

A-56: Shri K.K. Mysorewala, formerly Sr. PI, Naroda P.S., Ahmedabad City, Gujarat.

Shri K.K. Mysorewala has stated that he remained posted as Senior PI in charge Naroda P.S. during the period 27-9-2001 to 30-3-2002. He has further stated that Naroda P.S. has got a huge area of 40 square kms with a population of 4.5 lakhs with majority of Hindus aggregating about 4.30 lakhs with Muslims in minority. According to Shri Mysorewala, the areas under Naroda P.S. have a majority of Sangh Parivar Activists but the place has no history of communal riots or being a communally sensitive area.

He has further stated that on 27-2-2002 at about 0930 hrs, he had received the information from DCP, Zone-IV that two coaches of Sabarmati Express carrying many kar-sevaks from Gujarat returning from Ayodhya were set ablaze by some miscreants near Godhra railway station. Further, DCP, Zone-IV Shri P.B. Gondia had also given him instructions to make bandobast and to increase patrolling in his jurisdiction to avoid any untoward incident. On 27-02-2002, in compliance to the Control Room message, 12 kar-sevaks, namely (1) Dushyantbhai Vyas, (2) Yogeshbhai Bhatt, (3) Daksheshbhai Raval, (4) Pramodbhai Trivedi, (5) Prakashbhai Raval, (6) Bhupendrabhai Bhatt, (7) Jatinbhai Patel, (8) Nanjibhai Patel, (9) Dahyabhai Prajapati, (10) Sureshbhai Sanchania, (11) Dharmeshbhai Trivedi and (12) Gautambhai Trivedi, all belonging to Nava Naroda area were arranged to be escorted to their respective places under police protection from Ahmedabad railway station at about 1745 hrs on 27-2-2002. Shri Mysorewala has mentioned that these kar-sevaks, on their return narrated the eye witness account of the Godhra carnage which was a primary cause of provocation amongst the Hindus residing in Naroda area and as a repercussions to the said provocation, two incidents one relating to a cotton workshop burnt at Parshwanath Township and the other relating to the beating of a Muslim by three-four unknown persons took place between 1800 hrs to 1900 hrs on 27-2-2002 for which two separate CRNos 96/02 and 97/02 were registered in Naroda P.S.

Shri Mysorewala has further stated that on 27-2-2002, a bandh call was given by Vishwa Hindu Parishad, which was supported by other Hindu organizations and therefore, leaders of both Hindu and Muslim community were contacted by him to maintain peace and harmony in the area. According to Shri Mysorewala, on 28-2-2002, the bandobast was started at about 0700 hrs and five private vehicles were requisitioned for effective patrolling in the area. Further, 15 fixed points were provided with requisite police personnel which included minimum two persons out of which one was with rifle in the places where the minority community people were residing and the places of worship were located. Also, in addition two PIs, five PSIs, 30 ASIs and 50 PCs were kept ready along with eight vehicles.

Shri Mysorewala has further stated that on 28-2-2002, during the Gujarat bandh, tense situation prevailed in the area resulting in lack of confidence between the two communities and people from both the communities formed groups and moved in public streets. As per Shri Mysorewala, the police patrolling vehicles dispersed the mobs as a result of which the crowds went into hiding in small lanes and by lanes and as soon as the police party left the spot, the mob reassembled and became aggressive. Further, at about 1030 hrs on 28-2-2002, a group of Hindus started gathering in large scale opposite Nataraj Hotel in Naroda Patia where Noorani Masjid is located and in Jikar Hussain ni Chal, a group of Muslims started gathering in large scale. In the meanwhile, Shri P.B. Gondia, DCP, Zone-IV and Shri M.T. Rana, ACP, G division also arrived at the spot and under their instructions the groups were dispersed by lathi charge. At that time one TATA 407 vehicle parked near Noorani Masjid was started and driven by a Muslim in a rash and negligent manner straight into the Hindus mob thereby causing injuries to two persons and leaving one dead. Shri Mysorewala has stated to have chased the vehicle, apprehended the driver and arrested him and after this incident, the rumour had spread amongst the Hindus that three persons had been killed by a Muslim driver of TATA 407 vehicle, which escalated the tension.

During this period, one person belonging to Hindu community was killed by two Muslims near Anand cinema of Naroda village and as a retaliation of the same both the Muslims were caught by the mob and burnt alive.

According to Shri Mysorewala, Shri M.K. Tandon arrived at Naroda Patia around 1210 hrs and after taking stock of the situation and holding discussions with the CP, a curfew was ordered to be imposed at about 1230 hrs in Naroda P.S. area by way of announcement over loud speaker installed on the police vehicles. The Jt. CP, Sector-II, thereafter, left Naroda Patia. Shri Mysorewala has further stated that after half an hour, one disfigured body of one Ranjit Vanzara with his eyeballs oozing out; face smashed was found lying outside the Chal as a result of which, a group belonging to a Hindu community got excited and attacked Noorani Masjid and also attacked the houses nearby and shops belonging to Muslims. As per Shri Mysorewala, thereafter, the situation became extremely tense and the mob became violent and damaged the Minarets of the Noorani Masjid and several houses & shops belonging to the Muslims. Shri P.B. Gondia, DCP, Zone-IV, thereafter, left Naroda Patia at about 1430 hrs. Shri Mysorewala has further stated that at about 1510 hrs, a message was received that a mob of around 2000 Hindus had gathered outside Naroda P.S. in which around 600 Muslims had been sent by the police for protection and thereafter, he along with Shri M.T. Rana visited Naroda P.S. immediately and dispersed the crowd by lathi charge and then returned to Naroda Patia. By that time the tension at Naroda Patia had diffused to some extent. After that Shri Mysorewala along with Shri M.T. Rana went to Naroda Gam at about 1630 hrs and took stock of the situation. Shri Mysorewala learnt that at the corner of Joshiwada eight persons were burnt alive by a mob of Hindus and that an offence in this regard had already been registered at 1610 hrs vide CR No. 98/02 by Shri V.S. Gohil, Second PI. Shri Mysorewala along with Shri Rana visited the scene of offence and returned to Naroda Patia at about 1730 hrs and by that time the situation had further calm down and,

therefore, Shri M.T. Rana left for Meghaninagar area at about 1745 hrs.

At about 18:10 hrs, Shri Mysorewala went to Thakkernagar, where someone informed him that 17 Muslims had been burnt behind Hussainnagar and therefore, he proceeded to the spot. After reaching there at about 1845 hrs, Shri Mysorewala found that many bodies were burning between Gangotri society and Gopinath society and the local residents refused to give water and he had to use force to get the water to extinguish the fire. In this incident 27 persons had received burnt injuries and were immediately shifted to civil hospital. On his return, Shri Mysorewala found that around 58 dead bodies were lying between the two societies and a case in this regard was registered at Naroda P.S. at 2045 hrs vide CR No. 100/02 in which five accused namely, Babu Bajrangi, Kishan Korani, Raju Chaumal, P.J. Rajput and Harish Rohera were named. He has further stated that in the night of 28-2-2002 more than 2000 Muslims were sent to the different relief camps and on 01-03-2002, 450 Muslims who had taken shelter in SRP, Group-II premises were also shifted to different relief camps. According to Shri Mysorewala, as a result of police firing one Hindu and one Muslim died on the spot.

On the basis of the investigation conducted, departmental action has already been recommended against Shri K.K. Mysorewala for the various administrative lapses on his part. However, no criminal case is made out against him.

A-57: Shri M.T. Rana, formerly ACP, 'G' division, Ahmedabad City, Gujarat.

Shri M.T. Rana has stated that he was posted as ACP, G division in April, 2001 and used to supervise the work of three police stations namely Meghaninagar, Sardarnagar & Naroda and retired from Govt. service on 31-12-2005.

Shri Rana has further stated that on 27-02-2002, he reached Naroda Patiya at about 1030 hrs and remained there till about

1730 hrs along with Shri K.K. Mysorewala, the then Sr. PI, Naroda P.S. He has corroborated the version of Shri Mysorewala. However, he has denied the allegations levelled by Smt. Jakia Nasim about the allegations of subversion of justice and tampering of evidence.

On the basis of the investigation conducted, departmental action has already been recommended against Shri M.T. Rana for the various administrative lapses on his part. However, no criminal case is made out against him.

A-58: Shri Tarun Barot, formerly PI, Crime Branch, Ahmedabad City, Gujarat.

Shri Tarun Barot has stated that he was entrusted with the investigation of Naroda P.S. CR No. 198/02 relating to the death of 11 Muslims killed in 2002 riots and that he had investigated this case from 19-05-2002 to 30-05-2002 and subsequently with effect from 30-11-2002 to 10-04-2008. Shri Barot has further stated that during the course of investigation, he had made an attempt to collect the call detail records of mobile phones of suspected/accused persons, but the Cell companies informed that the data was not available. However, he did not approach Shri Rahul Sharma to get the call details as he did not know that the latter was in the possession of the call details of all the numbers operating from Ahmedabad City during the riots period and no one had told him about it. According to Shri Barot, he did not know whether Shri Rahul Sharma, SP had handed over a copy of the CDs to Nanavati-Shah Commission of Inquiry or Banerjee Committee appointed by the Railways to enquire into the Godhra incident. Shri Barot has also stated that a news item had appeared in an English daily regarding the mobile phone details of Maya Kodnani and Jaydeep Patel and on the basis of the said news item, both of them were summoned about their location on 28-02-2002 and thereafter. Both, Mayaben Kodnani and Jaydeep Patel informed that they were present at Sola Civil Hospital. Shri Mayaben Kodnani confirmed that her mobile phone remained in

her possession, whereas Jaydeep Patel claimed that his mobile was left in his car, which was taken away by his driver. Shri Barot has also stated that efforts were made to get their call details from the mobile service providers, but the same were not provided and as such the call details could not be obtained, analysed and cross checked. The plea put forward by Shri Barot is not convincing inasmuch as the news about the production of the CDs containing call detail records of mobile phones at Ahmedabad City by Shri Rahul Sharma before the Nanavati Commission had appeared in almost all the newspapers and, therefore, it is difficult to believe that Shri Barot did not come to know about it.

Shri Barot has denied the allegations levelled by Smt. Jakia Nasim and stated that he had only investigated Naroda Gam case, in which 11 persons were killed. He has further stated that he has put in his best and had arrested 27 accused persons out of 49 involved and in addition he had arrested 6 accused persons in Naroda Patiya case and 1 in Gulberg Society case. He has also claimed to have saved the lives of 30 Muslims from Idgah near Prem darwaja during the riots on 28-02-2002. He has also stated that good work done by him, had been appreciated by the senior officers and he had been rewarded and awarded Indian Police Medal.

There appears to be a serious lapse on the part of Shri Tarun Barot, the then PI and now ACP, SOG, Ahmedabad in not collecting a copy of the CD containing the call detail records of Ahmedabad City from Shri Rahul Sharma and the same deserves to be dealt with major penalty departmental proceedings against him. However, no criminal case is made out against him.

A-59: Shri Narendra Amin, formerly DCP(Crime), Ahmedabad :

Shri Narendra Amin has stated that in 2002, he was posted as ACP, G division in Surat City. He has further stated that on receipt of a Control Room message about the burning of a railway coach of Sabarmati Express near Godhra Railway Station, he took preventive actions and rounded up 123 persons and intensive

patrolling was ordered, as a result of which, there was no major untoward incident took place. He has also stated that he shifted the persons of minority community to safer places and ensured the security of 29 Madersas and Masjids etc.

He has denied the allegation levelled by Smt. Jakia Nasim and stated that he had not been concerned in any of the controversial mass carnage investigation and there had never been any serious allegation of subversion of justice and tampering of evidence against him. Shri Amin has also stated that the allegations are vague, general, absurd and had been maliciously made against him and need no further explanation.

Since the allegations are vague and general in nature and there is no evidence to support the same, therefore, the same are not established.

A-60: Shri G.C. Raiger, formerly Addl. DG (Int.), Gujarat.

Shri G.C. Raiger has stated that he remained posted as Addl. DG (Int.) during the period 06-04-2001 to 09-04-2002 and had retired from service as DG, Home-guard on 30-06-2007. He has further stated that he has been appointed as a Member of Justice, Mehta Commission of Inquiry into the Hooch tragedy at Ahmedabad in 2009 by the Govt. of Gujarat.

He has further stated about the collection of intelligence about the movement of kar-sevaks in February, 2002 by local Intelligence Bureau. He has also stated that a TP message dated 27-02-2002 regarding the return journey of kar-sevaks was received on 28-02-2002 at 0815 hrs, i.e. after the Godhra train burning incident had taken place on 27-02-2002 morning. According to Shri Raiger, he was on casual leave from 26-02-2002 to 28-02-2002 and remained away to Rajasthan, but returned on 27-02-2002 evening. He has further stated that on return to Ahmedabad he telephoned Shri K. Chakravarthi, the then DGP on 27.02.2002 evening and offered to cut short his leave and come to Gandhinagar, if required, to which the DGP had asked him to join

on 28.02.2002. He denied to have attended the law & order review meeting held by Chief Minister on 27-02-2002 late in the night nor was he informed about it by the DGP, SCR or State IB Control Room. He has further stated that Shri Sanjiv Bhatt, the then DCI (S) did not tell him on 28.02.2002 or even thereafter about having attended the aforesaid law & order meeting held by Chief Minister at his residence on 27.02.2002 night, its agenda or the matters discussed. Shri Raiger has denied having been informed by Shri Sanjiv Bhatt about any illegal instructions given by CM. He has stated that Shri Sanjiv Bhatt never attended any meeting called by CM along with him. However, sometimes when the meeting related to the subject being dealt with by him, Shri Sanjiv Bhatt did accompany him, but was made to wait outside. He has denied recollection of having attended any meeting at CM's residence on 28.02.2002 morning. However, he has confirmed that on 28.02.2002, while he was sitting with the DGP at about 1100 or 1130 hrs, Shri I.K. Jadeja, the then Minister came there. He has further stated that all of them took tea and after some time DGP had asked some of the staff members to shift Shri Jadeja to some vacant chamber. Shri Raiger has denied to have seen Shri Jadeja subsequently in DGP's office or in the State Contrbl Room. He does not recollect as to whether Shri Sanjiv Bhatt was present there or not. He has also stated that Shri Sanjiv Bhatt never used to approach the DGP directly, when he was present in the office. He has further stated that the intelligence messages were not signed by the DGP normally and the same were signed either by Addl. DG (Int.) or any of the junior officers. Shri Raiger has confirmed to have attended a law & order review meeting called by Chief Minister on 28.02.2002 (A.N.), in which Chief Secretary, ACS (Home), DGP and Secretary, Home Department were present. According to Shri Raiger, either Principal Secretary to CM or Secretary to CM was also present. Further as per Shri Raiger, in this meeting law & order situation, deployment of extra Para Military Forces and the issue relating to requisitioning of Army

were discussed and it was decided by CM that Army should be requisitioned to control the emerging law & order situation.

Shri Raiger has further stated that on 28.02.2002 (A.N.), Shri Sanjiv Bhatt, the then DCI (S) had conveyed a message based on local IB unit, Ahmedabad City report about the collection of a mob outside the Gulberg Society, where Late Ahesan Jafri, Ex-MP was residing and also about inadequate presence of police on the spot. This information was passed on to Ahmedabad City Police Control Room. Shri Raiger has admitted to have met DGP along with Shri Sanjiv Bhatt thereafter and informed him about the developing situation at Gulberg Society and requested the DGP to impress upon CP to declare curfew in the area immediately. Shri Raiger has also stated that DGP rang up CP immediately, who informed that curfew had already been declared in the said area. Shri Raiger specifically denied that Shri Sanjiv Bhatt informed him about his direct talk with Chief Minister regarding the developing situation in Ahmedabad City as well other cities in Gujarat State. He has further stated that there was no system of submitting monthly movement diary in State IB and that Shri Sanjiv Bhatt, the then DCI never submitted any such diary to him. Shri Raiger has categorically stated that there was no post of Staff Officer to Addl. DG (Int.), as claimed by Shri Sanjiv Bhatt.

Shri Raiger has stated that he was transferred as ADG (Admn.) on 09-04-2002 and handed over the charge to Shri R.B. Sreekumar, who filed an affidavit before the Nanavati Commission for his period as well.

Shri Raiger has denied to have known Late Ahesan Jafri, Ex-MP and has stated that to the best of his recollection, the latter did not contact him either personally or over phone for help. Shri Raiger has also stated that a fax message was sent by his office on 28-02-2002, to CP, Ahmedabad city under intimation to Home Secretary and DGP that it has been learnt that Ex-MP, Late Ahesan Jafri had been killed by a Hindu mob, a ten year Muslim girl beheaded and some more houses in Gulberg Society had

been set on fire with the possibility of more loss of life and property. He has also stated that this message was sent by PI E.L. Christin on the basis of intelligence inputs received in his office, but he can not recollect the time at which the said message was sent.

Since no allegation has been levelled against Shri Raiger by Smt. Jakia Nasim, no further action is called for in the matter.

A-61: Shri K.R. Kaushik, formerly Addl.DG, CID (Crime & Railways), Gujarat State.

Shri K.R. Kaushik has stated that he remained posted as Addl. DG, CID (Crime & Railways) during 2001 to 10-05-2002. He has further stated that he had received information about the burning of a railway coach of Sabarmati Express near Godhra Railway Station on 27-02-2002, resulting in death of several kar-sevaks and other passengers. According to Shri Kaushik, he deputed Shri J.K. Bhatt, the then SP, Western Railway to take over the investigation of this case as the incident had occurred in the railway's jurisdiction and Shri P.P. Agja, the then IGP, CID Crime & Railways was asked to proceed for on the spot supervision of the investigation. He has denied to have attended the Law & Order meetings held by Chief Minister on or after 27-02-2002. As per Shri Kaushik, the investigation of Godhra carnage case had not been completed during his tenure and no charge sheet could be filed. He has also stated that by the time he left no conclusion could be drawn with regard to the Godhra incident.

Shri Kaushik has further stated that he was posted as Commissioner of Police, Ahmedabad City on 10-05-2002 and he took charge on 11-05-2002 and his immediate task was to restore peace and communal harmony in the City. He has claimed to have visited the relief camps, where the people from minority community were residing to hear their grievances. He had also set up Special Cells in CP office and told the victims not to go to the concerned police station, but to approach the Special Cells to get their complaint registered. According to Shri Kaushik, as a result of

positive measures introduced by him, the Law & Order situation in the city improved. He has denied the allegations levelled by Smt. Jakia Nasim and has stated that the same are false and baseless and has claimed that Law & Order situation improved after he took over and the same was evident for an unusually long term of four and a half year without any untoward incident. As regards the allegation of not filing any affidavit before the Nanavati Commission, he has stated that he had no personal knowledge about the Godhra incident and as such a question of filing an affidavit did not arise. In view of the aforesaid facts and discussions, the allegations are not established against Shri K.R. Kaushik.

A-62: Shri Amitabh Pathak, formerly Spl. IGP, Gandhinagar Range, Gujarat.

Shri Amitabh Pathak has stated that during October, 1999 to August, 2002, he remained posted as IGP, Gandhinagar Range, which comprises three Districts namely Gandhinagar, Mehsana & Sabarkantha.

Shri Amitabh Pathak has further stated that after the appointment of Nanavati Commission, affidavits were filed by the respective Superintendents of Police, as they were primarily responsible for maintenance of Law & Order in the respective Districts. According to Shri Pathak, since Range IGP was a supervisory level link between SP and DGP, it was not considered necessary to file an affidavit before the Commission. He has denied the allegation levelled by Smt. Jakia Nasim that he conspired with the Govt. by not filing an affidavit and starved the Commission of necessary and relevant data on the ground, that the same are vague and baseless, inasmuch as necessary affidavits about the personal knowledge in respect of various incidents in respective Districts had been filed by the concerned SsP. As regards the other allegation, that many people in the jurisdiction of Gandhinagar Range were killed in the riots, because of his deliberate and wilful act of conniving with the offenders, as IGP of the Range, Shri Pathak has stated that the allegation is

false, absurd and without any basis inasmuch as he was not physically present at the time, when the incidents took place and there is no evidence in the complaint to show his connivance with any of the offenders and no such allegations had ever been levelled by any of the affected parties either in their complaint made to the police or any other authorities concerned with the investigation of the riot cases or even before the Nanavati Commission. Surprisingly, no allegation has been levelled against Shri A.S. Gehlaut, the then SP, Mehsana, who was immediate in charge of the District under Shri Amitabh Pathak.

In view of the fact, that the allegations are vague and general in nature and no evidence has come forward in support of the same, the allegations are not established.

A-63: Shri Satish Verma, formerly DIG, Kutch-Bhuj Range.

Ms. Teesta Setalvad has stated that Shri Satish Verma is a witness and has been inadvertently listed as an accused. In view of this, no action is called for in the matter.

❖ **Opinion of Shri Raju Ramchandran, Amicus Curiae:-**

Shri Raju Ramchandran, Sr. Advocate assisted by Shri Gaurav Aggarwal, Advocate had been appointed as Amicus Curiae by the Hon'ble Supreme Court of India to assist the Court in this matter. Shri Raju Ramchandran, AC initially examined the Inquiry Report submitted by the SIT to the Hon'ble Supreme Court of India and submitted his observations on the findings of the SIT on 20.01.2011, to the Hon'ble Supreme Court of India, in three parts i.e. Chart 'A', Chart 'B' & Chart 'C'.

The aforesaid observations made by the Ld. Amicus Curiae were considered by the Hon'ble Spl. Bench of Supreme Court of India on 15.03.2011, when the following observations were made:-

"A copy of the note submitted by the learned amicus curiae has already been supplied to the Chairman, Special Investigation Team (SIT)."

Let the Chairman, SIT, look into the observations made by the learned amicus curiae against each of the findings given by the SIT on the allegations made in the complaint and submit this report thereon. If considered necessary, it will be open to the SIT to carry out further investigations in light of the observations made in the said note. The report shall be submitted by 25th April, 2011. List the case on 27th April, 2011 at 3.00 p.m."

Pursuant to the aforesaid order, SIT conducted further investigation u/s 173 (8) Cr.PC in Gulberg Society Case (Meghaninagar P.S. I CR No: 67/02) as suggested by Ld. Amicus Curiae in his observations submitted in the note dated 20.01.2011 to the Hon'ble Supreme Court of India.

The recommendations made in Chart 'A' by the Ld. Amicus Curiae vis-à-vis further investigation conducted is discussed below:-

Chart - 'A'

ALLEGATIONS	FINDINGS	OBSERVATIONS
I & IV : A statement was made by Shri Narendra Modi on 27-02-2002, in a meeting at his residence instructing the senior officers to allow the Hindus to give vent to their anger. This is also supported by Late Haren Pandya.	1. None of the officers that attended the meeting on 27-02-2002, have confirmed the alleged statement made by Shri Narendra Modi. 2. The statement of Shri R.B. Sreekumar is hearsay. 3. Sanjiv Bhatt, the then DCI (Security) was not present in the meeting. 4. None of the Cabinet Ministers, including Late Haren	1. It would be impossible to get anyone present in the meeting on 27-02-2002 to speak against Shri Modi, especially the bureaucracy and police officials. 2. The other circumstances would also have to be taken into account. There is nothing to show that the CM intervened on 28-02-2002, when the riots were taking place to prevent the riots. The movement of Shri Modi and the instructions given

Pandya attended the meeting on 27-02-2002. Testimony of Late Haren Padya before the Citizen's Tribunal is unreliable.

by him on 28-02-2002, would have been decisive to prove that he had taken all steps for the protection of the minorities, but this evidence is not there. Neither the CM nor his personal officials have stated what he did on 28-02-2002. Neither the top police nor bureaucrats have spoken about any decisive action by the CM.

3. It may not be correct to rule out the presence of Sanjiv Bhatt, IPS, DC (Int.) since Addl. DG (Int.) Shri G.C. Raiger was not available. There is no reason for him to make a wrong statement. He was willing to make a statement if he was protected from legal repercussions of disclosing what transpired in the meeting.

4. It is difficult to believe that when the CM came back after the Godhra trip, no Minister was present at his residence. Hence, it may not be

totally unbelievable. Shri Haren Pandya is unfortunately dead, but the statements made by Late Haren Pandya to Justice P.B. Sawant (Retd.) and Justice H. Suresh (Retd.) can be used, even if his statement is not been formally reproduced in writing by the Citizen's Tribunal.

5. It has also been brought out that an enquiry was made from CM's office as to the identity of the Minister who had deposed before the Citizen's Tribunal and that the State Intelligence Bureau had verified the identity as that of Shri Haren Pandya. This also gives some corroboration to the fact that the CM's office was uncomfortable with the disclosure made by an unidentified Minister to the Citizen's Tribunal.

6. The statement of Shri R.B. Sreekumar cannot be discarded as hearsay, in the light of Section 6 of

		<p>the Evidence Act.</p> <p>7. Another aspect is the fact that VHP General Secretary Jaydeep Patel and Shri Modi were at Godhra on 27-02-2002. The statement of Jaydeep Patel that he did not meet Shri Narendra Modi at Godhra does not inspire confidence. This has to be examined as the Mamlatdar would not have handed over the dead bodies to a non-government person i.e. Jaydeep Patel until and unless somebody very high told him to do so.</p>
<p>V. That Cabinet Ministers Shri I.K. Jadeja and Shri Ashok Bhatt were positioned in DGP's office and Ahmedabad City Control Room on 28-02-2002.</p>	<p>The SIT concludes that this was a "controversial decision" taken by the Govt. to place two ministers in the DGP's office and Ahmedabad City Control Room. However, SIT concludes that there is no evidence that the 2 Ministers passed on any instructions to the</p>	<p>8. The positioning of 2 Cabinet Ministers having nothing to do with the home portfolio in the Office of DGP and the State Police Control Room respectively is another circumstance which reflects that there was a direct instruction from the Chief Minister. Though Shri Jadeja says that he had gone to the DGP's office on instructions of Shri</p>

<p>police to deal with riots in a particular manner. Therefore, the allegation is only partially proved as per SIT.</p>	<p>Gordhan Zadafia, MoS (Home) this is highly unbelievable. It is obvious that the Chief Minister had positioned these 2 Ministers in highly sensitive places which should not have been done. Infact, these 2 Ministers could have taken active steps to defuse the riots, but they did nothing, which speaks volumes about the decision to let the riots happen. It does not appear that these 2 Ministers immediately called the CM and told him about the situation at Gulberg and other places.</p> <p>9. SIT merely relied upon the statement of the police officers to conclude that these 2 Ministers did not give any instructions to Police department, but it appears highly unlikely that 2 Cabinet Ministers of the Government of Gujarat would have not given some kind of directions when the CM</p>
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had directed them to remain present.

10. It is obvious that the 2 Ministers were fully aware of the developing situation in Gulberg Society, Naroda Patiya etc. in Ahmedabad City. They were duty bound to convey the situation to the Chief Minister and were required to do everything possible to save loss of lives. If the stand of the CM that these 2 Ministers were positioned so as to effectively control the law and order situation is correct, then there would have been a far quicker action to control the riots in Gulberg Society and Naroda Patiya atleast.

11. No tangible action seems to have been taken by the police high ups in the Police Department, namely Commissioner of Police, to control the riots at Gulberg Society. Gulberg Society is not very far away from the Office of Commissioner of Police,

		Ahmedabad.
XI. The allegation is that Shri Narendra Modi did not visit the riot affected areas of Ahmedabad immediately, though he visited Godhra on the day of the incident.	The SIT has come to the conclusion that the action of Chief Minister appeared to be discriminatory.	12. This is one of the circumstances which indicate that the Hon'ble Chief Minister had not taken enough steps to ensure that riots in Ahmedabad City were immediately controlled by his direct intervention.
XII. It is alleged that on 01-03-2002, Shri Narendra Modi said in a television interview that the reaction of the Hindus was due to the action by the Muslims, which seems to justify the riot.	The SIT has come to the conclusion that the reaction of the Chief Minister to violence at Gulberg Society and Naroda Patiya was not serious. However, the SIT has concluded this would not be sufficient enough to make out a case against Shri Modi.	13. The observation of Shri Modi in a television interview on 01-03-2002 clearly indicates that there was an attempt to justify the violence against the minority community. This indicates a certain approach. The statement made by Shri Modi cannot be seen in isolation. It has to be seen in conjunction with other facts mentioned hereinabove which provides sufficient justification for a detailed investigation in the matter.

➤ Observations made by Ld. Amicus Curiae:

- It would be impossible to get anyone present in the meeting on 27-02-2002 to speak against Shri Modi, especially the bureaucracy and police officials.
- It may not be correct to rule out the presence of Sanjiv Bhatt, IPS, DC (Int.) since Addl. DG (Int.) Shri G. C. Raiger was not available. There is no reason for him to make a wrong statement. He was willing to make a statement if he was protected from legal repercussions of disclosing what transpired in the meeting.

Result of further Investigation:

Further investigation in this regard revealed that the information about the burning of a railway coach of Sabarmati Express near Godhra Railway Station was received by Shri Narendra Modi, Chief Minister on 27.02.2002 at about 0900 hrs from Shri Ashok Narayan, the then ACS (Home). On receipt of the information, Shri Narendra Modi held a meeting at around 1030 hrs with Shri Gordhan Zadafia, the then MoS (Home), Shri Ashok Narayan, the then ACS (Home), Shri K. Chakravarthi, the then DGP, Shri P.C. Pande, the then CP, Ahmedabad City and other personal staff of CM. Till then, no specific information was available about the number of casualties and the injured persons. In this meeting, Shri Narendra Modi emphasised that the culprits responsible for the incident should be apprehended and not allowed to escape. No minutes of the meeting were prepared. However, Shri Ashok Narayan had prepared a note on the basis of information provided by DGP for CM and MoS (Home) to make a statement in the Assembly as the question relating to the Godhra incident was likely to be raised in the Assembly, which was in Session. The Chief Minister had given directions that the steps should be taken not to delay the medical help to surviving passengers and also to impose curfew to avoid any untoward incident, Godhra being a communally sensitive place. The Chief

Minister had also instructed that the senior officers and the extra force, if required, must reach Godhra without any delay.

Around 1200 hrs, Chief Minister attended the Assembly session and a call attention motion relating to the Godhra incident tabled by Shri Punjabhai Vansh, MLA came up for discussion at 1300 hrs, but the Hon'ble Member was not present in the House. Dr. Mayaben Kodnani, MLA from Naroda spoke on the said issue. Shri Gordhan Zadafia, the then MoS (Home) made a statement in the House based on the aforesaid note prepared by Shri Ashok Narayan, the then ACS (Home). During zero hour, Shri Narendra Modi made a statement that he had discussed the matter with the then Prime Minister Shri Atal Bihari Vajpae and announced an ex-gratia payment of Rs. 2,00,000/- each to the next of kin of those killed in the Godhra incident and also ordered a High Level Inquiry into the incident. All these facts were mentioned in the Assembly proceedings, as well as in the press release issued by the Govt. of Gujarat on 27-02-2002.

Shri Gordhan Zadafia, the then MoS (Home) left for Godhra by road around 1400 hrs and reached there at about 1630 hrs. Shri Ashok Bhatt, the then Health Minister had already reached Godhra around 1200 hrs. It may be mentioned here that 27-02-2002 was a budget day in the Assembly and after the completion of the budget speech by Shri Nitinbhai Patel, the then Finance Minister, the Assembly proceedings were over at about 1500 hrs. Shri Narendra Modi left for Ahmedabad airport around 1530 hrs for his onward journey to Vadodara/ Godhra. Shri Narendra Modi reached Ahmedabad airport at 1600 hrs and left for Vadodara by Govt. aircraft. The Chief Minister reached Vadodara at about 1630 hrs and then proceeded to Godhra by helicopter immediately, where he reached around 1645 hrs. He was accompanied by Shri Anil Mukim, the then Addl. PS to CM and Shri Jagdish Thakker, PRO to CM. According to the press release issued by the Govt. of Gujarat on 27-02-2002, CM visited the scene of occurrence at Godhra Railway Station and then went to Civil Hospital and saw

the injured admitted there. Thereafter, he went to Collectorate and held meeting with the Ministers present there namely Shri Ashok Bhatt, Shri Gordhan Zadafia, Shri Bhupendra Lakhawala, Shri Prabhatsinh Chauhan (all Ministers in the State Govt.) Shri Bhupendrasingh Solanki, the then Member, Lok-Sabha from Godhra, Collector & District Magistrate, Godhra, Police Officers and Railway Officers. The Chief Minister had also met the press briefly thereafter. As per media reports Shri Narendra Modi said the Govt. would ensure the maintenance of peace in the State and the Govt. would not be lacking in discharge of its duty. He also said that tragedy was unparallel in the history of Gujarat and assured the people that culprits would be punished. At no point of time, Shri Jaydeep Patel, VHP leader, who was at Godhra on that day, had met him. The Chief Minister left Godhra by road around 1945 hrs (after the sunset) and reached Vadodara airport at about 2130 hrs. Shri Narendra Modi left for Ahmedabad by Govt. aircraft at 2130 hrs and reached his official residence at Gandhinagar at about 2230 hrs.

Investigation has further revealed that a law & order meeting was held by Chief Minister at his residence around 2300 hrs, which was attended by Smt. Swarna Kanta Varma, the then acting Chief Secretary, Shri Ashok Narayan, the then ACS (Home), Dr. P.K. Mishra, the then Principal Secretary to CM, Shri Anil Mukim the then Addl. PS to CM, Shri K. Chakravarthi, the then DGP, Shri P.C. Pande, the then CP, Ahmedabad City, Shri K. Nityanandam, the then Secretary (Home) and Shri Prakash S. Shah, the then Addl. Secretary (Law & order). Shri G.C. Raiger, the then Addl. DG (Int.), who was on casual leave and had returned to Ahmedabad on 27-02-2002 evening, had not attended the same. However, Shri Sanjiv Bhatt, the then Deputy Commissioner of Intelligence (Security) has claimed to have attended the said meeting at the instance of DGP.

All the aforesaid officials have been re-examined and their statements recorded u/s 161 Cr.P.C.. Their deposition in brief is given below:-

(i) According to **Smt. Swarna Kanta Varma**, the then acting Chief Secretary, she was present in the said meeting, but she can not recollect, as to whether any Minister or other police/Govt. officials (besides the individuals indicated above) were present there. On being shown the photograph of Shri Sanjiv Bhatt, she has stated that she can not recollect having met or seen him in this meeting or in any meeting during the period of her charge as Chief Secretary. Smt. Swarna Kanta Varma has stated that Chief Minister had said in the aforesaid meeting that the Godhra incident was very unfortunate and that it should be handled with a firm hand. However, she has denied that there was any mention by Chief Minister of balancing action against Hindus and Muslims or Muslims be taught a lesson or Hindus be allowed to vent their anger.

(ii) **Shri Ashok Narayan**, the then ACS (Home) has stated that Shri Sanjiv Bhatt, the then DCI (Security) did not attend the said meeting on 27-02-2002. He has further stated that no Minister was present in the said meeting. He has also stated that DGP gave sequence of events of Godhra incident, possible repercussions of the same and also about his requirement of additional forces. He has denied any utterances by Chief Minister to the effect that the police approach of balancing action against Hindus and Muslims would not work any more, Muslims should be taught a lesson and that Hindus should be allowed to vent their feelings/anger. He has, however, stated that Chief Minister did say that the people were outraged by the Godhra incident and therefore, effective steps should be taken to control the communal riots.

(iii) **Shri P.K. Mishra**, the then Principal Secretary to CM has categorically denied the presence of Shri Sanjiv Bhatt, the then DCI (Security) in the meeting of 27-02-2002. He has further denied the presence of any politicians in the said meeting. As regards the

observation allegedly made by CM that for too long the Gujarat Police had been following the principle of balancing actions against the Hindus and Muslims while dealing with the communal riots in Gujarat; the situation warranted that the Muslims be taught a lesson to ensure that such incidents do not recur and that the emotions were running very high amongst the Hindus and they be allowed to vent their anger, Shri Mishra has stated that it was not true that Chief Minister talked in these terms. He has further stated that in this meeting, officials of the Home Department and police officers apprised CM about the action already taken to prevent any untoward incident in view of the emerging situation and the bandh call. He has also stated that CM briefed the officials about his Godhra visit and impressed upon them to take all possible steps including preventive arrests to avoid any untoward incident.

(iv) **Shri K. Chakravarthi**, the then DGP has stated that Shri G.C. Raiger, the then Addl. DG (Int.) was on casual leave on 27-02-2002, and therefore, he did not attend the said meeting. He does not recollect, as to whether Shri Raiger contacted him over phone on 27-02-2002 evening and informed him about his arrival at Ahmedabad. However, he has categorically stated that Shri Sanjiv Bhatt did not attend the said meeting on 27-02-2002 night at CM's residence and no such instructions were given by Chief Minister. Shri Chakravarthi has added that in case Shri G.C. Raiger was available at Ahmedabad, he would have given instructions to him to attend this meeting through the State Control Room rather than asking Shri Sanjiv Bhatt to attend. According to Shri Chakravarthi, Shri O.P. Mathur, the then IGP (Admn. & Security) was also available and could have been called in the said meeting instead of calling a junior officer of SP level (Shri Sanjiv Bhatt). Shri Chakravarthi has further stated that as per his recollection, none of the Ministers/ politicians had attended the said meeting on 27-02-2002. Shri Chakravarthi has also stated to have briefed CM about the bandobast made by him in the wake of the bandh call given by VHP on 28-02-2002, and also about the additional requirement of forces. Shri Chakravarthi had also

informed CM about the appeal made by him to the general public on Door-Darshan/All India Radio to maintain peace. As per Shri Chakravarthi, CM had said that the Godhra incident was very serious and bound to affect the public at large and therefore, adequate arrangements should be made. Shri Chakravarthi has stated that CM had also spoken about the Govt. decision to transport dead bodies of Godhra victims to Ahmedabad City by road and to keep them in Sola Civil Hospital, which was then located on the outskirts of Ahmedabad City. According to Shri Chakravarthi, this decision was not opposed by anyone in the meeting, as a considerable number of victims belonged to Ahmedabad and nearby places. Regarding the allegation against Chief Minister for speaking in the terms that for too long the Gujarat Police had been following the principle of balancing the action against the Hindus and Muslims etc. and the Hindus be allowed to vent their anger, Shri Chakravarthi has denied any such utterances by Chief Minister in the meeting. He also denied having spoken to Shri R.B. Sreekumar, the then Addl. DG (Arms Unit) in this regard.

(v) **Shri P.C. Pande**, the then Commissioner of Police, Ahmedabad City has denied the presence of Shri Sanjiv Bhatt in law & order meeting called by Chief Minister on 27-02-2002 night. He has further stated that the meeting lasted for 15-20 minutes and that the discussions centred around maintenance of Law & order in view of the bandh call for the next day, its likely repercussions and availability of forces. As regards the allegations against Chief Minister about having said that for too long the Gujarat Police had been following the principle of balancing the actions against Hindus and Muslims etc. etc. and the Hindus be allowed to vent their anger, Shri Pande has categorically stated that no such instructions to allow any freedom to any law breaker were given by Chief Minister. He has out rightly denied the presence of any Minister or Shri Sanjiv Bhatt, the then DCI (Security) in the said meeting. Regarding the Govt. decision to transport the dead bodies of Godhra victims to Ahmedabad, Shri

Pande has stated that he does not recollect the exact talks, which took place in the said meeting, but the sum and substance of the discussions was that the dead bodies were being brought to Ahmedabad City with a view to facilitate the relatives of the deceased persons to identify and claim the same.

(vi) **Shri Anil Mukim**, IAS, the then Addl. PS to CM has stated that he attended the said meeting for some time and then left after taking permission from Shri P.K. Mishra, IAS (Retd.) the then Principal Secretary to CM. He has further stated that as long as he was present in the meeting, general discussions were held regarding the Godhra incident and necessary preventive measures required to be taken under the circumstances were also discussed. He has out rightly denied any utterances/instructions by CM about Muslims being taught a lesson and the Hindus being allowed to vent their anger, in his presence. He has denied the presence of Shri Sanjiv Bhatt, the then DCI (Security) in the said meeting. He has also denied the presence of any Minister or politician in the meeting.

(viii) **Shri K. Nityanandam**, the then Secretary (Home) has stated that he attended the law & order meeting called by the Chief Minister at his residence on 27-02-2002, at about 2300 hrs. He has further stated that the deliberations in the meeting mainly revolved around the Law & order situation post Godhra train incident and efforts to handle future Law & order problems in view of the bandh call on 28-02-2002. He has denied the presence of any Minister or Shri Sanjiv Bhatt in the said meeting. He has also denied any such alleged observations made by the Chief Minister about Muslims being taught a lesson etc. etc. and the Hindus be allowed to vent their anger. According to Shri K. Nityanandam, he does not recollect Shri Sanjiv Bhatt being present in any law & order meetings called by the Chief Minister as IGP/Addl. DGP rank officer were available in the State Intelligence Bureau to present the issues relating to intelligence.

(ix) **Shri Prakash S. Shah**, the then Addl. Secretary (Law & order) has confirmed to have attended the Law & order meeting called by the Chief Minister at his residence on 27-02-2002 night. He has further stated that the Chief Minister gave an account of Godhra incident, while Shri Chakravarthi and Shri Pande briefed CM about the possible repercussions of Godhra incident, about the arrangements and bandobast made by them and also about the deployment of forces. According to Shri Shah, the Chief Minister instructed all the officers that communal peace and harmony be maintained at all costs and all possible steps be taken to control the possible communal flare up. He has denied the presence of any Minister or Shri Sanjiv Bhatt in the said meeting. He has further stated that the Chief Minister did not say anything on the lines of the police approach of balancing action against Hindus and Muslims and also that the Hindus should be allowed to vent their anger.

(x) **Shri Sanjiv Bhatt**, the then DCI (Security) stated that he received intelligence inputs on 27-02-2002, regarding the despatch of dead bodies from Godhra to Ahmedabad under police escort, the State supported bandh call and the intention of the Sangh Parivar activists to parade the dead bodies in the form of funeral procession in communally sensitive areas of Ahmedabad City. He has claimed to have attended a late night meeting of 27-02-2002 called by the Chief Minister at his residence about which he was intimated by State IB Control Room and State Police Control Room that Shri K. Chakravarthi, the then DGP wanted him to accompany the latter in the said meeting. Significantly, at enquiry stage Shri Sanjiv Bhatt himself has admitted in his signed statement that Shri G.C. Raiger, the then Addl. DG (Int.) was on casual leave till 28.02.2002, but had curtailed his leave and came back to Ahmedabad on 27.02.2002 evening. This fact has been confirmed by Shri G.C. Raiger, the then Addl. DG (Int.), who has stated to have called DGP and informed about his availability from the evening of 27.02.2002. Moreover, Shri P.B. Upadhyay, the then DCI (Communal), the concerned officer dealing with the

communal subject has also stated to have curtailed his casual leave on 27.02.2002 and was available in the office. He also stated that he had accompanied Shri K. Chakravarthi in the latter's car from DGP's office to CM's residence and claimed that he attended the said meeting, which was also attended by In charge Chief Secretary Smt. Swarna Kanta Varma, ACS (Home) Shri Ashok Narayan, Shri Anil Mukim, the then Addl. PS to CM, Shri P.C. Pande, the then CP, Ahmedabad City and Shri K. Nityanandam, the then Secretary (Home). However, he is unable to recollect, as to whether Shri P.K. Mishra, the then Principal Secretary to CM was present in the said meeting or not. Shri Bhatt has further stated that to the best of his recollection, no politician/Minister was present in the said meeting. He has also stated that Shri G.C. Raiger, the then Addl. DG (Int.) did not attend the said meeting being on casual leave and that he was not aware, as to whether Shri Raiger had returned to Ahmedabad on 27-02-2002 evening. He has denied to have contacted Shri Raiger on 27-02-2002 evening, at his residence. Shri Sanjiv Bhatt has claimed that he used to attend the intelligence related meetings called by the Chief Minister. As per Shri Bhatt, this meeting was essentially a Law & order review meeting and the main issues discussed during the said meeting revolved around the bandh call given by VHP and ruling BJP as well the decision to bring the dead bodies of Godhra victims to Ahmedabad. Shri Sanjiv Bhatt has also stated that Shri P.C. Pande, the then CP, Ahmedabad City had strongly opposed the Govt. decision for the transportation of dead bodies of Godhra victims to Ahmedabad as the same was likely to lead to serious communal riots in Ahmedabad City and these views were supported by Shri K. Chakravarthi, the then DGP. According to Shri Sanjiv Bhatt, Shri Chakravarthi had conveyed to CM that the available resources of Gujarat Police were over stretched to cope with the law & order situation that was likely to arise in the wake of bandh call given by the VHP on the next day and had expressed his inability to supplement the manpower resources of CP, Ahmedabad City. Shri Sanjiv Bhatt

has stated that as per his recollection, there was no meaningful contribution from Shri K. Nityanandam, the then Secretary (Home), Shri Ashok Narayan, the then ACS (Home) and Smt. Swarna Kanta Varma, the then acting Chief Secretary. Shri Sanjiv Bhatt has further stated that DGP and CP, Ahmedabad City tried to impress upon the Chief Minister that the bandh call given by VHP on 28-02-2002, which was supported by the ruling party BJP was not a good idea, as far as the law & order situation of the State was concerned but the Chief Minister did not seem to be convinced by their arguments and stated that the incident like burning of kar-sevaks at Godhra could not be tolerated. According to Shri Bhatt, CM impressed upon the gathering as below:-

"That for too long the Gujarat Police had been following the principle of balancing the actions 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 recur ever again. The Chief Minister Shri 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".

According to Shri Sanjiv Bhatt, no minutes of the meeting were prepared by him or DGP, but he had no knowledge as to whether any minutes were kept by CM's office or Home Department. He also claimed of making a mention of the said meeting in his movement diary for February, 2002. Shri Sanjiv Bhatt has further stated that he expressed his opinion against the decision of BJP to support the bandh call given by VHP and also the decision of the administration to bring the dead bodies of the victims from Godhra to Ahmedabad City. He also stated that he expressed a view that the taking out of the funeral procession of the victims in the respective areas would lead to major communal violence in Ahmedabad City and other communally sensitive areas across the State.

Shri Sanjiv Bhatt stated that he took leave thereafter from Shri K. Chakravarthi, the then DGP, and returned to State IB office

in order to send alert messages and instructions to the concerned police/intelligence units. Subsequent to the aforesaid meeting at CM's residence, Shri Bhatt has claimed to have issued several messages to the Police units as well as the field units of the IB with respect to the developing situation including the possibility of wide spread communal violence during the Gujarat bandh and wherein, he reiterated to different CsP and SsP to take all possible measures to prevent untoward incidents in their respective jurisdiction. Surprisingly, he informed everyone about it but did not inform his own Head of the Department i.e. Shri G.C. Raiger, whom he had allegedly represented in the meeting and whose presence in the station was very much in his knowledge. He has denied to have contacted Shri G.C. Raiger over phone in the night of 27-02-2002 and has stated that he briefed Shri Raiger about the said meeting and the deliberations that had taken place, when he had attended office on the next day, i.e. 28-02-2002 morning, at about 1000 hrs. which has been denied by Shri Raiger. Interestingly, the call details of Govt. mobile phone of Shri Sanjiv Bhatt show that he was at Ahmedabad till 1057 hrs on 28.02.2002. He has further claimed that the details of the discussions held during the said meeting were not mentioned in any of the official correspondence/reports as he had attended the said meeting in the capacity of an Intelligence Officer. Further, Shri Sanjiv Bhatt has claimed that the reports had started coming in the office of the State IB regarding the preparations made by the cadres of Sangh Parivar to carry out strict enforcement of the bandh call given by them on 28-02-2002, and that same should be available in the records of State IB. Shri Sanjiv Bhatt has also claimed to have attended the second meeting at CM's residence on 28-02-2002 at about 1030 hrs along with Shri G.C. Raiger, the then Addl. DG (Int.), in which the deployment of manpower during the Gujarat bandh was discussed to monitor the developing situation and that this meeting was also attended by Shri K. Chakravarthi, the then DGP, Shri Anil Mukim, the then Addl. PS to CM, Late Ashok Bhatt, the then Health Minister and Shri I.K. Jadeja, the then Urban

Development Minister. Shri Bhatt has further stated that on the conclusion of the said meeting, the Chief Minister had instructed DGP that Late Ashok Bhatt and Shri I.K. Jadeja would be assisting the police in monitoring the situation and that all necessary assistance must be rendered to the Ministers. Shri Sanjiv Bhatt has also stated that CM had not specifically instructed as to how the Ministers would assist the police. Further, according to Shri Sanjiv Bhatt, the issue relating to the requisitioning of the Army was also discussed on the basis of the suggestions given by DGP and Addl. DG (Int.), but the Chief Minister seemed to be reluctant and was of the view that they should wait and watch, as to how the situation developed and not rush for the requisitioning of Army.

According to Shri Bhatt, he returned to the Police Bhavan and went to his chamber on the second floor, but shortly thereafter went to DGP's chamber around 1100 hrs to obtain his signature for requisitioning additional forces and found Late Ashok Bhatt and Shri I.K. Jadeja seated in his chamber, where everyone took tea. Shri Sanjiv Bhatt has further stated that sometime later, he visited State Control Room on the first floor of Police Bhavan to collect some documents and saw Shri I.K. Jadeja and his staff members occupying the chamber of Dy.SP, State Control Room. Finding this arrangement to be little odd and inconvenient, with the permission of the DGP, he shifted Shri Jadeja and his staff to the chamber of Shri P.C. Thakur, the then IGP, who was on leave. Later during the day, Shri Sanjiv Bhatt came to know that Shri Jadeja had left the Police Bhavan. However, as per Shri Sanjiv Bhatt, Shri Jadeja did not interfere with the working of State Police Control Room on 28-02-2002, or thereafter. Shri Sanjiv Bhatt has also claimed that he came to know from his staff later that Late Ashok Bhatt was stationed in Ahmedabad City Police Control Room on 28-02-2002.

On being questioned, as to whether deliberations in CM's meeting or the developments in the Control Rooms were mentioned by him in any of the reports submitted to the senior officers at any stage, Shri Sanjiv Bhatt has claimed that he had

attended the said meeting along with the DGP and Addl. DG (Int.) as a Staff Officer and as such there was no necessity to submit any report to them. Shri Sanjiv Bhatt has claimed to have received information about a mob attack on Gulberg Society around 1130 hrs on 28-02-2002, and he had deputed PI Shri Bharwad of Ahmedabad Regional Office located in Meghaninagar to go to Gulberg Society, to report on the developing situation and inform the State IB. According to Shri Bhatt, he had conveyed these developments to DGP and Addl. DG (Int.) personally. In view of the fact that Late Ahesan Jafri, Ex-MP was residing in the Gulberg Society, he (Sanjiv Bhatt) telephonically conveyed the details about the developing situation to the Chief Minister directly. However, he does not recollect, as to whether he had spoken to the Chief Minister over landline or over the mobile phone of Shri O.P. Singh, PA to CM. Shri Sanjiv Bhatt has stated that he attended another meeting at CM's residence on 28.02.2002 afternoon for the assessment of the ongoing situation, which was attended to by ACS (Home), DGP, Addl. DG (Int.), and Secretary (Home), in which the Chief Minister had agreed to send a formal requisition to Govt. of India for deployment of Army. He has claimed that he briefed the Chief Minister about the ongoing developments at Gulberg Society and also about the threat to the life of Late Ahesan Jafri and other residents of the Gulberg Society. Shri Sanjiv Bhatt has gone to the extent of claiming that the Chief Minister took him aside after the meeting and informed him that he had learnt that Late Ahesan Jafri had opened fire on Hindus during earlier communal riots. According to Shri Sanjiv Bhatt, the Chief Minister asked him to dig out all the facts pertaining to earlier instances, wherein Late Ahesan Jafri had opened fire during the past communal riots. Shri Bhatt claimed that he conveyed these facts to Shri G.C. Raiger, the then Addl. DG (Int.). However, Shri Bhatt has stated that he could not check/collect this information as he remained busy with certain urgent matters connected with the riots. Shri Sanjiv Bhatt has denied having submitted any report in this regard to his

department and claimed that he had attended this meeting as a Staff Officer to the DGP or Addl. DG (Int.), which is incorrect as there was no post of Staff Officer to Addl. DG (Int.).

On being questioned, as to why did he not appear as a witness in response to a public notice issued by SIT on 11-03-2008, he claimed that he did not disclose the same to anyone, as it would not have been appropriate on his part to divulge any information that he was privy to as an Intelligence Officer unless he was under a legal obligation to do so. He has also stated that he did not file any affidavit or appeared before any commission or any other body enquiring into the communal riots of 2002, because he was not asked by the Govt. of Gujarat, DGP or Addl. DG (Int.) to do so. He has denied knowledge as to whether the alleged instructions given by the Chief Minister were passed on to the field units by any of the officers, who had attended the meeting on 27-02-2002. The stand taken by Shri Sanjiv Bhatt is not acceptable on account of the fact that firstly it was essentially a law & order meeting, in which many civilian officers were present and there was nothing secret about it. Furthermore, Shri Bhatt has various opportunities and legal obligations to disclose these facts, if true, firstly to Shri R.B. Sreekumar, the then Addl. DG (Int.), who had asked him to provide any oral and documentary relevant fact to be included in his affidavit relating to riots incidents on behalf of State IB required to be filed before Nanavati Commission. Secondly, Nanavati Commission a legally constituted body under Commission of Inquiry Act had issued a public notice calling upon any one having knowledge about the incident of issues involved before it, to file an affidavit and furnish information, but Shri Sanjiv Bhatt did not file any affidavit. Thirdly, SIT, legally constituted by the Hon'ble Supreme Court of India had also issued a public notice on 11.04.2008 calling upon the people to come forward and give information relating to the riots, but Shri Sanjiv Bhatt conveniently did not come forward. Fourthly, another opportunity was given to him in November, 2009, to make a statement during the course of inquiry ordered by the Hon'ble Supreme Court of

India, but Shri Sanjiv Bhatt took the plea that it would not be professionally appropriate on his part to divulge the exact nature of discussion that took place during the said meeting, unless he was duty bound to disclose the same under legal obligation.

Shri Sanjiv Bhatt, on his own and without being summoned appeared before the IO on 25-03-2011, i.e. two days after the recording of his statement, along with one constable named Shri K.D. Panth and requested that his (Bhatt's) further statement should be recorded. In his further statement, Shri Sanjiv Bhatt mentioned the names of two Assistant Intelligence Officers (AIOs) namely, Shri Shailesh Raval and Shri K.D. Panth, who used to accompany him to most of the meetings. He has further stated that subsequent to the recording of his statement on 21 & 22-03.2011, he had been able to recollect that Shri K.D. Panth had followed him to CM's residence with the files in his staff car from DGP's office, whereas he himself had accompanied DGP Shri K. Chakravarthi in the latter's staff car. He has also stated that Shri K.D. Panth returned with him in his car to Police Bhavan and remained in the office till late in the night and attended to urgent official work. Shri Sanjiv Bhatt also informed that then Shri Tarachand Yadav, was his driver who is presently attached to Shri V.K. Mall, Joint Director, Gujarat Police Academy, Karai, Gandhinagar. Shri Sanjiv Bhatt also disclosed that as DCI (Security), he was using the Govt. mobile phone no. 98250 49398.

During the course of further investigation seven senior administrative and police officers namely, Shri Ashok Narayan, the then ACS (Home), Shri P.K. Mishra, the then Principal Secretary to CM, Shri K. Chakravarthi, the then DGP, Shri P.C. Pande, the then CP, Ahmedabad City, Shri Anil Mukim, the then Addl. PS to CM, Shri K. Nityanandam, the then Secretary (Home) and Shri Prakash S. Shah, the then Addl. Secretary (L&O), who had been earlier examined during 2009-10 have categorically stated that Shri Sanjiv Bhatt, the then DCI (Security) was not present in the said meeting held at CM's residence on 27-02-2002 night. During

the earlier inquiry, three participants of this meeting namely Shri Nityanandam, Shri Anil Mukim and Smt. Swarna Kanta Verma were not asked this question while three others namely Shri Ashok Narayan, Shri P. C. Pande and Shri P. K. Mishra had stated that they did not recollect. Shri P. S. Shah had not been examined during the inquiry. However, Shri K. Chakravarthi had stated at that stage also that Shri Bhatt was not present in this meeting. They have also confirmed that no Minister/Politician was present in the said meeting.

Smt. Swarna Kanta Varma, being ACS (Health & Family Deptt.) and the then acting Chief Secretary was never posted in the Home Department and therefore, she did not know Shri Sanjiv Bhatt, the then DCI (Security). On being shown the photograph of Shri Sanjiv Bhatt, she has stated that she can not recollect having ever met or seen him in any meeting. According to Smt. Swarna Kanta Varma, the Chief Minister had stated in the said meeting that incident in Godhra was very unfortunate and it should be dealt with a heavy hand. She also does not recollect having seen any Cabinet Minister in the said meeting. All the participants of the meeting held on 27-02-2002 night, have denied that CM had uttered any words on the lines that Gujarat Police had been following the principle of balancing the actions against the Hindus and Muslims, while dealing with the communal riots in Gujarat and that the situation warranted that Muslims be taught a lesson to ensure that such incident do not recur ever again and that the emotions were running very high amongst the Hindus and they be allowed to vent their anger.

There is unanimity amongst all the participants of the said meeting that no Minister/politician was present in the meeting. Shri Bhatt has contended that Shri P.C. Pande, the then CP, Ahmedabad City had strongly opposed the Government's decision regarding transportation of the dead bodies to Ahmedabad City as the same was likely to lead to communal riots and that his views were supported by Shri K. Chakravarthi, the then DGP. His version

stands contradicted by Shri P.C. Pande, the then CP, Ahmedabad City, who had stated that the sum and the substance of the meeting was that the dead bodies were being brought to Ahmedabad City with a view to facilitate the relatives of the deceased to identify and claim the same.

Shri K. Chakravarthi, the then DGP has clearly stated that the decision of the Govt. to bring the dead bodies of Godhra victims at Ahmedabad City, was not opposed by anyone on the ground that a large number of victims belonged to Ahmedabad and nearby places, which were easily approachable from Ahmedabad. This would go to show that Shri Sanjiv Bhatt was giving an imaginary account of the deliberations of the meeting and did not know as to what exactly transpired there. Further, it has been contended by Shri Sanjiv Bhatt that both DGP and CP, Ahmedabad City had tried to impress upon the Chief Minister that the bandh call given by the VHP on 28-02-2002, which was supported by the ruling party BJP was not a good idea as far as the Law & order situation of the State was concerned and that the Chief Minister was not convinced by their arguments. In this regard, Shri K. Chakravarthi, the then DGP has stated that in the night of 27-02-2002, he did not know that the bandh call given by the VHP was supported by the ruling party BJP and as such there was no question of any such opposition by him. Shri P.C. Pande has also stated that on 27-02-2002, he did not know that the bandh was supported by the BJP and came to know about it only on 28-02-2002, through newspaper reports. All the participants of the meeting have stated that the Chief Minister had expressed the apprehension that the Godhra incident was very serious and bound to affect the public at large, as a result of which there could be repercussions and therefore, adequate bandobast was needed to avoid any untoward incident.

Shri Sanjiv Bhatt has claimed that he mentioned the fact of having attended the said meeting on 27-02-2002 night in his movement diary. However, the State IB has reported that no such

diary was being submitted by Shri Sanjiv Bhatt. Shri G.C. Raiger, the then Addl. DG (Int.) has stated that there was no such system of submitting any monthly movement diary by DCI and that Shri Sanjiv Bhatt had never submitted any such diary. Shri Sanjiv Bhatt have claimed to have briefed Shri G.C. Raiger, the then Addl. DG (Int.) on 28.02.2002, at about 1000 hrs about the alleged meeting held by the Chief Minister and also about the illegal instructions given by the latter. This claim is absolutely false and is contradicted from the call detail records of the Govt. mobile phone no. 9825049398 of Shri Sanjiv Bhatt, which show that the location of Shri Sanjiv Bhatt was at Memnagar, Ahmedabad till 10:57:43 hrs on 28.02.2002. Further, Shri Sanjiv Bhatt has claimed that he did not submit any report about the meeting held by the Chief Minister at his residence on 27.02.2002 night, as he attended the meeting as a Staff Officer to DGP/ Addl. DG (Int.). This contention put forward by Shri Sanjiv Bhatt is absurd because there was no post of Staff Officer to Addl DG (Int.) and Shri K. Chakravarthi has denied that Shri Sanjiv Bhatt was posted as Staff Officer to DGP, as the Staff Officer was of the rank of Dy. SP and not SP. Shri Sanjiv Bhatt has contended that he did not file affidavit nor appeared as a witness before the SIT in response to a public notice issued by the SIT, as it would not have been appropriate on his part to divulge any information that he was privy to as an intelligence officer unless he was under a legal obligation to do so. In this connection, it would not be out of place to mention here that assuming for the time being that Shri Sanjiv Bhatt attended the alleged meeting of 27.02.2002, the same was essentially a law & order meeting attended by the various officials of State Administration and therefore the question of oath of secrecy or application of the Official Secrets Act does not arise because it was neither a secret meeting nor would the revelation of the contents of the said meeting jeopardized the public interest. Shri Sanjiv Bhatt has used the weapon of the Official Secrets Act only as a pretext with a view to justify a long delay of nine years and just because an official of the intelligence unit attended a law &

order meeting, the same does not become a secret meeting for which a privilege of secrecy is being claimed by Shri Sanjiv Bhatt. In any case, Nanavati Commission and SIT have been set up under the provisions of law of the land and all the citizens/ officials are legally bound to divulge the information available with them which are relevant to the terms of reference/ crimes of the Commission being investigated by SIT.

In view of this, the explanation put forward by Shri Sanjiv Bhatt does not hold good. Shri Sanjiv Bhatt had gone to the extent of saying that he learnt from the other staff that Late Ashok Bhatt was stationed in Ahmedabad City Police Control Room, which has no value, whatsoever, being the hearsay evidence. The claim of Shri Sanjiv Bhatt that he had opposed the bringing of dead bodies to Ahmedabad from Godhra, is belied from the fact that all the participants of the said meeting have categorically stated that Shri Sanjiv Bhatt did not attend the said meeting.

Shri Sanjiv Bhatt has specifically claimed that he had accompanied the DGP Shri K. Chakravarthi to the residence of the Chief Minister in the night of 27.02.2002 in latter's staff car, which has been denied by Shri K. Chakravarthi. The statement of Shri K. Chakravarthi has been supported by the entry made by Shri K. Chakravarthi in his staff car log book written by him on the relevant date in his own hand, which shows that two persons (1+1), i.e. DGP and his PSO used the car on 27.02.2002. The version of Shri K. Chakravarthi is further corroborated by his PSOs namely Shri Dilip Ahir and Shri Dharmपाल Yadav, who have categorically stated that Shri Sanjiv Bhatt never accompanied the DGP in his staff car.

It is a fact that Shri Sanjiv Bhatt did send four wireless messages on 27-02-2002 to all the jurisdictional officers to take all precautionary measures to prevent communal riots as Godhra incident was likely to have State wide repercussions. These wireless messages were sent by him as DCI (Communal) as Shri P.B. Upadhyay, the then DCI (Communal) was on casual leave on that day i.e. 27-02-2002. However, he had resumed duty in the

evening. Significantly, on 28-02-2002, all the concerned wireless messages were sent by Shri P.B. Upadhyay, the then DCI (Communal), who was dealing with the subject. Shri Sanjiv Bhatt as DCI (Security) had also sent a fax message on 28-02-2002, to Home Secretary, Gandhinagar with information to PS to CM, PS to MoS (Home), DGP and Commissioner of Police, Ahmedabad City, in which he had intimated about a Hindu mob attack on Gulberg Society resulting into death of atleast 18 persons including Late Ahesan Jafri, Ex-MP and its family members and the attack was continuing. Shri Bhatt had expressed his apprehension that this incident could have State wide ramifications. Though no time had been mentioned on this message, yet it appears that this fax message was sent only after the killings had taken place and the Gulberg Society had been set on fire. In all probability this message had been sent on the basis of the fax message sent by PI C.J. Bharwad, the then PI, Ahmedabad City Regional State IB office at 1700 hrs.

Shri Sanjiv Bhatt has further contended that in view of the fact that Late Ahesan Jafri, Ex-MP was residing in Gulberg Society, he had telephonically conveyed the details directly to the Chief Minister either on landline or on the mobile phone of Shri O.P. Singh, PA to CM. However, he has not been able to specify on which telephone he rang up the Chief Minister. Shri O.P. Singh has denied that he received any call from Shri Sanjiv Bhatt. The call details of Gandhinagar tower are not available as the same had not been requisitioned by Shri Rahul Sharma, the then SP, during investigation of the riot cases. Notably there is no practice in Gujarat of SP level officers speaking directly to CM over phone. Further, Shri G.C. Raiger, the then Addl. DG (Int.), who was very much in office on 28.02.2002, has stated that this was totally false and that Shri Sanjiv Bhatt had never informed him about it.

Shri C.J. Bharwad, the then PI, State IB, Ahmedabad Region has stated that on 28-02-2002, on the basis of information collected by him during the riots, he had gone to Gulberg Society,

Meghaninagar of his own and passed on the various information reports collected by him to State IB Control Room. He has further stated that around 1215 hrs on 28-02-2002, he had sent a message to State IB Control Room that since Muslims reside in Gulberg Society in Meghaninagar area, a strict watch should be kept there. He has contradicted the statement made by Shri Sanjiv Bhatt, the then DCI (Security), and has denied to have any telephonic discussions with him about the situation in Gulberg Society in as much as the subject concerned the "Communal" Desk of IB was being looked after by Shri P.B. Upadhyay, the then DCI (Communal). He has further stated to have passed on a message at 1450 hrs on 28-02-2002, that a mob of 3000 rioters had surrounded Gulberg Society. On 28-02-2002 itself, he had passed on another message at 1700 hrs that a mob of 5000 rioters had surrounded and set fire to the Gulberg Society, in which several persons including Late Ahasan Jafri, Ex-MP had been burnt alive and that police deployment was required. The version of Shri Bharwad belies the testimony of Shri Sanjiv Bhatt, the then DCI (Security), who has claimed that he had given directions to Shri Bharwad to go to the Gulberg Society and give the latest updates and that Shri Bharwad was in constant touch with him.

Investigation further revealed that the headquarters of State Intelligence Bureau is located at Gandhinagar and is headed by an Addl. DG, assisted by IGP (Security), DIG (Political & Communal) and three Deputy Commissioners of Intelligence and other officers and supporting staff. Besides State IB, there are intelligence units headed by Inspectors/ Dy.SsP working independently in the Districts. The State IB has been entrusted with the duties of collection of intelligence in respect of maintenance of law & order including communal intelligence in Gujarat State. In brief, the functions of the State IB relate to collection and collation of information regarding political, industrial and other similar developments in the State, verification of antecedents, protection and security of the VIP's, watch over anti-national activities,

movements of foreigners and all other matters pertaining to the internal security, collection of intelligence regarding all types of communal activities and to keep the Govt. informed of all these activities from time to time.

In February, 2002, Shri G.C. Raiger was posted as Addl. DG (Int.) and was assisted by Shri O.P. Mathur, IGP (Security & Admn.). In addition, there was another post of IGP (Political & Communal), which was lying vacant due to the death of Shri S.Kumar in January, 2002. There were three SP rank officers out of which, Shri Sanjiv Bhatt was posted as DCI (Security), Shri P.B. Upadhyay as DCI (Political & Communal) and the third post was DCI (Admn.) which was lying vacant. It has further come to light that Shri G.C. Raiger was on casual leave from 26-02-2002 to 28-02-2002 and was away to Rajasthan, but returned on 27-02-2002 evening. Shri P.B. Upadhyay, the then DCI (Communal) was on leave from 26-02-2002 onwards to arrange for sacred thread ceremony of his grand son fixed for 01-03-2002. However, Shri O.P. Mathur, IGP had called him up on 27-02-2002 afternoon, informed him about the Godhra incident and instructed to resume duties immediately. Accordingly, Shri Upadhyay had resumed duties on 27-02-2002 evening. However, in his absence, his work was being looked after by Shri Sanjiv Bhatt, who was the only other SP rank officer in the State IB.

Shri G.C. Raiger has stated that on his return to Ahmedabad on 27-02-2002, he had come to know about the Godhra incident and had telephonically informed DGP Shri K. Chakravarthi on 27-02-2002 evening that he would cut short his leave and come to Gandhinagar, if necessary, to which the DGP asked him to join on 28-02-2002. Shri Raiger has denied having been informed by the DGP about the meeting called at CM's residence on 27-02-2002 late in the night. Shri Raiger denied having received any information about the meeting from either the State IB Control Room, State Control Room or even Shri Sanjiv Bhatt, the then DCI (Security). Shri O.P. Mathur has also denied that he received any

such information about a meeting called at CM's residence on 27-02-2002 night. Shri P.B. Upadhyay, the then DCI (Communal), who had resumed the duties on 27-02-2002 evening, and used to look after Communal and Political section and was the concerned officer to be associated with the said meeting, had also no information about the said meeting thereby suggesting that no one from the intelligence was required to attend the said meeting.

Shri K. Chakravarthi, the then DGP has stated that he had gone to studios of Door-Darshan, Ahmedabad City on 27-02-2002 late in the evening, for the telecast of an appeal to the general public to maintain communal harmony and peace, when he received a message from State Control Room that CM had called for a meeting at his residence at Gandhinagar around 2230 hrs. Shri Chakravarthi has stated that he straight away went to CM's residence at Gandhinagar and reached there a little earlier and waited as CM had not arrived from Godhra by that time. According to Shri Chakravarthi, Smt. Swarna Kanta Varma, the then acting CS, Shri Ashok Narayan, the then ACS (Home), Shri P.C. Pande, the then CP, Ahmedabad City and Shri K. Nityanandam, the then Secretary (Home) arrived only subsequently. Shri Chakravarthi has categorically denied having given any instructions to Shri Sanjiv Bhatt, the then DCI (Security) to attend the aforesaid meeting. He has further stated that Shri Sanjiv Bhatt did not accompany him to CM's residence in his car from DG's office, as he (DGP) did not visit office at that time. He has also stated that in case Shri Raiger was available at Ahmedabad, he would have given instructions to State Control Room to call him. According to Shri Chakravarthi even otherwise, Shri O.P. Mathur, the then IGP (Admn. & Sec.) was available and could have been called to attend the meeting rather than asking Shri Sanjiv Bhatt, a junior officer of SP level to attend the said meeting.

Shri Sanjiv Bhatt, the then DCI (Security) has named two AIOs namely Shri K.D. Panth and Shri Shailesh Raval, who used to accompany him to such meetings along with the files. After Shri

Sanjiv Bhatt's further statement was recorded at his own request on 25-03-2011, he insisted that Shri K.D. Panth, who was accompanying him and was waiting outside, should also be examined. He stressed that Shri Panth should be examined in his presence. However, Shri Bhatt was informed that Shri K.D. Panth would be called on a date convenient to the IO and examined. Accordingly, Shri Panth was informed on 04-04-2011, to attend SIT office on 05-04-2011, for his examination.

Shri K.D. Panth in his examination has stated that he was on casual leave on 27-02-2002. Further, he has denied that he followed Shri Sanjiv Bhatt, the then DCI (Security) to CM's residence on 27-02-2002 night. However, he has stated that Shri Sanjiv Bhatt had called him to his residence on 24-03-2011 night and informed that he was going to make a statement before the SIT that he (K.D. Panth) had gone to attend a meeting at CM's residence on 27-02-2002 night, and that he (Panth) had been called at State IB office and be ready with the files for the said meeting. Shri Sanjiv Bhatt further informed Shri Panth that he should accompany him to SIT office on 25-03-2011, and make a statement on these lines.

During his examination, Shri Panth further stated that he has contacted Shri Sanjiv Bhatt over his landline telephone no. 27455117 from mobile no. 8140657775 (belonging to one of his friends) after he was called for examination scheduled for 05-04-2011. Shri Sanjiv Bhatt called him at his residence on 04-04-2011 at 2030 hrs. At his residence, Shri Sanjiv Bhatt informed Shri Panth that he has made a statement to the SIT that he (Bhatt) had accompanied DGP Shri K. Chakravarthi in his official car to CM's office from DGP's office on 27-02-2002 night and that he (Shri Panth) had followed him in his (Shri Sanjiv Bhatt's) staff car along with the files. Shri Sanjiv Bhatt asked Shri Panth to make a statement accordingly.

Subsequently, Shri K.D. Panth lodged a complaint against Shri Sanjiv Bhatt with the local police to the effect that Shri Sanjiv

Bhatt had influenced, threatened, detained, put severe pressure and compelled him to sign an affidavit containing false/ wrong and incorrect facts, in pursuance of which a case no. I. CR No.149/2011 was registered u/s 189, 193, 195, 341, 342 IPC with Ghatlodia police station, Ahmedabad City, Gujarat State. Shri Sanjiv Bhatt has since been arrested in this case and the matter is under investigation. In view of this, no reliance can be placed upon the version of Shri Sanjiv Bhatt.

This conduct of Shri Sanjiv Bhatt in arranging, prompting and controlling the witness to corroborate his statement is highly suspicious and undesirable. Shri Sanjiv Bhatt also contacted Shri Shailesh Raval on 28-03-2011/ 29-03-2011, over mobile phone no. 9825688223 of one Shri N.J. Chauhan, a clerk in CM's Security and informed him that he would be called by SIT for his examination. Shri Sanjiv Bhatt also asked Shri Shailesh Raval that he had worked with him in Security Branch for a long time and was aware that he (Sanjiv Bhatt) used to attend meetings, to which Shri Raval reacted by saying that he had accompanied him in Border Security Nodal Committee meetings, which used to deal with the Border Security only. Shri Raval also informed Shri Sanjiv Bhatt that he never worked in the Communal Branch and was not aware of anything about it. Shri Sanjiv Bhatt thereafter disconnected the phone. Shri Shailesh Raval, PI later sent a complaint in writing to the Chairman, SIT that he feared reprisal from Shri Sanjiv Bhatt as he had refused to support the false claims of Shri Bhatt. This is yet another attempt on the part of Shri Sanjiv Bhatt to tutor a witness to depose in a particular manner so as to support the statement made by him, which further makes his claim of having attended the meeting at CM's residence on 27-02-2002, false.

Shri Tarachand B. Yadav, driver constable in SRP Group-XII, who had been dismissed from service on the charge of getting employment in Gujarat Police on the basis of false and forged certificate, has stated that he used to drive the staff car allotted to

Shri Sanjiv Bhatt, the then DCI (Security) during February-March, 2002. However, he does not remember the registration number of the staff car. Shri Yadav could not give the name of Personal Security Officer of Shri Sanjiv Bhatt, the then DCI (Security). However, he has stated that he recollects that Shri Sanjiv Bhatt, the then DCI (Security) had gone to CM's residence in a three star car with either DGP or some ADGP from Police Bhavan and that he had followed him in his staff car, in which Shri K.D. Panth, the then AIO, State IB sat with some files. He has also stated that Shri Sanjiv Bhatt, the then DCI (Security) returned after about 25 minutes and he took him to Police Bhavan, where he worked till midnight i.e. 0030 hrs and then drove him back to his residence at Ahmedabad. Shri Yadav could not say as to whether Shri Sanjiv Bhatt, the then DCI (Security) accompanied DGP or some ADGP rank officer. He has denied knowledge, as to whether Shri Sanjiv Bhatt went inside CM's office to attend the meeting or not, as he was waiting outside. He has also stated that on 28-02-2002, Shri Sanjiv Bhatt reached Police Bhavan at about 0900 hrs and worked in his office and did not go out to attend any meeting at CM's house. On 28-02-2002, he has stated that he started from Gandhinagar dropped Shri Sanjiv Bhatt at his residence at about 1900 hrs. However, he could not recollect the details of the various events of 1st, 2nd & 3rd March, 2002 due to passage of time.

The version of Shri Tarachand B. Yadav is contradicted by Shri K.D. Panth, who has denied to have followed Shri Sanjiv Bhatt in his staff car driven by Shri Tarachand Yadav. Besides that he is an unreliable witness due to his background. He has been dismissed from service due to his own misconduct. Moreover, he has admitted to have gone to the residence of Shri Sanjiv Bhatt, the then DCI (Security) on 17-04-2011 afternoon, for getting a briefing before making a statement to SIT. The call details of his mobile phone clearly show that he was in touch with Shri Sanjiv Bhatt, the then DCI (Security). Even when he was being interrogated in SIT office, Shri Sanjiv Bhatt was repeatedly contacting him over his mobile phone, to which he did not

respond. In addition, the version of Shri Tarachand Yadav about the movements of Shri Sanjiv Bhatt on 28-02-2002, are proved to be false in as much as Shri Sanjiv Bhatt did not come to Gandhinagar at 0900 hrs, as the call detail records of his official mobile phone show his location at Ahmedabad City till 1057 hrs. Shri Tarachand Yadav further contradicts the version of Shri Sanjiv Bhatt, who claims to have attended a meeting on 28-02-2002 at 1030 hrs, at CM's residence. The overall impression left in the matter is that Shri Sanjiv Bhatt has introduced him as a false witness with a view to corroborate his own false version about having attended a meeting at CM's residence on 27-02-2002 night, whereas in fact Shri Tarachand Yadav does not recollect anything about the events of 27-02-2002 onwards. Moreover, he is a motivated witness, who has got an axe to grind against the Govt. on account of his dismissal from service. In view of this no reliance can be placed upon his evidence.

During further investigation, PSOs of the then DGP Shri K. Chakravarthi were examined. PSI Dilip Jivaram Ahir and Head Constable Dharampal Jagaram Yadav stated that they had never seen Shri Sanjiv Bhatt sitting in the vehicle along with DGP.

Shri G.C. Raiger, the then Addl. DG (Int.) has stated that Shri Sanjiv Bhatt was never posted as Staff Officer to Addl. DG (Int.), because there is no post like that in the State IB. Further, Shri Sanjiv Bhatt could not have been a Staff Officer to the DGP, as Late V.S. Shinde, Dy.SP was posted as Staff Officer to the DGP. Shri Raiger has further stated that Shri Sanjiv Bhatt used to accompany him in the meetings called by the Chief Minister sometime, but was normally made to wait outside with the relevant files/information and did not join the meetings. Shri Raiger was unable to recollect any meeting called by the Chief Minister, which Shri Sanjiv Bhatt attended along with him. Shri Raiger has further stated that on 28-02-2002, he did come to know about the meeting called by the Chief Minister at his residence on 27-02-2002, but Shri Sanjiv Bhatt did not inform him of having attended the said

meeting and also about its agenda or the matters discussed in the said meeting.

Shri R. B. Sreekumar formerly ADGP Intelligence, in his interview given to the Star Hindi News Channel at 12.35 hrs on 22.04.2011 has stated that Shri Sanjiv Bhatt, DCI (Security) had never informed him about having attended a meeting at CM's residence on 27.02.2002. He has further stated that at the time of filing an affidavit before Nanavati Shah Inquiry Commission, he had asked all the officers of State IB to provide him with the relevant information and documents in respect of Godhra riots but Shri Sanjiv Bhatt did not give him any information about the said meeting. According to Shri Sreekumar, Shri Sanjiv Bhatt was handling security portfolio and communal portfolio was being looked after by another officer. Shri Sreekumar has also stated in the interview that it was a normal procedure that if a junior officer had attended a meeting on behalf of senior, he was required to submit a report to his superior and that Shri G. C. Raigar, the then ADGP (Int) should be asked about it. As already stated above, Shri Raigar has denied having received any information/report from Shri Sanjiv Bhatt in this regard.

The call detail records of the Govt. mobile phone no. 9825049398, allotted to Shri Sanjiv Bhatt show that on 27-02-2002, Shri Sanjiv Bhatt remained at Ahmedabad till about 1120 hrs and returned to Ahmedabad at 1925 hrs. He attended to various calls till 2040 hrs and thereafter, there is no record of any calls made or received by him. However, the call details record do not indicate that he was going towards Gandhinagar on or at 2040 hrs. Further, on 28-02-2002, as per call details the location of Shri Bhatt was noticed at Ahmedabad till 10:57:43 hrs and again at Ahmedabad at 2056 hrs. The claim of Shri Sanjiv Bhatt that he had attended a meeting at CM's residence on 28-02-2002, at 1030 hrs is, therefore, proved to be false and incorrect. CM's residence is at Gandhinagar, more than 25 KMs from his residence at Memnagar, Ahmedabad, and it normally takes 30 to 45 minutes to

reach Gandhinagar. His further claim that he had seen Late Ashok Bhatt and Shri I.K. Jadeja, the then Ministers in the DGP's office at about 1100 hrs on 28-02-2002, is also belied from the call detail records in as much as the location of the mobile phone of Shri Sanjiv Bhatt was at Prerna Tower, Vastrapur -1, Ahmedabad, which happened to be at a distance of 1.5 Kms approximately from his residence and by any stretch of imagination Shri Bhatt could not have reached Police Bhavan, Gandhinagar before 1130 hrs.

Shri Ashok Narayan, the then ACS (Home) has stated that a meeting was held by the Chief Minister in the morning of 28-02-2002, which was attended by acting Chief Secretary, DGP and Addl. DG (Int.) and the matter relating to the calling of Army was also discussed, but no decision was taken and it was decided to watch the situation. He has categorically denied that Late Ashok Bhatt and Shri I.K. Jadeja, Ministers had attended the said meeting. The claim of Shri Sanjiv Bhatt that he had attended the said meeting at 1030 hrs at CM's residence is proved to be false from the location of his mobile phone, which was at Prerna Tower, Vastrapur-I, Ahmedabad City at 10:57:43 hrs. Moreover, his contention that the aforesaid two Ministers were present in the said meeting is proved to be false from the statement of Shri Ashok Narayan, the then ACS (Home), who has categorically stated that they were not present in the said meeting.

As regards the alleged utterances made by the Chief Minister in the meeting called on 27-02-2002 night at his residence, it may be mentioned here that Shri R.B. Sreekumar, the then Addl. DG (Int.) had claimed that Shri K. Chakravarthi, the then DGP had informed him on 28-02-2002 that the Chief Minister had said in the meeting that "*KOMI HULLADO MA TAME POLICE BARABARI KARO CHO. TAME BE HINDU NE PAKDO TO TAME BE MUSALMANO NE PAN PAKDO CHO. HAVE EM NAHI CHALE. HINDUONO GUSSO UTTARWA DO.*" (*In communal riots police takes action against Hindus and Muslims on one to one*

basis. This will not do now- allow Hindus to give vent to their anger.) Shri Chakravarthi has denied that he held any such talks with Shri R.B. Sreekumar. Even otherwise, the version of Shri R.B. Sreekumar becomes hearsay. However, on the other hand Shri Sanjiv Bhatt, who insists that he was in the said meeting, has alleged that the Chief Minister had said "that for too long the Gujarat Police had been following the principle of balancing the actions 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 recur ever again. The Chief Minister Shri 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". Assuming for the time being that the Chief Minister did say so, there is a material difference between the two versions in as much as Shri Sanjiv Bhatt has tried to improve his version by way of addition " that this time the situation warranted, that the Muslims be taught a lesson to ensure that such incidents do not recur ever again" . Since there is no independent corroboration of the version of either Shri R.B. Sreekumar or Shri Sanjiv Bhatt, no reliance can be placed on either of them. It is relevant to mention here that the Ld. Amicus Curiae has agreed with the findings of SIT that the aforesaid statement of Shri R.B. Sreekumar was not admissible in evidence.

Shri Sanjiv Bhatt has not been able to give any satisfactory explanation that when he was in possession of plethora of information and was an eyewitness to some of the important events, then why did he not file an affidavit before Nanavati Commission and also did not appear as a witness in response to the Govt. circular before any legal authority. He does not explain as to why he did not respond to a public notice issued by SIT on 11-04-2008. However, on 21/22-03.2011, when he made a statement u/s 161 Cr.PC before the SIT, it is not understood as to by whom and how the claimed secrecy was waived. His silence for a period of more than nine years without any proper explanation

appears to be suspicious and gives an impression that he is trying to manipulate the things to his personal advantage to settle his service matters.

During the course of further investigation a complaint was received from Shri Dharmesh P. Shukla, an accused in I CR No. 67/2002 of Meghaninagar P.S. (Gulberg Society Case), who is facing trial, in which he contended that there was no justification to record the statement of Shri Sanjiv Bhatt on account of the following reasons:-

- (i) That Shri Sanjiv Bhatt, IPS is known to be a police officer of dubious character facing several criminal cases of serious nature and whenever he wants a favour from the Govt., he creates a situation whereby the Govt. is compelled to help him.
- (ii) That Shri Sanjiv Bhatt, who had not even whispered about any such meeting in the past contemporaneously, surprisingly came out with a new theory that he was a part of the meeting.
- (iii) That this sudden stand taken by Shri Sanjiv Bhatt after nine years of silence and his insistence that his statement be recorded only after an offence is registered, is at the behest of some person/s with vested interests.
- (iv) That it is known to almost everyone in Gujarat that Shri Sanjiv Bhatt is famous for his pressure tactics to get illegal favours.

Since the allegations leveled by the complainant were serious, a communication was sent to the Govt. to make available the details of all complaints / pending inquiries / -prosecutions / departmental proceedings etc. against Shri Sanjiv Bhatt. A detailed reply has been received from the Govt. of Gujarat, which shows that Shri Sanjiv Bhatt has faced a number of departmental inquiries and he was granted three promotions to the rank of Junior Administrative Grade, Selection Grade and DIG Grade on one day i.e. 21-09-2007, after dropping of three departmental

inquiries pending against him vide orders dated 06-08-2005, 03-09-2005 & 24-07-2006. Shri Sanjiv Bhatt, who is eligible for the IGP grade has not been promoted because of the departmental inquiries and criminal cases pending against him. A charge-sheet served upon him on 29-12-2010, for irregularities in police recruitment under his Chairmanship as SP, Banaskantha is still pending.

It has further come to light that while handling a law and order situation during his posting as ASP Jamnagar in the year 1990, Shri Sanjiv Bhatt committed police atrocities on peaceful and innocent villagers belonging to a particular community at a place called Jam Jodhpur. In the beatings by police, one person was killed. The victims included a pregnant woman, two assistant engineers of Irrigation department and one Circle officer of Revenue Department. Shri Bhatt applied provisions of draconian law TADA against the innocent persons and arrested 140 individuals under this Act. Due to public pressure, the Government got an inquiry conducted from a retired Judicial Officer into the incident and Shri Bhatt was found guilty of (a) misuse of TADA (b) police atrocities and (c) unnecessary imposition of curfew for 70 hours leading to hardship and harassment to the people.

It has also come to light that the criminal case relating to death of a person due to police atrocities in the incident was investigated by State CID (Crime) against Shri Sanjiv Bhatt and others. On completion of investigation, the IO sought prosecution sanction from the Government u/s 197 Cr.PC, which was declined and therefore, a closure report was filed in the competent court. However, the Court rejected the closure report on 20.12.1995 and took cognizance. The State Government filed a Criminal Revision Application in the Sessions Court, which was rejected. A case u/s 302, 323, 506(1), 114 of IPC has now been committed to Sessions Court, Jamnagar and is presently pending with the Fast Track Court, Jam-khambhalia for framing of charges against Shri Sanjiv Bhatt and others. Significantly, Gujarat High Court awarded a

compensation of Rs.1,50,000/- to the victim who had died due to police atrocities in the above case.

Another criminal complaint was filed against Shri Sanjiv Bhatt, while he was posted as SP, Banaskantha District in 1996 by Shri Sumersingh Rajpurohit, an Advocate practicing at Pali, Rajasthan and a criminal case was registered against Shri Sanjiv Bhatt & others vide FIR No. 403/96 dated 18-11-1996 u/s 120B, 195, 196, 342, 347, 357, 365, 388, 458, 482 IPC and Sec. 58 (1) & 58 (2) of NDPS Act. On completion of the investigation, a charge-sheet was filed against Shri Sanjiv Bhatt & others u/s 114, 120B, 323, 342, 348, 357, 365, 368, 388, 452, 201 & 482 IPC and Sec. 9, 17, 18, 29, 58 (1) & 58 (2) r/w Sec. 37 of NDPS Act in the court of Spl. Judge, NDPS Act, Jodhpur, Rajasthan. The allegations in brief are that the complainant Shri Sumersingh Rajpurohit, Advocate was occupying a property as a tenant in Pali (Rajasthan), which was owned by a lady, who happened to be a sister of Shri R.R. Jain, a sitting Judge of Gujarat High Court. As per the said criminal complaint Shri Sanjiv Bhatt and his subordinate police officers planted 1 ½ kg of Narcotic drug in one room in a hotel at Palanpur, Gujarat, which was shown as occupied by the said complainant, though he was at Pali (Rajasthan) at that time. The said Advocate was abducted at midnight on the instructions of Shri Sanjiv Bhatt by his subordinate police officers of Gujarat police, who went from Palanpur, Gujarat to Pali (Rajasthan) to abduct him. The said Advocate was brought to Palanpur, Gujarat and pressurized by Shri Sanjiv Bhatt and his subordinate police officers to vacate the said property by showing him arrested under NDPS offence. The said Advocate, while in the custody of Gujarat Police and due to police torture, vacated the property and physical possession of the property was handed over to the sister of Shri R.R. Jain, Judge of Gujarat High Court. Shri Sanjiv Bhatt and his subordinate police officers thereafter released Shri Sumersingh Rajpurohit on 08-05-1996, by filing a report u/s 169 Cr.PC, in which it was mentioned that Shri Sumersingh could not be identified in the Test Identification Parade. Quashing

Petitions were filed in this matter by the accused persons in Rajasthan and Gujarat High Courts, but the same had been dismissed. The matter is now pending before the Hon'ble Supreme Court of India.

In the meantime, on the complaint of Shri Sidheshwar Puri, Secretary, Bar Association, Pali (Rajasthan), National Human Rights Commission, taking a very serious view of this false case under NDPS Act, vide its order dated 15-09-2010 asked Govt. of Gujarat to pay a sum of Rs. one lakh as monetary relief to Shri Sumersingh, Advocate, Pali.

Significantly, Gujarat Vigilance Commission recommended twice on 15-07-2002 and 19-10-2006 that Shri Sanjiv Bhatt should be placed under suspension for his professional misconducts, but the Govt. of Gujarat did not do so.

In view of the aforesaid position, it can be inferred that Shri Sanjiv Bhatt is facing a lot of problems in service matters and has got an axe to grind against the Govt. of Gujarat and, therefore, his evidence is ill motivated and can not be relied upon.

Government of Gujarat vide its letter dated 22-06-2011 forwarded a set of emails exchanged between Shri Sanjiv Bhatt, DIG, Gujarat Police and certain individuals during April & May 2011. It was mentioned in the above letter that during the course of an inquiry instituted against Shri Sanjiv Bhatt, IPS by DG (Civil Defence), Gujarat regarding misuse of official resources, some revelations have been made having direct bearing on the cases being monitored by SIT. The material forwarded by Govt. of Gujarat has been scrutinised and the salient features of the same are summarized as below:-

- (1) That top Congress Leaders of Gujarat namely Shri Shaktisinh Gohil, Leader of Opposition in Gujarat Legislative Assembly and Shri Arjun Modhvadia, President of Gujarat Pradesh Congress Committee are in constant touch with Shri Sanjiv

Bhatt, DIG. They are providing him "Packages", certain materials and also legal assistance. Further, on 28-04-2011, Shri Sanjiv Bhatt exchanged mails with Shri Shaktisinh Gohil and the former gave points for arguments in Hon'ble Supreme Court matter, allegations to be made against the members of SIT and to establish that the burning of a coach of Sabarmati Express at Godhra Railway Station was not a conspiracy. From the emails, it appears that Shri Sanjiv Bhatt was holding personal meetings with senior congress leaders as well. In one of the emails, he even mentions that he was "under exploited" by the lawyer representing Congress before Nanavati Commission of Inquiry.

- (2) That Shri Sanjiv Bhatt had been persuading various NGOs and other interested groups to influence the Ld. Amicus Curiae and the Hon'ble Supreme Court of India by using "Media Card" and "Pressure Groups".
- (3) Shri Sanjiv Bhatt had been exchanging emails with one Nasir Chippa and in the email dated 11-05-2011 Shri Bhatt has stated that he (Nasir Chippa) should try to mobilize support/pressure-groups in Delhi to influence Ld. Amicus Curiae Shri Raju Ramchandran in a very subtle manner. In another email dated 18-05-2011, Shri Sanjiv Bhatt had requested Shri Nasir Chippa to influence Home Minister Shri P. Chidambaram through pressure groups in U.S. It is believed that Shri Nasir Chippa has strong U.S. connections and his family stays there.
- (4) That Shri Sanjiv Bhatt arranged an appeal from Shri M. Hasan Jowher, who runs a so called NGO titled SPRAT (Society for Promoting Rationality) to Amicus Curiae on 13-05-2011, to call Shri Sanjiv Bhatt, IPS, Shri Rajnish Rai, IPS, Shri Satish Verma, IPS, Shri Kuldeep Sharma, IPS and Shri Rahul Sharma, IPS (all police officers of Gujarat) to tender their version of the Gujarat story. It may be mentioned here that the draft for the said appeal was sent by Shri Sanjiv Bhatt himself

to Shri Jowher. Further, a copy of this mail was circulated by Shri Sanjiv Bhatt to Ms. Shabnam Hasmi, Ms. Teesta Setalwad, Shri Himanshu Thakker, journalist, Shri. Leo Saldana, Journalist and Shri Nasir Chippa to encourage the prominent persons/organisation to write to Amicus Curiae on the similar lines so as to pressurize him.

- (5) In emails exchanged on June 1, 2011 between Shri Sanjiv Bhatt and Shri M.H. Jowher, it was proposed that a PIL may be filed through a lawyer named Shri K. Vakharia (a Sr. Advocate and Chairman of Legal Cell of Congress Party in Gujarat) in the Gujarat High Court for providing security to Shri Sanjiv Bhatt. It was also proposed that another complaint may be filed with the Commissioner of Police, Ahmedabad City against Shri Narendra Modi & others for his alleged involvement in 2002 riots which would be taken to appropriate judicial forums in due course.
- (6) That Ms. Teesta Setalwad, her lawyer Shri Mihir Desai and Journalist Shri Manoj Mitta of Times of India were in constant touch with Shri Sanjiv Bhatt, IPS and were instrumental in arranging / drafting of the affidavit for filing the same in Hon'ble Supreme Court. Vide email dated 10-04-2011, Shri Bhatt solicited "Co-ordinates" from Ms. Teesta Setalwad, who had also arranged for a meeting with her lawyer Shri Mihir Desai at Ellisbridge Gymkhana, Ahmedabad. Shri Sanjiv Bhatt sent the first draft of his proposed affidavit to Shri Manoj Mitta on 13-04-2011, after meeting Shri Mihir Desai, Advocate and invited his suggestions. Shri Manoj Mitta advised Shri Sanjiv Bhatt to incorporate a few more paragraphs drafted by him which were incorporated by Shri Sanjiv Bhatt in his final affidavit sent to Hon'ble Supreme Court of India as suggested by Shri Mitta.
- (7) That Shri Sanjiv Bhatt was instrumental in arranging an affidavit of one Shri Shubhranshu Chaudhary, a journalist, to corroborate his claim that he had gone to attend a meeting

called by the Chief Minister at his residence in the night of 27-02-2002. Significantly, Shri Bhatt had sent his mobile phone details of 27-02-2002 to Shri Shubhramshu Chaudhary and had also suggested the probable timings of his meeting to Shri Shubhramshu Chaudhary on 15-05-2011. Simultaneously, these details were sent to Ms. Teesta Setalwad on 16-05-2011, for drafting the document, presumably the affidavit to be filed by Shri Shubhramshu Chaudhary. Shri Sanjiv Bhatt sent an email to Shri Shubhramshu Chaudhary that the said affidavit could be leaked out to the print media which would force the Amicus Curiae and Hon'ble Supreme Court to take notice of the same. Shri Sanjiv Bhatt also sent another email to Shri Shubhramshu Chaudhary, in which he has stated that they should play the "Media Trick" so that affidavit is taken seriously by Amicus Curiae and the Hon'ble Supreme Court.

- (8) That Shri Sanjiv Bhatt had been exchanging emails with one Leo Saldana, a Narmada Bachao Andolan activist, with a view to mobilize public opinion in their favour. On 01-05-2011, Shri Sanjiv Bhatt had sent an email to the latter to the effect that what they needed to do at this stage was to create a situation, where it would be difficult for three judges Supreme Court Bench to disregard the 'shortcomings of SIT under stewardship of Mr. Raghavan' and that the Pressure groups and opinion makers in Delhi could be of great help in forwarding the cause. He has further stated in the mail that he was hopeful that things would start turning around from the next hearing, if proper pressure was maintained at National level.
- (9) That Shri Sanjiv Bhatt was trying to contact Shri K.S. Subramanyam, a retired IPS officer, through Shri Nasir Chippa to make an affidavit supporting his stand with a view to convince the Amicus Curiae and through him the Hon'ble Supreme Court of India that Shri K. Chakravarthi, former DGP of Gujarat, was a liar.

(10) That Shri Sanjiv Bhatt had been taking advice of Ms. Teesta Setalwad in connection with his evidence before Nanavati Commission of Inquiry. He had also been in touch with various journalists, NGOs and had been forwarding his representations, applications and other documents through email, whereas on the other side he had been claiming privilege that being an Intelligence Officer he was duty bound not to disclose anything unless, he was legally compelled to do so.

(11) That Shri Sanjiv Bhatt had been maintaining a close contact with Shri Rahul Sharma, DIG of Gujarat Police and had been getting his mobile phone calls analysed with a view to ascertain his own movements of 27-02-2002. This shows that Bhatt does not recollect his movements on that day. He has also been trying to ascertain the movements of Late Haren Pandya, the then Minister of State for Revenue on 27-02-2002, with a view to introduce him as a participant of the meeting of 27-02-2002 held at CM's residence, but could not do so, as Shri Rahul Sharma had informed him after the analysis that there was absolutely no question of Late Haren Pandya being at Gandhinagar on 27-02-2002 night.

From the study of emails, it appears that certain vested interests including Shri Sanjiv Bhatt, different NGOs and some political leaders were trying to use Hon'ble Supreme Court/SIT as a forum for settling their scores. This would also go to show that Shri Sanjiv Bhatt had been colluding with the persons with vested interests to see that some kind of charge-sheet is filed against Shri Narendra Modi and others.

➤ **Observations made by Ld. Amicus Curiae:**

- **"The other circumstances would also have to be taken into account. There is nothing to show that CM intervened on 28-02-2002, when the riots were taking place to prevent the riots. The movement of Shri Modi and the instructions**

given by him on 28-02-2002, would have been decisive to prove that he had taken all steps for the protection of the minorities, but this evidence is not there. Neither CM nor his personal officials have stated what he did on 28-02-2002. Neither the top police nor bureaucrats have spoken about any decisive action by CM".

- This one of the circumstances which indicates that the Hon'ble Chief Minister had not taken enough steps to ensure that riots in Ahmedabad City were immediately controlled by his direct intervention.

Result of further investigation:

During further investigation Shri Sanjay Bhavsar, OSD to CM has stated that on 28-02-2002, the Chief Minister held a meeting in the morning concerning business in the Assembly. Further, at 0830 hrs the Chief Minister attended the Assembly session, in which there was an obituary reference for those killed in Godhra incident. In the Assembly, the Chief Minister announced the Judicial Inquiry into the incident under the Commission of Inquiries Act instead of a High Level Inquiry announced earlier on 27-02-2002, and the house was adjourned. The Chief Minister held a meeting in the Assembly Secretariat with the acting Chief Secretary, ACS (Home), DGP and Addl. DG (Int.) about the prevailing situation in the State. In this meeting, the matter relating to the calling of Army was also discussed, but no decision was taken and it was decided to watch the situation. Shri Ashok Narayan has categorically stated that Late Ashok Bhatt, the then Health Minister and Shri I.K. Jadeja, the then Minister did not attend the said meeting. Though, Shri K. Chakravarthi, the then DGP has stated that ACS (Home) had conveyed to him about the Government's instructions to the effect that the aforesaid two Ministers would sit in the two Control Rooms at Gandhinagar and Ahmedabad City to assist the police, yet Shri Ashok Narayan has stated that he does not recollect any such instructions.

Shri Ashok Narayan has further stated that the Army had already been alerted on 27-02-2002, but inquiry conducted with the local Army authorities had revealed that no force was available in Gujarat and that the same had been deployed at the Borders. On 28-02-2002, another law & order review meeting was called by the Chief Minister at his residence around 1300 hrs or so, in which the situation was discussed and deployment of forces was reviewed. In this meeting, it was unanimously decided that Army should be called to assist the civil administration to maintain law & order as the situation in the State was getting out of control. In view of this, the Chief Minister made an oral request to Shri L.K. Advani, the then Union Home Minister over phone for deployment of Army in the State. As decided in the meeting, a fax message was sent by Shri K. Nityanandam, the then Secretary (Home) to the Secretary, Ministry of Defence, Govt. of India at 1430 hrs seeking deployment of 10 columns of Army at Ahmedabad City and other affected places immediately by airlifting them. The Chief Minister had earlier given instructions for the safe escort of the Hajj Pilgrims returning to the State to avoid any untoward incident. The fax message in this regard was sent on 27-02-2002, to Addl. DG (Int.) with information to the DGP by the Section Officer (Spl.), Home Department, Govt. of Gujarat.

The Chief Minister along with his cabinet colleagues and officials of the Home Department reached Circuit House Annexe, Shahibaug, Ahmedabad City around 1600 hrs or so and held a meeting with the officers of the Home Department. Subsequently, the Chief Minister held a press conference at Circuit House Annexe, Shahibaug, Ahmedabad City between 1630 hrs and 1745 hrs. In this press conference, CM announced that a decision had been taken by the State Govt. to call the Army. A video CD of the press conference has been produced by Shri Sanjay Bhavsar. At about 1800 hrs, the Chief Minister's appeal to public for keeping peace and to maintain law & order was recorded by the Door-Darshan at Circuit House Annexe, Shahibaug, Ahmedabad City and the same was televised at 1855 hrs before the regional news

bulletin. The Chief Minister held another law & order review meeting at his residence at 2030 hrs on 28-02-2002, which was attended by the senior officers of the Home Department and the police. The Chief Minister met the Union Defence Minister Shri George Fernandes at his residence at 2230 hours on 28.02.2002, in the presence of concerned officers, in which the prevalent law and order situation was reviewed and security arrangements discussed. This is confirmed from the records of the Protocol Department as well as the Police Control Room messages.

According to Shri Sanjay Bhavsar, OSD to CM, the Chief Minister met Shri George Fernandes, the then Union Defence Minister on 01-03-2002 at about 0830 hrs at his residence in the presence of Govt. Officials and Army Officers. As per the press release issued by the Gujarat Information Bureau on 01-03-2002, Shri Gordhan Zadafia, the then MoS (Home), Shri G. Subba Rao, the then Chief Secretary, Shri Ashok Narayan, the then ACS (Home) and other senior police officers including Shri K. Chakravarthi, the then DGP, Shri K. Nityanandam, the then Secretary (Home) and senior Army and Air-force officers attended the said meeting. In this meeting, CM requested for deployment of more Para Military Forces (PMFs) and BSF, to which Shri George Fernandes agreed. CM also apprised the Defence Minister about the allotment of 5 Coys of PMFs to the State of Gujarat. The Chief Minister met the H.E. Governor of Gujarat at 0930 hrs at Rajbhavan and apprised him about the latest law & order situation in Gujarat and also about the security arrangements and bandobast made in the State. During 1000 hrs to 1300 hrs, CM had attended to the Govt. work and gave directions to the Administrative functionaries to take preventive actions to ensure that the disturbed situation did not spread. The Chief Minister also met the Congress delegation, informed them about the action taken by the Govt. and advised them not to lodge any protest in this regard. The Chief Minister also gave directions for the safety and security of the Haj Pilgrims returning to Gujarat. CM also discussed the cash doles and about the other help to be given to

the riot victims. He also discussed the packages for the relief camps started by various NGOs and gave directions for other essential services to be provided to riot affected victims. He also gave directions to the Hospitals in the State to make available uninterrupted medical services to the affected persons and other citizens. CM held a law & order review meeting at 1300 hrs. Another law & order review meeting was held by CM at 1500 hrs at his residence. At 1630 hrs, CM held a press conference at Circuit House Annexe, Shahibaug, Ahmedabad City. In this press conference, CM informed the press that 13 columns of Army had been deployed to assist the State Civil Administration and that shoot at sight orders to maintain law & order situation had been issued. CM also briefed the press about his meeting with the Union Defence Minister and also about the deployment of Army. He also gave the details of various riot incidents and also about the deployment of CPMFs in the State. CM also informed the press about the requisitioning of the additional security forces from the neighbouring States and appealed to the media to keep restraint. CM held another law & order review meeting at 2030 hrs at his residence.

As per the request made by the Govt. of Gujarat, the Army personnel were airlifted from the border and they started arriving at Ahmedabad City in the night intervening 28-02-2002/01-03-2002. Shri P.S. Shah, the then Addl. Secretary (L&O) has stated that on receipt of intimation from the Army authorities, a programme indicating the arrival of the Army and their logistic requirements was sent to the CsP and DMs, Ahmedabad City, Baroda City and Rajkot City by him on 28-02-2002 itself. However, vide letter dated 01-03-2002, a revised deployment scheme of Army with 8 columns for Ahmedabad City and 2 columns, each for Baroda City and Godhra and 1 column for Rajkot City was sent by him. Shri P.S. Shah has also stated that Shri Gurdoyal Singh, the then Addl. DG had submitted a report to ACS (Home) on 02-03-2002, vide which he informed that 3 Battalions of Infantry Division reached Ahmedabad City on 01-03-2002 and that 1 Battalion strength

having 3 columns was deployed in Bapunagar, Gomtipur, Raikhad and Amraiwadi at Ahmedabad City. He further informed that the IInd battalion was deployed in Dariyapur, Shah-Alam, Danilimda, Khadia, Kalupur, Shahpur and Madhupura P.S. areas. Shri Gurdoyal Singh had also informed that 2 companies of the IIIrd battalion were deployed in Juhapura, Vejalpur and Paldi areas and one company kept in reserve.

Shri P.S. Shah has further stated that on 01-03-2002, another crash wireless message was sent by Shri J.R. Rajput, the then Under Secretary, Home Department with the approval of the ACS (Home) to all CsP, DMs, SsP, IGs and Western Railway SP, Baroda, in which it was emphasised that in view of the prevalent surcharged and tense atmosphere, directions given by the Home Department time and again for maintenance of public order and peace should be implemented. In this message, several other instructions including implementation of communal riots scheme, guidelines given by the Govt. of India to promote communal harmony, effective actions against unruly mobs and unlawful assembly and meetings of Peace Committee etc. were also given.

Shri P.S. Shah, the then Addl. Secretary (L&O) has also stated that on 01-03-2002, DGP felt that the resources available with him were insufficient to deal with the law & order situation in the Gujarat and as such with the approval of ACS (Home), 3 letters were sent by Shri K. Nityanandam, the then Secretary (Home) to Chief Secretary, Madhya Pradesh, Rajasthan and Maharashtra, through which these states were requested to spare 10 companies each of their Armed police to help the Gujarat police in handling the law & order situation. A reply dated 01-03-2002 was received from Shri R.K. Nair, Addl. Chief Secretary, Govt. of Rajasthan, in which he regretted to spare any police force for duties in Gujarat for the time being. However, 2 Coys of SRP were provided by the Govt. of Maharashtra on 03-03-2002, and the same were deployed in Surat.

Shri G. Subba Rao, the then Chief Secretary has stated that he had gone abroad and was recalled on 01-03-2002. He has further stated that he sent a wireless message to all CsP, DMs, Range IGs and SsP to the effect that District Administration and police had to act in a decisive, prompt and effective manner to bring the situation under control and that they should not hesitate to use whatever force was necessary to bring the situation under control. The Chief Secretary also emphasised in this message that when lives and properties were threatened in communal situation, necessary force including firing should to be resorted to bring the situation under control and if the situation deteriorated beyond a point besides imposing curfew, "shoot at sight" orders also be issued to prevent gathering of unlawful mobs at public places. The jurisdictional officers were asked to acknowledge this communication and ensure that no major incident took place under their jurisdiction.

Shri Sanjay Bhavsar, OSD to CM has stated that on 02-03-2002, the Chief Minister held another meeting with Shri George Fernandes, the then Union Defence Minister at 0830 hrs at his residence. During 0930 hrs to 1230 hrs, CM met the H.E. the Governor of Gujarat and apprised him of the latest situation and the security arrangements and bandobast made by the administration. CM further discussed the packages for the relief camps started by the various NGOs. CM also discussed the cash doles and the other help to be given to the riot victims. The Chief Minister also gave instructions that SSC/HSC board examination be held as scheduled in peaceful atmosphere and also to ensure the safety of students. Two Law & order review meetings were held by the Chief Minister at his residence at 1300 hrs and 1500 hrs respectively. CM held a meeting of the officials of the Home Department at 1600 hrs at Circuit House Annexe, Shahibaug, Ahmedabad City. CM also held a press conference at 1630 hrs in Circuit House Annexe, Shahibaug, Ahmedabad City, during which a detailed press release was issued by the Govt. of Gujarat. CM held an all party meet at 1800 hrs, in which the Congress leaders

did not participate. Another law & order review meeting was held by the Chief Minister at his residence at 2030 hrs.

According to Shri P.S. Shah, the then Addl. Secretary (L&O) some instances of attack on life and property in villages had been reported on 02-03-2002. He has stated that in view of violence in rural areas, he sent a crash wireless message to all CsP, DMs and SsP including SP, Western Railway, Baroda to the effect that sufficient police patrolling be organised to cover villages, where a particular community may be in smaller number and steps be taken to prevent the entry of antisocial elements from out side the State or from large cities into rural areas through nakabandi. The jurisdictional officers were asked to convene peace committee meetings at Taluka level to sensitise social leaders in rural areas for the need to keep peace. They were also instructed to keep a telephonic contact with the villagers through the concerned police station in rural areas to obtain information and act quickly. Directions were also issued to these officers to deploy the available forces suitably to meet the developing situation and also to maintain sufficient mobility.

Shri Ashok Narayan, the then ACS (Home) has also stated that he sent a wireless message on 02-03-2002, in which it was emphasised upon the jurisdictional officers that apart from their duties of maintenance of law & order, the process of healing, building confidence amongst the people, diffusing tension and promoting communal harmony was also required to be geared up immediately by the District Administration and to achieve this object the District/City Ekta Committee, Peace Committees and Mohalla Committees should be activated and arrangements made to hold these meetings. The jurisdictional officers were also asked to involve the prominent members of all the communities, social leaders and NGOs in this process and to report compliance by 04-03-2002.

As per Shri Sanjay Bhavsar, the Chief Minister left for Ahmedabad airport on 03-03-2002 at 0900 hrs, and received the

then Union Home Minister Shri L.K. Advani at 1050 hrs. From airport the Chief Minister accompanied the Union Home Minister at 1145 hrs to some of the riot affected areas like Delhi Darwaja, Idgah area and then went to Civil Hospital to see the riot victims. At 1215 hrs, CM accompanied the Union Home Minister to Godhra by helicopter and reached Godhra at 1300 hrs. At Godhra, the Union Home Minister visited Godhra Railway Station and inspected the scene of occurrence. Later, he visited Civil Hospital, Godhra and met victims of the train incident. Shri Advani left Godhra at 1345 hrs by helicopter and reached Ahmedabad at 1430 hrs. Shri L.K. Advani held a law & order review meeting with the officials of Home Department as well as the police department at 1600 hrs, which was attended by the Chief Minister, MoS (Home), Chief Secretary, ACS (Home), DGP and senior officers of Home, Police and Revenue department. The Union Home Minister asked the State Govt. to trace the culprits responsible for Godhra incident and get them punished, to take measures to restore peace, to prevent violence and that strict action be taken against those who indulged in violence. Shri Advani reviewed the measures taken by the State Govt. to restore law & order in the State. In this meeting the Chief Minister gave directions to organise joint peace marches. Thereafter, Shri Advani held a press conference at Circuit House Annexe, Shahibaug, Ahmedabad City at 1700 hrs. Shri L.K. Advani went to Gandhinagar accompanied by the Chief Minister and met the then H.E. the Governor of Gujarat at 1830 hrs. At 1900 hrs, Shri L.K. Advani met the Ministers of Gujarat Govt. at CM's residence. Shri L.K. Advani thereafter, left for Hyderabad. Later, the Chief Minister held a law & order review meeting at his residence at about 2030 hrs.

Shri Sanjay Bhavsar, OSD to CM has further stated that on 04-03-2002, the Chief Minister met the H.E. Governor of Gujarat at latter's residence at 0930 hrs and apprised him of the latest law & order situation and bandobast made in Ahmedabad City. Between 1030 hrs and 1300 hrs, CM held a law & order review meeting and

also held discussions with the officials of Home, Police and Legal department for the appointment of a Judicial Inquiry Commission. The Chief Minister further held discussions about the Panchayat elections and local bodies' elections, which were due in March-April/2002. The Chief Minister also held discussions for ex-gratia payment to the riot affected persons, NGO relief camps, compensation for destruction of the properties during riots with the concerned officers. The Chief Minister also discussed the issues relating to Gram Panchayat and local bodies' elections and SSC/HSC exams. Shri Advani came to Bhavnagar directly on 04-03-2002. In view of this, the Chief Minister left for airport at 1300 hrs and then left for Bhavnagar by air at 1330 hrs. The Chief Minister reached Bhavnagar at 1410 hrs and met Shri L.K. Advani at 1420 hrs. At Bhavnagar, they had a round of riot affected areas like Ranika, Ghogha Darwaja and S.T. Station Road. They also visited Akwada Madressa, where 400-500 Muslim students were saved on account of a timely action by the police, held law & order review meeting and met the representatives of different organisations including minority delegations and political leaders. They left for Rajkot at 1600 hrs and reached there at 1630 hrs. At Rajkot, CM, the then Union Home Minister and others visited Gondal Road, Lodhawad chawk, Parevadi Chawk and Lati plot areas. It may be mentioned here that during the earlier riots in Gujarat, the Kutch and Saurashtra region were peaceful, but in the year 2002 some signs of riots were noticed in these areas, as a result of which CM and other leaders visited these areas so that the riots did not spread there. A law & order meeting was also held with the police officers at Rajkot. At Bhavnagar and Rajkot, high level meetings were held by CM and other leaders, in which CM directed to launch combing operations to track down the antisocial elements and recover lethal weapons and explosives. CM left Rajkot at 1800 hrs and reached his residence at Gandhinagar at 1915 hrs. At 2030 hrs, CM held a meeting with the Ministers of his Government. CM had also instructed on 04-03-2002, that "SHANTI KOOCH" should be held in villages and as such a wireless

message to this effect sent by ACS (Home) to all the DMs, CsP, SsP etc on the same day.

As per Shri Ashok Narayan, the then ACS (Home), he sent another message dated 04-03-2002, to all CsP, SsP, DMs, in which it was emphasised that rumour mongers should be dealt with in an exemplary manner and that city peace committees be activated to assist in restoring peace. He also pointed out that the Hon'ble Chief Minister had instructed that "Shanti-Kooch" be held in villages after looking into the local situation. It was also mentioned in this message that all class-I & II officers of Revenue and Panchayat should be instructed to visit the villages at least twice a week and that the Talatis and primary school teachers should be instructed to stay in their respective places of duties and keep in touch with the village leaders and sensitise them about the need to keep peace in their villages.

Shri P.S. Shah, the then Addl. Secretary (L & O) has stated that he has sent a crash wireless message on 04-03-2002, all CsP, DMs, SsP to convene the peace committee meetings immediately, in which the participation of individuals from every community be ensured and also to hold peace marches in all the villages viewing the local situation. The jurisdictional officers were also requested to involve revenue/ development machinery as per the instructions contained in the Home Department crash message dated 02-03-2002 and document the same with the help of either videography or photography and send the same to the Home Department.

Shri P.S. Shah, the then Addl. Secretary (L&O) has also stated that he sent another fax message dated 04-03-2002 to all CsP, DMs and DDOs, in which he pointed out about the receipt of disturbing reports of attempts to disturb the traditional peace and amity in the villages. It was highlighted that there was failure of the society represented by village panchayats and the village peace committees in meeting out this responsibility. He also impressed upon the aforesaid officers to take action u/s 50 of the Bombay

Police Act, which provides for imposition of punitive fines and also about the temporary withdrawal of developmental grants and facilities, if any village was bent upon indulging in senseless and sectarian violence against its own members or neighbouring villages.

On 04-03-2002, a letter dated 02-03-2002 was received from Dy. Secretary, Information and Broadcasting department, Govt. of Gujarat by Shri Ashok Narayan, in which it was pointed out by I & B deptt. that in view of the prevailing situation in the Gujarat State, if any cable network exhibits programme/news, which might incite violence or might create law & order problems, strict action should be taken immediately against them under the provisions of Cable Televisions Networks Regulation Act 1995 & rules thereunder. On receipt of the same, a DO letter was sent by Shri Ashok Narayan on 05-03-2002, to Shri K. Chakravarthi, the then DGP, to ensure strict and effective implementation of the revised guidelines issued by the Govt. of India for promotion of communal harmony. DGP was further advised to take action against those elements, who had demolished/damaged certain places of worship and also against those who had converted some of the religious places of worship of a religious denomination into places of worship of different religious denomination under the provisions of Places of Worship (Special Provision) Act 1991. Besides that DGP was advised that reporters, editors, printers, publishers and owners of the media must be advised to discourage distorted reporting/telecasting and action u/s 153 (A) & 505 (2) IPC should be taken against writers/publishers of the objectionable or inflammatory material promoting or attempting to promote disharmony or feeling of enmity, hatred or ill will between different religious communities/groups. DGP was also advised that in order to maintain sanctity of religious places and prevent their misuse for criminal, subversive or communal activities the provisions of Religious Institution (Prevention of Misuse) Act be invoked, as it would help in maintenance of peace, order and tranquillity.

Shri Sanjay Bhavsar has also stated that on 05-03-2002, CM held a law & order review meeting at his residence. The Chief Minister also addressed a High Level meeting attended by Chief Secretary, Revenue Secretary, Health Secretary, Secretary (R&B) and Health Commissioner and gave specific instructions to them to visit 18 relief camps in different areas. CM also instructed the Collector & District Magistrate, Ahmedabad to make arrangements for the distribution of food and essential commodities with the help of commercial organisations. At 1430 hrs, CM left for Ahmedabad and held a meeting with prominent citizens at Gujarat Chamber of Commerce, Ahmedabad. The Chief Minister made an appeal to the trade and industry, heads of religious organisations and intellectuals to help revive and restore economic activities, which evoked encouraging response from all quarters. CM categorically said that the Govt. would not compromise with law breaking antisocial elements and that the Govt. was committed to re-establish the sense of mutual trust and confidence. The Chief Minister out rightly condemned the law breakers and subsequent violent incidents. At about 1630 hrs, CM visited C.G. Road at 1700 hrs, Mahajan Vando, Jamalpur at 1730 hrs, Shethia building char rasta and Revadi Bazar, Relief Raod at 1800 hrs, Delhi Darwaja at 1830 hrs, Gulberg Society at 1900 hrs and Naroda Patiya at 1930 hrs. CM was accompanied by Late Ashok Bhatt, the then Health Minister, Shri Kaushikbhai Patel, the then Energy Minister, Smt. Anandiben Patel, the then Education Minister, Late Haren Pandya, the then MoS Revenue Minister, Shri Bharatbhai Pandya, the then sitting MLA, Smt. Mayaben Kodnani, the then MLA and Shri P.C. Pande, the then CP, Ahmedabad City.

Shri Ashok Narayan, the then ACS (Home) has further stated that he sent a confidential wireless message on 05-03-2002, to all CsP, Range IGPs, DMs and all SsP that the surcharged communal atmosphere in parts of Gujarat was returning to normal and that measures suggested by the Govt. of India in the revised guidelines for communal harmony should be

implemented with a view to gear up the process of restoration of normalcy and promoting communal harmony.

On 05-03-2002, Shri Ashok Narayan has also stated that he sent a DO letter to Shri K. Chakravarthi, the then DGP that the law & order situation was being brought under control and the State was gradually returning to normal with the curfew being lifted in a phased manner from the places where the situation was improving, but it was due to the presence of Army and CPMFs, which was only a temporary measure and reinforcement to the State Police resources should be done. It was further pointed out that the anti-social elements might be awaiting the withdrawal of these forces and might attempt to create disturbances again and that the possibility of sporadic incidents, revenge or an organised backlash from either community or attacks on the law enforcing agencies could not be ruled out. It was also emphasised upon the DGP that the respite provided by the temporary assistance of Army and CPMFs should be used to strengthen their own control over the law & order situation to meet these possible challenges. DGP was also asked to chalk out a suitable strategy in this regard. On 05-03-2002 itself, a representation dated 04-03-2002 was received from Kadi Muslim Samaj, Kadi, Mehsana to provide protection to them. This representation was forwarded by him to the DGP vide his DO letter dated 05-03-2002 to provide all necessary protection to the Muslim samaj as soon as possible.

On 06-03-2002, Shri P.S. Shah, the then Addl. Secretary (L&O) sent another wireless message to CsP, DMs and all SsP to make necessary bandobast, give protection to the Haj Yatris and to ensure that they reach safely to their residences. On the same day, he sent another message to all the aforesaid officials to review the local position and make adequate bandobast at various mosques for thwarting any act of provocation and also for the protection of the mosques on 08-03-2002, when a large number of Muslims were likely to assemble in the mosques for Namaz.

On 06-03-2002, a representation was received by Shri Ashok Narayan, the then ACS (Home) from the residents of Jawahar Chawk, Raikhad, Ahmedabad City for giving adequate police protection to them, which was immediately forwarded by him to Shri K. Chakravarthi, the then DGP for further necessary action. On 06-03-2002 itself, a DO letter was received by ACS (Home) from Shri Arvind Shukla, PS to the Governor of Gujarat forwarding there with a representation from Daudi Vohra Community of Garbada taluka, Dahod Distt. with a request to continue the BSF protection. This representation from Daudi Vohra Community was forwarded by him to DGP Shri K. Chakravarthi immediately that the H.E. Governor of Gujarat had desired that in Garbada, Gangardi and Jesawada and surrounding rural area of Garbada taluka in Distt. Dahod, the BSF bandobast should be continued and an intensive police patrolling should be done. On 06-03-2002, another representation was also received by ACS (Home) from Ahmedabad-Mehsana High Way Hotel Association requesting financial assistance for the damage done to the hotels during the riots in Gujarat and the same was forwarded by him to Shri C.K. Koshi, Principal Secretary, Revenue Department, Gandhinagar for further necessary action.

On 06-03-2002, a DO letter was sent by Shri Ashok Narayan, the then ACS (Home) to DGP stating that as the violence in the State continues, it was necessary that the police should strictly adhere to the principles of rule of law, take effective action to prevent further violence and deal ruthlessly with all the violators. He also suggested that effective but controlled use of force be resorted to deal firmly with violators, to arrest all ring leaders and people whose names figured in the FIR, to conduct combing operations to recover arms/explosives and other material used or likely to be used in the present situation and also to recover all stolen/looted property. DGP was also requested to initiate action immediately so that supremacy of law could be established.

On 06-03-2002, some members of the press had mentioned to Shri Ashok Narayan that though the names of some of the VHP and Bajrang Dal leaders figured in the FIR No. 98/2002 of Naroda P.S. against Shri Kishan Korani & others and in Gulberg case FIR against Shri Dipak Patel yet they had not been arrested. This information was immediately passed on by ACS (Home) to the DGP for suitable action in the matter.

Shri P.S. Shah, the then Addl. Secretary (L&O) has further stated that on 07-03-2002, he sent another wireless message to CsP, Range IGPs, DMs and all SsP to exercise strict vigil at temples on Maha-Shivratri festival to be celebrated on 12-03-2002, in view of the highly surcharged and tense situation prevailing on the communal front. It was highlighted that antisocial and hardcore communal minded elements bent upon to jeopardise communal harmony should be dealt with firmly and promptly. It was also emphasised that peace and communal harmony must be maintained at all costs. Further instructions were given by him to all the jurisdictional officers to provide adequate security to Shiva temples to avoid any untoward incident. These instructions were given in the light of the fact that symbolic pooja at Ayodhya was scheduled to be held on 15-03-2002.

Shri Ashok Narayan has further stated that on 07-03-2002, he sent a DO letter to Shri K. Chakravarthi, the then DGP, in which he referred to the earlier discussions held with him during which it was felt that there was a need to overhaul the intelligence set up and also to increase the lump sum amounts available to the field officers and requested him to send a proposal in this regard. He also pointed out that during the discussions with the Chief Minister, he had pointed out that there was a necessity to do very effective combing and to identify areas to prevent further incidents of terrorism and violence.

On 07-03-2002, a note was sent to Shri Ashok Narayan by the Chief Secretary that though law & order situation was fast returning normal, it was necessary to intensify the efforts by taking

effective steps regarding rounding up of all known anti-social elements and also to conduct combing operations for detection and seizure of illegal arms and ammunition. These instructions were communicated to DGP on 07-03-2002 itself by Shri Ashok Narayan through a DO letter requesting him to take effective steps on these lines. On 07-03-2002 itself, a representation was received from Shri Farook Sheikh, MLA, Kalupur, Ahmedabad City intimating that he and his family had been receiving telephonic threats on their life for a long time and armed police protection be provided to him. This representation of Shri Farook Sheikh, MLA, Kalupur was forwarded to DGP on 07-03-2002, by Shri Ashok Narayan with a copy to CP, Ahmedabad City.

Shri P.S. Shah, the then Addl. Secretary (L&O) stated that he sent a wireless message on 13-03-2002, to the jurisdictional officers to monitor the situation/developments closely for maintenance of law & order in their respective jurisdiction in the light of Hon'ble Supreme Court's order in Writ Petition filed by Mohd. Aslam Vs. Union of India to maintain status-quo and that Ram-Sevaks should not be allowed to perform symbolic pooja.

Shri P.S. Shah, the then Addl. Secretary (L&O) has also stated that on 14-03-2002, a wireless message was sent by him to all CsP, Range IGPs, DMs and all SsP that in the light of order passed by the Hon'ble Supreme Court of India in a Writ Petition filed by Aslam Bhura Vs. Union of India on 13-03-2002, either symbolic or actual Bhumi-Pooja should not be permitted to take place. Further, as a statement had been made by Secretary, VHP to the effect that demonstrations would be held from 14-03-2002 onwards all over the country, it was likely to lead to the communal clashes. All the aforesaid jurisdictional officers were specifically directed to strengthen security arrangements at religious places, deal firmly with anti-social, disgruntled and hardcore communal minded elements, implement prohibitory orders, strictly set up pickets at all sensitive points, to pick up rumour mongers, to

intensify foot and mobile patrolling, to maintain communal harmony and to keep close watch over the situation.

On 14-03-2002, Shri Ashok Narayan received information about the protection sought by some Muslim families residing in Baroda City. These families had asked for RAF deployment between 14-03-2002 to 16-03-2002 for their protection, in view of the VHP programme fixed for 15-03-2002. This information was passed on by him to the DGP, Collector & CP, Baroda City through separate DO letters dated 14-03-2002 with a request to look into the security of these specific areas.

On 15-03-2002, Shri Ashok Narayan had written a DO letter to Shri K. Chakravathi, the then DGP in the context of several discussions with the Chief Secretary regarding the need to activate the intelligence machinery in the prevailing situation. It was further mentioned that CM had already given several suggestions to facilitate unearthing of antisocial and antinational links. He also mentioned that in the prevailing situation of general tension, it was even more necessary to take concrete steps in order to prevent worsening of the situation. Shri Ashok Narayan had suggested to DGP to constitute a task force involving Shri R.C. Mehta, Shri R.B. Sreekumar and Shri G.C. Raiger to work out a suitable plan within about 3 days.

Shri P.S. Shah, the then Addl. Secretary (L&O) has further stated that on 21-03-2002, he sent a crash wireless to all CsP, Range IGPs, DMs and all SsP, in which he had emphasised the need to keep a close watch over communal situation in the light of the festivals of Moharram, Holi/Dhuleti and Good Friday to be celebrated on 25-03-2002, 28-03-2002 and 29-03-2002 respectively by different communities of the society. In the light of highly surcharged and tense atmosphere prevailing in the State, it was further emphasised upon the jurisdictional officers that HSC/SSC examination were also being held in all over the State (except 5 cities) and therefore, special attention should be paid to the sensitive areas and places, which had recently witnessed

communal violence. All the jurisdictional officers were also advised to make foolproof bandobast on the eve of Mohharram i.e. *Qattal ki rat* and during Tazia processions. Instructions were also given to all the aforesaid officers to remain present at their headquarters and closely supervise all the arrangements for maintenance of public order and communal harmony under their jurisdiction.

Shri Ashok Narayan, the then ACS (Home), Shri P.S. Shah, the then Addl. Secretary (L&O) and Shri K. Chakravarthi, the then DGP have stated that in addition to the aforesaid references, a number of complaints/representations were received personally/telephonically, for which immediate necessary action was taken by them over telephone, for which no records are available. According to them, after 72 hours, the situation was gradually coming under control though even subsequently stray incidents of violence were reported from different parts of the State for a few days. However, the Panchayat elections were held in March-April, 2002 peacefully, and the Haj-Pilgrims who had returned from pilgrimage were safely escorted to their respective places without any untoward incident. The fact that the festivals like Maha-Shivratri, Holi, Good Friday and the religious-function of Mohharram, as well as SSC/HSC examination passed off peacefully in March, 2002 would go to show that the State was returning to normalcy fast.

Keeping in view the aforesaid facts, it is established that the Godhra train burning incident took place on 27-02-2002 between 07.47 and 08.20 hrs. There is evidence available on record to show that immediately the State machinery was put on the high alert and this was communicated to all District authorities and Commissioners of Police. The first alert message of 27-02-2002 from the Home Department covered the need to take precautionary measures including adequate police bandobast and preventive measures including issuance of prohibitory orders depending upon the local situation. It was instructed that antisocial and hardcore communal elements should be dealt with firmly. It

was also impressed upon the district administration that when the dead bodies arrive in the respective native places, there was a likelihood of heightened communal tension and hence bandobast should be arranged, especially for the funeral procession. All Commissioners of Police, DMs and SsP should remain in HQ and closely monitor the situation.

This alert message of 27-02-2002 was followed by another message from Home Department on 28-02-2002, to all concerned to round-up anti-social and known communal elements under the preventive laws. It was further instructed that mobile patrolling should be intensified and adequate protection should also be provided at places of worship and that effective action should be taken to disperse unruly mob, unlawful assemblies, using whatever force necessary. It was also made clear that anti-social elements indulging in violence and bent upon jeopardizing communal harmony must be controlled firmly. Another message dated 28-02-2002, impressed upon all concerned officers to maintain adequate bandobast for 01-03-2002, being Friday and the day of Namaz for the Muslims. Adequate bandobast was directed to be provided to all sensitive areas and curfew was ordered to be strictly enforced. On 28-02-2002, another message was sent to the Addl. DG (Int.) to maintain adequate bandobast for the security of returning Haj Pilgrims at their point of entry. It appears that realising the seriousness of the situation, the Chief Minister took a decision on 28-02-2002, to call the Army to assist the civil administration in maintenance of law & order in the State. Accordingly, the Chief Minister spoke to the Union Home Minister on 28-02-2002 around 1400 hrs and orally requested him to depute the Army to control the law & order situation. This was followed by a fax message sent by Shri K. Nityanandam, the then Secretary (Home) to the Secretary, Ministry of Defence, Govt. of India on 28-02-2002 at 1430 hrs. Unfortunately, the Army was not locally available as it had been deployed on the borders, as a result of which the Army

had to be airlifted to Ahmedabad and could be effectively deployed from 01-03-2002 onwards only.

It is established that on 28-02-2002, events in the aftermath of the gruesome Godhra episode of 27-02-2002 unfolded and violent incidents were reported from many parts of the State. A high level review of the situation at the Chief Minister's level was made on 28-02-2002 afternoon. The meeting was attended by the Chief Minister, MoS (Home), the DGP and Addl. DG (Int.). By 1430 hrs, the Chief Minister had made an oral request to the Union Home Minister for Army deployment. At about the same time, an official request was sent in writing by Shri K. Nityanandam, the then Secretary (Home) to the Secretary, Ministry of Defence to make the Army available for internal security duties. The Chief Minister publicly announced at 1600 hrs in a press conference the decision of the State Govt. to call the Army. Efforts were also made to requisition available Army personnel in the cantonment area of Ahmedabad, but no force was available. It was understood that withdrawing the Army at such critical juncture when war like situation existed with the neighbour needed a high level decision at the Centre. This decision to withdraw the Army and deploy in Gujarat was immediately taken at highest level in the Centre at the request of Gujarat Govt.

Army personnel were airlifted from forward positions and they started arriving by the midnight of 28-02-2002. It may be mentioned here that 40 aircrafts were used to airlift Army personnel to Ahmedabad. The first plane landed at Ahmedabad on 28-02-2002 mid night and the last one on 01-03-2002 at 2300 hrs. The deployment of the Army also required additional logistic support by the civil administration in the form of Executive Magistrates, vehicles, Liaison officer, mobile phones, guides and maps and same were promptly made available to them. The deployment of Army commenced by 1100 hrs after a high level meeting with the Chief Minister and the Union Defence Minister along with Senior officials of the Army and the State

Administration. The Army was deployed in the affected areas of Ahmedabad City i.e. Paldi, Juhapura, Vejalpur, Shahpur, Bapunagar, Rakhial, Gomtipur, Meghaninagar, Dariapur, Kalupur, Naroda and Dani Limda. It may thus be seen that 9 columns of Army were deployed on 01-03-2002. Later on, 2 columns of the Army were moved to Vadodara on 01-03-2002 at 1830 hrs, 2 columns despatched to Godhra on 02-03-2002, and they reached Godhra at 0130 hrs, 2 columns moved to Rajkot on 02-03-2002 at 1100 hrs. It may be mentioned here that while the situation in the other parts of the Gujarat was grave, cities like Bhavnagar and Surat were initially unaffected. However, as incidents of violence were reported from Bhavnagar and Surat, Army columns were moved to Surat on 03-03-2002 at 1100 hrs and to Bhavnagar on 03-03-2002 at 2235 hrs. In all 26 Army columns had been deployed at the peak of riots in the State.

In addition, the Govt. of India had approved the deployment of CPMFs and therefore, 6 Coys of CISF, 11 Coys of BSF, 5 Coys of Border Wing Home-guards and 4 Coys of RAF were deployed in the State by 03-03-2002. The State Govt. had also made a request on 28-02-2002, to the neighbouring States of Maharashtra, Rajasthan and Madhya Pradesh to spare the services of their Armed Reserve Police companies. However, only Maharashtra responded by sending 2 Coys of SRP, whereas the Govt. of Rajasthan and Madhya Pradesh expressed their inability to spare any police force due to the internal commitments. It may thus be seen that there was no delay, whatsoever in requisitioning the Army and its deployment by the State as and when they realised on 28-02-2002 afternoon that the situation was going beyond control. Significantly, Union Defence Minister arrived at Ahmedabad on 28.02.2002 night to ensure that Army formations take their positions without any delay.

Shri G. Subba Rao, the then Chief Secretary, who had gone abroad, was recalled and he arrived on 01-03-2002. The Chief Secretary had issued a clear cut message to all the jurisdictional

officers to take effective action including implementation of Communal Riot Scheme, to act in a decisive, prompt and effective manner to control the situation and not to hesitate to use whatever force was necessary to bring the situation under control, if any life and property were threatened. It was impressed by him that firing be resorted to as per situation and if the situation deteriorates beyond a point, besides imposing curfew even shoot at sight orders should be given to control the unruly mobs. This wireless message from the Chief Secretary gives clear cut indication and mind of the State that the riots had to be controlled at any cost.

Frantic messages were sent by the Home Department on 01-03-2002 to 06-03-2002 and specific instructions were given to the effect that the riots had to be controlled and all steps should be taken to restore normalcy and peace in the State. In addition, 14 messages were sent by the Home Department, which included measures to be taken for ensuing festivals, arrival of Hajj pilgrims and their security, Jumma Namaz, Ram-Navami, Moharrum, Holi-Dhuleti and Good Friday. These messages also included the necessary precautions to be taken in the issues relating to symbolic or actual bhumi pooja proposed to be performed by the Ramsevaks on 15-03-2002, about which the specific orders had been issued by the Hon'ble Supreme Court of India to maintain status-quo.

Further investigation has also disclosed that the Chief Secretary and Addl. Chief Secretary (Home) had arranged for two video conferences with the CsP, DMs, SsP and other concerned officers on 04-03-2002 and 11-03-2002, in which important items on agenda were as follows:-

- i. Review of current law and order situation in the State
- ii. Effective deployment of various forces
- iii. Instructions for holding Peace Committee meetings and Peace Marches
- iv. Curbing violence and protecting places of worship

- v. Preventive measures and other actions against criminals including detention
- vi. Incidents of 15-03-2002 at Ayodhya and Ram-mandir issue
- vii. Bandobast for SSC/HSC examination
- viii. Attention to various alert messages issued about law & order, ensuing festivals and Haj pilgrims

It has also come to light during further investigation that from 27-02-2002 onwards, high level meetings with the Chief Minister and senior officers were held in the morning as well as in the evening. The Chief Secretary and the ACS (Home) also held atleast one meeting per day with DGP and other senior police officers, in which the current situation during the last 24 hours was reviewed including the bandobast and deployment of forces. The Chief Secretary also held separate high level meetings with Army officers on 07-03-2002, 18-03-2002 & 23-03-2002.

Further investigation has established that the State Govt. was reasonably vigilant vis-à-vis the developments on the law & order front and immediately responded by bringing to the notice of all District officials, the need to maintain adequate bandobast in view of the Godhra incident on 27-02-2002. In addition, written communications were sent on day to day basis with specific instructions to control the law & order situation with a view to bring normalcy, communal peace and harmony in the State at all costs. The State authorities also impressed upon jurisdictional officers that violators of law should be effectively dealt with, no laxity shown and maximum force used to suppress and contain the violence. The allegation about the inaction on the part of State Govt. as well as police department is, therefore, not established.

➤ **Observations made by Ld. Amicus Curiae:**

- It is difficult to believe that when CM came back after the Godhra trip, no Minister was present at his residence. Hence, it may not be totally unbelievable that Shri Haren Pandya was present. Shri Haren Pandya is unfortunately

dead, but the statements made by Late Shri Haren Pandya to Justice P.B. Sawant (Retd.) and Justice H. Suresh (Retd.) can be used, even if his statement is not been formally reproduced in the writing by the Citizen's Tribunal.

- It has also been brought out that an enquiry was made from CM's office as to the identity of the Minister who had deposed before the Citizen's Tribunal and that the State Intelligence Bureau had verified the identity as that of Shri Haren Pandya. This also gives some corroboration to the fact that CM's office was uncomfortable with the disclosure made by an unidentified Minister to the Citizen's Tribunal.

Result of further investigation:

Further investigation revealed that the Chief Minister left Godhra at about 1945 hrs on 27-02-2002, by road and reached Vadodara airport at about 2130 hrs. Shri Narendra Modi left for Ahmedabad by Govt. aircraft around 2130 hrs. From Ahmedabad airport CM went to Gandhinagar by road and reached his official residence at about 2230 hrs. On his return, he called for a law & order meeting at about 2300 hrs, which was attended by the top officials of administration, Home and Police department. Shri K. Chakravarthi, the then DGP said that on 27-02-2002, late in the evening while he was in Door-Darshan studio, Ahmedabad City, he received a message from State Police Control Room that CM had called for a meeting at his residence at Gandhinagar at about 2230 hrs. He has further stated that he had reached at CM's residence alone a little earlier and waited there as CM had not arrived at that time. Subsequently, Smt. Swarna Kanta Varma, the then acting Chief Secretary, Shri Ashok Narayan, the then ACS (Home), Shri P.C. Pande, the then CP, Ahmedabad City and Shri K. Nityanandam, the then Secretary (Home) also arrived there. According to Shri Chakravarthi, the meeting was held around 2300 hrs or could be a little earlier and lasted for about 20-30 minutes. All the participants of the said meeting have categorically stated that none of the Ministers/politicians attended the said meeting.

Mr. Justice P.B. Sawant, Retired Judge of Hon'ble Supreme Court of India and Mr. Justice Hosbet Suresh, Retired Judge of Bombay High Court, members of the Concerned Citizens Tribunal - Gujarat 2002, (that was conceived in response to the Godhra carnage on 27-02-2002) have stated that one Minister of the Gujarat Govt. namely Late Haren Pandya, appeared and deposed before the Tribunal on 13-05-2002, on condition of anonymity, that he had attended a meeting on 27-02-2002 night at the residence of Shri Narendra Modi, CM, in which the latter had made it clear that there would be a backlash from the Hindus on the next day and that the police should not come in their way. According to Justice Sawant, Late Haren Pandya revealed that Shri Modi also instructed the police officers and Civil servants that a Hindu reaction was expected and the same must not be curtailed or controlled. However, his deposition had not been recorded anywhere by the Tribunal.

Further investigation revealed that an inquiry into the Godhra incident as well the riots that followed the Godhra carnage was conducted by Concerned Citizen Tribunal sometime in April-May, 2002 and their report was published, on 21-11-2002, in the form of a book titled "Crime Against Humanity", which bears the signatures of Mr. Justice P.B. Sawant, Retd. and Mr. Justice Hosbet Suresh, Retd. beside others. The extracts from page 249 of volume-I of "Crime Against Humanity" are reproduced below:-

- "Witnesses deposing before us testified to the fact that the chief minister called a meeting of senior police and other officers on that very night of February 27, 2002. At this meeting specific instructions were given by him in the presence of state home minister on how the police should deal with the situation on the bandh day. We were informed that instructions were given in this meeting by the chief minister specifically not to take action against any Hindu reaction to Godhra".

This report would go to show that the State Home Minister i.e. Shri Gordhan Zadafia, the then MoS (Home) was present in the said meeting, whereas there is conclusive evidence to establish that Shri Gordhan Zadafia had stayed at Godhra on 27-02-2002, and returned on 28-02-2002 morning. Nowhere, the name of Late Haren Pandya, who was holding the portfolio of Minister of State for Revenue had been mentioned in the said report. On the contrary, Late Haren Pandya had been severely criticized by the Concerned Citizen Tribunal in its report. Some of the extracts from the said report are reproduced below:-

- "Naroda Patiya and Naroda Gaon have a long history of VHP provocation. Police sources revealed to expert witnesses who deposed before the Tribunal, that in 1999 a dargah was broken down and an idol installed in its place. At the time, the local police repaired the dargah and arrested 10-15 persons, including Dr. Jaideep Patel, Maya Kodnani and Amrish Pandey. Pressure was mounted on the police by the then home minister, Haren Pandya, but the police stood their ground and the law-breakers were forced to back down". (page-36 of Vol.1)
- "On the night of February 27-28, the elephants that are kept inside the temple premises were made to drink liquor. The sounds and trumpeting that followed caused terror in the entire locality. During the last election, former minister Haren Pandya, who won from the Paldi area, had openly proclaimed during his campaign, 'Baandyo nahin bachwo joyiye. (Not a single baandyo, abusive term for a Muslim/circumcised person must be spared..)" (page-44 of Vol.1)
- "Three eyewitnesses, who deposed before the Tribunal, saw former revenue minister Haren Pandya opposite the VS Hospital, setting fire to the Apna Bazaar Medical. Aa Miyaone aag lagadiye. (.Let us burn these Muslims.), he was shouting,

after he had burnt it down himself. The Ellis Bridge police station is close by but they did nothing. The fire brigade was called and they tried desperately to put out the fire. But Pandya, leading the mob, prevented them. An FIR has been launched against him and BJP MLA Ashok Bhatt. Just outside the Ellis Bridge police station, Haren Pandya was overheard telling the PI, even as Hotel Ellis was aflame, 'Aah samaj kayi nathi kartoo. (This community does nothing..)' The PI concerned had a special room permanently booked for him at Hotel Ellis". (page-44 of Vol.1)

- "There were attacks on 6 housing societies in Paldi, where about 1,000 Muslims live. In all, there are about 5-6,000 Hindus living in this area. Kazmi Apartments, Elite, Delite, Corner 2, Tarana Apartments and Bungalows No. 16 and 24 in Paldi, occupied by the owners of Motimahal, were completely burnt. Eyewitnesses testified to seeing the then Gujarat revenue minister, Haren Pandya, leading mobs who then committed arson". (page-48 of Vol.1)
- "Detailed evidence was recorded by us regarding the desecration of the tomb of Wali Gujarati, a renowned poet remembered as the founder of Urdu poetry. On March 1, his tomb, located not more than 10 metres from the office of Ahmedabad's commissioner of police (also the police headquarters) was demolished and a saffron flag hoisted on the site. It is believed that the shrine was torn down by marauding mobs under the directions of Gujarat's revenue minister, Shri Haren Pandya. This flag was removed on the night of March 2. On March 8, a tarred road was constructed at the site, leaving no trace whatsoever of the tomb that had stood there for nearly three centuries. It is shocking that a callous government and an unprincipled administration participated in the utter obliteration of this cultural

monument and allowed a road to be constructed over it".
(page-48 of Vol.2)

- "On the night of March 3, a 400-year-old mosque owned by the Wakf Board, and located near Anjali Cinema in Ahmedabad, was broken down in the presence of state ministers Shri Haren Pandya and Shri Amit Shah. As in many other cases, a .Hulladiya Hanuman. idol was installed there, followed by darshans and artis". (page-49 of Vol.2)
- "The Tribunal observes that in Gujarat, many cabinet ministers are simultaneously prominent leaders of the VHP. The home minister, Shri Gordhan Zadaphiya, is one of them. So, too, is the former revenue minister Shri Haren Pandya, a senior VHP functionary. He has been named by many witnesses who appeared before us, as trying to influence police not to take action against the accused. Minister for forests, Shri Prabhat Singh Chauhan and minister for cottage industries, Shri Narayan Laloo Patel are also two clear examples of this". (page-52 of Vol.2)
- "Some of the senior BJP leaders and ministers in Shri Modi's cabinet were also alleged to have participated in the destruction of minority places of worship. Minister for revenue, Shri Haren Pandya and health minister, Shri Ashok Bhatt led the mobs enthusiastically in Ahmedabad. Shri Bharat Barot, a sitting MLA, was also at the forefront. Residents of Paldi, from where Shri Pandya was elected, actually saw him lead arson attacks. Shri Pandya.s election promise the last time was .to wipe any trace of Muslims out of Paldi". (page-77 of Vol.2)
- "One of the most shocking aspects of the Gujarat carnage was that the constituencies of some ministers and sitting MLAs

were the arena for the worst incidents of carnage. Bapunagar in Ahmedabad, one of the worst affected areas, is the home constituency of the minister of state for home; Shri Gordhan Zadaphiya. Paldi, Ahmedabad is the constituency of Shri Haren Pandya, former state home minister and, until recently, revenue minister in Shri Modi's cabinet". (page-87 of Vol.2)

As regards the deposition of Late Haren Pandya before the Concerned Citizens Tribunal, further investigation has established that the meeting convened at CM's residence, was an essentially law and order review meeting that was held on 27-02-2002 and that none of the Cabinet Ministers attended the same. Late Haren Pandya was not even a Cabinet Minister at that time and was holding the portfolio of Minister of State for Revenue. Shri Gordhan Zadafia, the then MoS for Home also did not attend this meeting, as he had stayed back at Godhra. In view of the version of all the senior officials of the Home and Police Department the testimony of Late Haren Pandya before the Tribunal becomes questionable.

As regards the entries made by Shri R.B. Sreekumar at page-21 on 12-06-2002, in a register unauthorisedly maintained by him that the call details of the mobile phone of Late Haren Pandya were handed over to Shri P.K. Mishra, the then Principal Secretary to CM through Shri O.P. Mathur in his office, the same appears to be doubtful as Shri Mathur has denied to have handed over any such call details to Dr. P.K. Mishra in his office and that Principal Secretary to CM never visited the office of the State IB, as stated in the said entry made in the register. Moreover, Shri S.M. Pathak, the then Dy.SP, State IB has confirmed to have conducted secret inquiry about one of the Ministers, which had met a Forum of which Justice Krishna Iyer, a retired Judge of Supreme Court and some others were the members, who had come to Ahmedabad to enquire into the riots in the State. Shri Pathak has also confirmed to have conducted secret inquiries, which revealed that Late Haren Pandya had met and deposed before them and that this

fact was reported to Shri R.B. Sreekumar orally. However, Shri Pathak has stated that he does not recollect, as to whether he was asked to collect the mobile phone details of Late Haren Pandya or not, which again creates a doubt about the entry made by Shri R.B. Sreekumar in his register. Shri P.K. Mishra, the then Principal Secretary to CM has stated that he does not recollect, as to whether he asked Shri R.B. Sreekumar to collect the mobile call records of Late Haren Pandya and that no phone call details were made available to him by either Shri Sreekumar or Shri O.P. Mathur. No disclosure was made by Shri R.B. Sreekumar about the said register in his deposition before the Commission on 31-08-2004 or in any of the two affidavits filed by him on 15-07-2002 & 06-10-2004. It is rather surprising that this register saw the light of the day for the first time in the year 2005, when Shri R.B. Sreekumar filed a copy of the same along with his third affidavit filed before the Nanavati-Shah Commission of Inquiry on 09-04-2005. It may be mentioned here that this affidavit was filed by Shri R.B. Sreekumar after his super-session in promotion in February, 2005. In view of the fact that the register maintained by Shri R.B. Sreekumar can not be considered to be an authenticated document, the entries made by him in his said register can not be considered to be reliable.

Further investigation revealed that Govt. mobile no. 9825039852 was allotted to Late Haren Pandya. The call detail records of the said mobile phone for 27-02-2002 have been sorted out from CD made available by Shri Rahul Sharma, DIG and the same show that Late Haren Pandya remained at Ahmedabad City till 10:46:55 on 27-02-2002. His location at Ahmedabad City again comes at 16:24:24 hrs and thereafter he remained at Ahmedabad City till 22:52:07 hrs on 27-02-2002 and therefore, this would conclusively establish that Late Haren Pandya did not attend the law & order review meeting that took place at CM's residence at Gandhinagar on 27-02-2002 night.

In view of the aforesaid position, it appears that Late Haren Pandya had misled the Hon'ble Members of Concerned Citizen Forum namely, Mr. Justice (Retd.) P.B. Sawant and Mr. Justice (Retd.) Hosbet Suresh that he was present in the meeting called by the Chief Minister at his residence on the night of 27-02-2002 with a view to increase his credibility. It has been established beyond doubt that Late Haren Pandya could not have been present in the said meeting and that the so called evidence given by him was only on hearsay basis. Since the statement made by Late Haren Pandya is on hearsay basis, it is not admissible under any provisions of law.

➤ **Observation made by Ld. Amicus Curiae:**

- **The statement of Shri R.B. Sreekumar cannot be discarded as hearsay, in the light of Section 6 of the Evidence Act.**

Result of further investigation:

As far as allegation, which suggests that a statement was made by the Chief Minister Shri Narendra Modi on 27.02.2002, in a meeting at his residence instructing the senior officers to allow the Hindus to give vent to their anger is concerned, it is significant that Shri R.B. Sreekumar came on to the scene much afterwards and evidence brought by him is all hearsay. Shri R.B. Sreekumar became Addl. (Int.) only on 09.04.2002 and had not attended the meeting which was held much prior to his joining. Ld Amicus Curiae is of the view that the above statement of Shri R.B. Sreekumar cannot be discarded as hearsay in the light of Section 6 of the Evidence Act. However, the facts suggest otherwise. If there is an interval between the acts of occurrence and the statement made by the person concerned, it blocks the statements so made from acquiring legitimacy u/s 6 of the Indian Evidence Act.

Keeping in mind the principles of law laid down by the Hon'ble Supreme Court of India in regard to hearsay evidence, it