33 Muslims were burnt alive, the witnesses of this case gave evidence before the learned Judge, Special Designated Court, Mehsana, that the carnage was part of a conspiracy.
- (1) Witness No:-46, Exhibit-475, Sabirmiya Akumiya Pathan
 - (2) Witness No:-48, Exhibit-491, Sabirhusain Kadarmiya
 - (3) Witness No:-49, Exhibit-500, Iqbalmiya Rasulmiya
 - (4) Witness No:-54, Exhibit-527, Sharifmiya Bhikhumiya
 - (5) Witness No:-63, Exhibit-580, Bhikhumiya Kalumiya
 - (6) Witness No:-71, Exhibit-672, Mangabhai Ramabhai Raval
 - (7) Witness No:-78, Exhibit-642, Basirabibi Bachumiya Shaikh
726. The Vijapur police had arrested 55 accused in the terrible carnage in Sardarpura village but all were granted bail. At that time, the Government Pleader in the Mehsana Sessions Court was Mr. Dilip Trivedi, a VHP leader of Mehsana district. Mr. Trivedi's dubious role in procuring bail for those accused of a heinous crime, forms part of the sting operation conducted by Mr. Ashish Khaitan.
727. (Dilip Trivedi transcript June-15-2009 published in *Tehelka* 3.11.2009, page no. 58) Gujarat government pleader Arvind Pandya has stated in the sting operation of Mr. Ashish Khaitan that Mr. K.G. Shah is our person, Justice Nanavati works only for

money. *Tehelka* Sting Operation June-2009 (Arvind Pandya transcript *Tehelka*).

728. SIT simply ignored this significant and vast evidence related to a conspiracy and the mastermind behind it. In Mehsana, the third worst affected district, yet another ghastly incident took place here. The massacre perpetrated at Deepda Darwaza in which 14 persons were killed (which was further investigated by the SIT after the Hon’ble Supreme Court monitored the investigation and subsequent trial) was an integral part of the state-wide conspiracy that was unleashed. Many of the accused have been convicted after completion of trial in the case. But the aspect of the higher level conspiracy leading to the paralysis of the police and administration has deliberately been left un-investigated by the SIT.

Deepda Darwaza Conspiracy

729. Following the Godhra incident the massacres that followed include the Deepda Darwaza case. The incident that was also a part of conspiracy but unfortunately the court has failed to appreciate this aspect in its proper dimension.

Witnesses	P.W.	Exch.
1. Mohammed Iqbal Ahmedkhan Baloch	81	568
2. Sabbirmiya Hasumiya Belim	89	585
3. Mohammed Hanif Dalubhai Sindhi	97	613
4. Sabbirkhan Ibbrahimkhan	98	616
5. Mohammed Hanif Ahmedkhan Baloch	99	617
6. Ahmedmiya Hasumiya Belim	104	630
7. Sher Mohammed Dalubhai Sindhi	113	645
8. Shabanabibi Anwarhussain Pathan	125	678
9. Nazirmiya Kalumiya Saiyed	129	689