

By Hand

O. No. ADGP (PR) / PS / Affidavit / 67 / 05
Office of the D.G. & I.G. of Police,
Gujarat State, Police Bhavan,
Sector-18, Gandhinagar – 382 018.

Dtd. October 27, 2005.

To,

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

Sub: Submission of Affidavit on the on-going harassment and victimization for deposing before the Justice G.T.Nanavati & Justice K.G.Shah Commission, by Gujarat State Government.

Sir,

As instructed by the Director General and Inspector General of Police, Gujarat State, Gandhinagar, **I had submitted two Affidavits to the Commission, (1) vide O.No. PS / ADGP (Int.) / 1214 / 2002, dated 15.7.2002, and (2) vide O.No. ADGP (PR) / PS / Affidavit / 2004 / 91 E, dated: October 06, 2004**, on performance of duties by the officers and personnel in the State Intelligence Bureau under the supervision of Addl. DGP (Int.), Gujarat State, Gandhinagar (as I was ADGP, Intelligence, State Intelligence Bureau (SIB), from 9/4/2002 to 18/9/2002, which covers the period of scrutiny by the Commission), in relation to the terms of reference of the Justice G.T.Nanavati and Justice K.G.Shah Commission.

2/- Subsequently, I respectfully submitted before the Commission **an additional Affidavit, on 11/4/2005** (Commission No. 37916). This Affidavit contains my humble representation regarding harassment and victimization perpetrated on me, on account of (1) my deposition before the Commission on 31st August, 2004, and (2) submission of the second Affidavit on 6th October, 2004, by higher authorities, in the State Govt.

3/- In the 3rd Affidavit, dtd. 11/4/2005, (para 20) I have submitted that I am apprehensive of further acts of victimisation and bedevilment from higher formations.

4/- **As, I was apprehensive, the Home Department of the State Government issued a charge sheet against me**, initiating a Departmental Enquiry (DE), as per the Rule 8 of All India Service Rules (AISR), on 6/9/2005. Nine counts of charges are in the Charge Memorandum. These charges are directly or obliquely related to the data included by me in my Affidavits to the Justice G.T.Nanavati & Justice K.G.Shah Commission and related matter. I deem that this malafide action of higher authorities was aimed at imposition of major punishment for my so called “misconduct” of (1) revealing truth to the Justice G.T.Nanavati & Justice K.G.Shah Commission, despite intimidation from State Home Department officials and also, (2) for complaining against those Home Department officials, who cajoled and threatened me for not telling truth before the Commission, during my cross examination on 31/8/2004.

5/- I humbly submit that the above charge sheet is served on me for coercing me to desist myself from revealing any further relevant data to the Commission, in case I am summoned by the Commission, or otherwise. This action of the State Govt. will also frighten other Govt. officials in revealing truth to the Commission. **This is the main objective of submission of this Affidavit before the Commission.**

6/- I respectfully submit that the **Commission may kindly** take into consideration the facts and data submitted in the Affidavit **and initiate immediate remedial measures** to undo the injustice done to me, for deposing before the Commission truthfully, as per the provisions of the Commission of Inquiry Act, 1952.

7/- I also pray to the Commission for issuing directives to the State Govt. for stopping further acts victimization.

8/- I pray further to the Commission to move the State Government not to use, by violating the provisions of the Commission Inquiry Act, the materials deposed by me before the Commission, in the Departmental Enquiry against me.

9/- I further pray that I may kindly be summoned before the Commission for submission of additional data in this matter.

Yours faithfully,

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

Encl.: - As above

Copy w.cs.to: -

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

I, R.B.Sreekumar, IPS, Addl.D.G.of Police (Police Reforms), solemnly affirm that I am aware of the contents of the Notification of Gujarat State, Legal Department, dated 6th March, 2002, and the subsequent Notification by the Legal Department, dated. 20th July, 2004, about the constitution of a Commission of inquiry headed by Justice G.T.Nanavati and Justice K.G.Shah and its terms of reference.

2/- I was incharge of the State Intelligence Bureau (SIB), which is also called CID IB, from 9th April, 2002 to 18th September, 2002. I am quite conversant with and rightly informed about the functions of SIB. The duties and responsibility of this Branch were laid down vide the Gujarat State Police Manual Vol. III, Rule No. 461. Details of this Rule had been enumerated in the para 3 of my First Affidavit to the Commission submitted on 15th July, 2002.

3/- **This Affidavit is submitted in continuation of the Three Affidavits by me to the Commission (1) on 15th July, 2002, (2) on 6th October, 2004 and (3) on 11th April, 2005.** In my 3rd Affidavit, dtd. 11th April, 2005, I have brought to the kind notice of the Commission instances of harassment and victimization perpetrated on me by the

higher authorities in the Govt., who are my supervisory officers, on account of my truthful deposition to the Commission on 31st August, 2002 during the cross-examination and also on 6th October, 2004, in my Second Affidavit to the Commission. My earlier Affidavits contain my assessment about the law and order situation and related matters, which are, however, neither in tune with the perception of the higher formations, nor favorable to the interests of the ruling party in the State. The background and reasons for the higher authorities' unmerited prejudicial approach to me including the instances of harassment and victimization were delineated in my 3rd Affidavit.

4/- In my last Affidavit I humbly expressed to the Commission, my apprehension about further acts of victimisation by the higher authorities. **As expected, true to my apprehension, the State Home Department served me a charge sheet, with nine counts, on 6.9.2005.** The charges and statement of imputation of misconduct and misbehavior largely revolve around my deposition of truth before the Justice Nanavati & Justice Shah Commission, in my earlier three Affidavits and during the cross-examination on 31/8/2004.

5/- I am submitting herewith the verbatim version of the charges and statements of imputation of misconduct and misbehaviour for the kind perusal of the Commission. I did not so far submit my formal written defence statement to the authorities, because I am waiting for many relevant documents in legible and proper form, from the competent authority, to whom I requested for the same.

Charge 1

Shri R.B.Sreekumar through his representatives knowingly, falsely claimed in Press and Media Conference a "private" diary (The contents whereof are not admitted) to be an "official" diary written by him during his tenure as Additional DGP, which conduct of his is unbecoming of a member of the service under Rule-3 (1) of All India Service (Conduct) Rules, 1968.

Statement of Imputation of Misconduct or Misbehavior by
Shri R.B.Sreekumar, IPS

(i) Chapter - VI Volume-3 of Gujarat Police Manual, 1975 under the caption 'DIARIES, REVIEWS ETC.' deals with diaries to be maintained by police officers of different ranks. That none of the rules contained in the said chapter provides for maintaining of a diary by police officers of the Rank of

Additional Director General of Police.

(ii) Apart from the fact that none of the rules requires any diary / register to be maintained as aforesaid, there has been no practice of maintaining any diary / register for recording verbal instructions received from higher officers. Additional Director General of Police, CID (Intelligence Bureau), Gujarat State, Shri J. Mahapatara, (immediate successor-in-office of Shri R. B. Sreekumar) and Additional Director General of Police, CID (Crime and Railway) Gandhinagar, Shri G.C. Raigar (immediate predecessor-in-office of Shri R. B.Sreekumar) both vide their letters dated 02/08/05, have certified that no officer in CID (Intelligence Bureau) maintains diary / register to record verbal instructions received from higher officers. Both of them have also certified in their aforesaid letters that they are/were not maintaining any diary / register for recording verbal instruction received from higher officers.

(iii) Shri R.B.Sreekumar has not obtained any approval from higher authorities for maintaining a diary / register. Shri R.B.Sreekumar has also not intimated to the higher authorities about maintaining of any diary / register by him.

(iv) Rule 178 (14) of Gujarat Police Manual Volume -III, 1975 requires that whenever an officer is transferred or retires, he is required to hand over

all 'official' records to a new incumbent. Shri R. B. Sreekumar was transferred on 18/9/2002 from the post of Additional Director General of Police (Intelligence Bureau) to Additional D.G.P. (PR). Shri J. Mahapatra took over charge of the said post from him. At the time of handing over the charge, Shri R.B.Sreekumar has not handed over any diary / register which he claims to be an 'official' diary, to Shri J. Mahapatra. The statement of Shri J. Mahapatra in this behalf is relied upon. Therefore the claim made by Shri RB.Sreekumar through his representatives that the diary is an official one is far from the truth and is misleading.

(v) It is an established practice of the Police Department that copies of the diaries / registers of police officers of the various ranks are periodically submitted for review and direction of higher authorities. Shri R. B. Sreekumar has not submitted a copy of diary / register to his higher authorities which he claims to be an 'official' diary.

(vi) Rule 3(3)(iii) of AIS (conduct) Rules, 1968 requires that if verbal instructions are received by subordinate officer from his superior official, the subordinate officer is required to seek confirmation of such verbal instructions from his superior officer from whom such verbal instructions are received. Shri R.B. Sreekumar had never sought confirmation of the contents of the alleged

diary / register from higher authorities by placing the same before them or otherwise.

(vii) That Stores Department maintains record of issuance of diary / register. It is confirmed from the statement of Storekeeper Shri Vora that no such diary / register was issued to Shri R.B. Sreekumar.

(viii) Shri R.B. Sreekumar has claimed that the alleged diary / register was certified by Shri. O.P. Mathur who is currently holding the post of Additional Director General of Police (Communication) Gujarat State, Gandhinagar. Shri O.P.Mathur, an IPS Officer, is junior to Shri. R.B. Sreekumar. He has clarified by his letters dated 16/4/2005 and 02/08/05 that certification was only in respect of total number of unwritten pages of the said diary / register and his signature does not in any way convey the authenticity of whatever is recorded in the said diary / register.

(ix) Shri R.B. Sreekumar had never disclosed prior to 9/4/2005 and that he had maintained the diary / register, which leaves no doubt that the so-called 'Diary' was not an 'official' diary /register maintained by him during his tenure as Additional Director General of Police (LB.). Yet Shri R.B. Sreekumar has claimed the said 'diary' to be an 'official' diary.

Charge 2

Before making public disclosure of the said diary in Press and Media, no permission of any higher authority was obtained by Shri R.B. Sreekumar, which conduct of his is unbecoming of a member of the service under Rule 3(1) of All India Services (Conduct) Rules, 1968.

Statement of Imputation of Misconduct or Misbehavior by Shri R.B.Sreekumar, IPS

Articles appeared in Gujarati daily news papers 'Sandesh', 'Jansatta' and 'Mumbai Samachar' dated 24/4/05 and in English daily news papers 'Indian Express' and 'Times of India' dated 24/4/2005 with photographs and news item telecast by AAJ TAK News Channel, DD NEWS Channel and E TV (Gujarati) Channel wherein the said so-called diary / register in question was claimed by Shri R.B. Sreekumar to be an 'official' diary, containing secret informations. It is further claimed that the said 'diary' was shown to press by representatives of Shri R.B. Sreekumar without obtaining permission from higher authorities.

Charge 3

Shri R B. Sreekumar made public disclosure of the said private and

unauthorized diary before press and media through his representatives, with an ulterior motive to malign higher officers/authorities and State Government and tarnish their reputation/image out of vindictiveness, as he was not promoted to the rank/grade of Director General of Police. This conduct of Shri R.B.Sreekumar is unbecoming of a member of the service and thereby he violated Rule 3(1) of All India Service (Conduct) Rules, 1968.

Statement of Imputation of Misconduct or Misbehavior by
Shri R.B.Sreekumar, IPS

A meeting of the Departmental Promotion Committee took place on 12/2/2005 to consider promotion of eligible police officers from the grade of Additional Director General of Police to the grade of Director General of Police, wherein the Departmental Promotion Committee had put their recommendation with regard to Shri R.B. Sreekumar in sealed cover in view of pending criminal proceedings against him. Shri K.R. Kaushik junior to Shri R.B. Sreekumar, was therefore promoted to the post of Director General of Police on 23/2/2005. At this juncture, as a sequel to non-granting of promotion to him, Shri R B. Sreekumar started claiming a private diary stated to have been maintained by him, claiming the same to be an official diary, during his tenure as Additional DGP from 6/4/2002 to 18.9.2002 and disclosed

the same as late as on 9/4/2005 and afterwards to the media, with the ulterior motive of maligning his superior officers, including the Ministers and the State Government. The time and manner in which it was disclosed to the media indicates that he had deliberately tried to malign higher authorities. Page - 2, 3, 4, 5, 12 and 20 of the said diary, claimed to be an 'official' diary by Shri R.B.Sreekumar contains allegations, averments and statements which have the effect of adverse criticism of State Government. Shri R.B.Sreekumar criticised the State Government in the said unauthorised diary and made the same public by way of disclosure to the media and tried to malign the state government.

Charge 4

Shri R B. Sreekumar through his representatives made a statement in Press and Media Conference with regard to the said alleged "official" diary and contents thereof which had the effect of an adverse criticism of the State Government and which was capable of embarrassing the relations between the Central Government and State Government. This conduct of Shri R.B.Sreekumar is unbecoming of the member of the service and thereby he violated Rule 3(1) and 7 of All India Service (Conduct) Rules, 1968.

Statement of Imputation of Misconduct or Misbehavior by
Shri R.B.Sreekumar, IPS

Shri R.B.Sreekumar criticised the State Government in the said unauthorized diary and made the same public by way of disclosure to the press and media and tried to malign the State government. It is reported in the Gujarati daily news papers 'Gujarat Samachar', 'Gujarat Today' and 'Sandesh' dated 26/5/2005 and English daily newspaper 'Times of India' dated 26/5/2005 that the Cabinet of central Government has appointed a committee to look into the claims made by Shri R.B.Sreekumar with regard to the said diary / register which was capable of embarrassing relation between State Government and the Central Government).

Charge 5

Shri R.B. Sreekumar clandestinely, unauthorized and illegally recorded conversation with Secretary (Law & Order), Home Department Mr. Murmu and Special Government Counsel Mr. Pandya, which conduct of his is unbecoming of a member of the service and thereby he violated Rule 3(1) of All India Service (Conduct) Rules, 1968.

Statement of Imputation of Misconduct or Misbehavior by
Shri R.B.Sreekumar, IPS

Shri R.B.Sreekumar had called on Mr. Murmu Home Secretary (Law & Order), to arrange a meeting with Special Government Counsel Mr. Arvind Pandya before giving deposition before Justice Nanavati & Justice Shah Commission. Mr. Murmu had accordingly arranged a meeting on 25/8/2004 at GNFC Office, Royal Manor House, Ahmedabad. Conversations in the said meeting were tape-recorded by Shri R.B.Sreekumar without prior permission of any higher officer. Shri R.B.Sreekumar had also not disclosed either to Mr. Murmu or to Shri. Arvind Pandya that he was tape-recording their conversations.

Charge 6 & 7

Shri R.B. Sreekumar unauthorisedly parted with the said illegally and unauthorisedly recorded conversation as aforesaid to the Press and Media without obtaining permission of higher authorities, which conduct of his is unbecoming of a member of the service under Rule 3 (1) of All India Service (Conduct) Rules, 1968.

The illegal and unauthorisedly recorded conversation as mentioned in Charge - 5 was unauthorizedly parted with media by Shri R.B. Sreekumar

through his representatives with an ulterior motive to enable media to publish distorted version thereof with a view to malign Secretary (Law & Order), Home Department Mr. Murmu, Special Government Counsel and State Government as a whole and tarnish their image and reputation in the eyes of public, which conduct of his is unbecoming of a member of the service under Rule 3 (1) of All India Service (Conduct) Rules, 1968.

Statement of Imputation of Misconduct or Misbehavior by
Shri R.B.Sreekumar, IPS

The conversations with Secretary (Law & Order), Home Department Mr. Murmu and Special Government Counsel Mr. Pandya were tape-recorded unauthorisedly. A newspaper, called 'Tehlka' published part of the said conversation tape-recorded by Shri R.B.Sreekumar in their publication dated 12/3/2005. The said part of conversations amongst Shri R.B.Sreekumar, Mr. Murmu and Shri Arvind Pandya could not have been published by Tehlka, unless and until same was parted with by Shri R.B.Sreekumar. Shri R.B.Sreekumar had not obtained any permission *from* any higher authorities before parting with such tape-recorded conversation in favour of Tehlka or any other person. The factum of time at which it is parted with in favour of media, indicates that the same was parted with an ulterior motive to enable

the media to publish distorted version thereof with a view to maligning Secretary (Law & Order), Home Department Mr. Murmu, Special Government Counsel and State Government as a whole and tarnish their image and reputation in the eyes of public.

The Statement of Imputation of Misconduct of charge 7, is the repetition of the same relating to Charge 6.

Charge 8

Shri R. B. Sreekumar did not obtain the required permission from the competent authorities before producing secret communications/reports from Subsidiary Intelligible Bureau (SIB) Ministry of Home Affairs, Government of India, dated 14/3/2002, 26/3/2002, 28/3/2002, 22/4/2002 20/5/2002 and TP Message from Ministry of Home Affairs, Government of India dated 31/5/2002 along with his affidavit dated 15/7/2002 before the Hon'ble Commission of Inquiry of Mr. Justice Nanavati and Mr. Justice Shah. This conduct of Shri R.B. Sreekumar is unbecoming of a member of the service and thereby he violated Rule 3(1) of All India Service (Conduct) Rules, 1968 and section 5 of The Official Secrets Act,

Statement of Imputation of Misconduct or Misbehavior by
Shri R.B.Sreekumar, IPS

Shri RB. Sreekumar had filed an affidavit before Hon. Justice Nanavati and Justice Shah Commission on 6-7-2002 and with this affidavit, he annexed some secret documents of Subsidiary Intelligence Bureau, Ministry of Home Affairs, Government of India dated 14/3/2002, 26/3/2002, 28/3/2002, 22/4/2002,20/5/2002 and T.P. message from Ministry of Home Affairs Govt. of India dated 31/5/2002 along with his affidavit. Shri RB. Sreekumar thereby violated the provisions of section 5 of the Official Secrets Act, 1923. Moreover, as per section 123 of the Indian Evidence Act, no one is permitted to give any evidence derived from unpublished official record relating to any affairs of the State except with the permission of the Head of the Department concerned who may give or withhold such permission as he thinks fit. Shri R.B.Sreekumar has not sought such permission.

Charge 9

Shri R.B. Sreekumar, upon his transfer from Addi.DGP (IB), to Addi. DGP (PR) on 18/9/2002, kept copies of secret reports of I.B. in his possession without permission of higher authorities as it is evident from his original Application No.

213/2005 filed with Hon'ble Central Administrative Tribunal, Ahmedabad. Shri R.B. Sreekumar produced copies of such secret documents as Annexure A-2 to O.A. No.213/2005 without taking permission of higher authorities. This conduct of Shri RB. Sreekumar is unbecoming of a member of the service and violative of the provisions of section 5 of Official Secrets Act, 1923 and Rules 3(1) and 9 of AIS (Conduct) Rules, 1968.

Statement of Imputation of Misconduct or Misbehavior by
Shri R.B.Sreekumar, IPS

Shri R.B.Sreekumar upon his transfer from Additional D.G. (I.B.) to Additional D.G.(P.R) on 18/9/2002 could not have kept copies of secret reports of State LB. in his possession without obtaining permission of the higher authorities. As per the provision of Rule 178 (14) of Gujarat Police Manual Part - Volume - 3, 1975 he should have handed over all the documents in his possession to his successor-in-office. Instead, Shri R.B.Sreekumar retained these documents unauthorisedly with him as is evident from his O.A. no 213/2005 filed before the Hon'ble CAT, Ahmedabad. Shri R.B.Sreekumar annexed copies of secret documents as Annexure A-2 with the said application without taking permission from higher authorities.

My Submission

6/- I respectfully bring to the kind notice of the Commission that I belong to 1971 Batch of IPS officers allotted to Gujarat Cadre. I have done post graduation (M.A.) in History and L.L.M. (Criminology). I have an excellent service record as a police officer in Gujarat State and on Central Govt. assignments. Till February, 2005, I earned my promotions in time, upto the rank of Addl.D.G.of Police. I was awarded, two police medals, (1) for meritorious service (1990) and (2) for distinguished service, (1998) by the Hon'ble President of India. **I have not been imposed with any major or minor penalty / punishment by the competent authority, so far.**

7/- The Commission may kindly take note of the fact that Charge No.1 to 4 are relating to Annexure F, of my Third Affidavit, submitted to the Commission, on 9th April, 2005. The Charges No. 5, 6 & 7 are regarding the Annexure B, to the Third Affidavit. The Charge No. 8 focuses on my production of documents from Central IB / MHA to the Commission as early as July, 2002. The Charge No. 9, is centered on the retention of certain documents by me, which I had submitted in my First Affidavit on 15/7/2002 and with Second Affidavit on 6/7/2004.

8/- The Commission may kindly take note that **I did not maintain any diary as envisaged under Chapter VI, Vol. III, of Gujarat Police Manual.** The relevant regulations in this Chapter stipulate for maintenance of diaries by certain level of officers. In this diary, the details of official work performed by him is recorded and afterwards the copy of the same is submitted to relevant supervisory officers for perusal.

9/- **It is a fact that I maintained a Register for recording verbal instructions from higher officers, viz. the DGP and above.** (Please see Annexure-F of my Third Affidavit). This was not done for submission of the same to any supervisory authority or handing over to my successor. It may kindly be noted that during my tenure as ADGP (Int.) of State Intelligence Bureau (SIB), from the 1st week of my commencement of duty itself, **many illegal, unethical and improper verbal directives were given to me in the meetings** convened by the higher officers, including the Hon'ble Chief Minister (CM).

10/- No minutes of such meetings were issued by the higher authorities. So, I thought it to be appropriate to record these

instructions, though I did not comply with any of these illegal, unethical and improper instructions. Moreover, on the spur of the moment of such instructions itself, I did raise my objections and even advised the authorities to not to deviate from the straight and narrow path, cut corners and enfeeble the statutorily established Govt. machinery. **Many of these instructions were violative of the letter, spirit and ethos of the Constitution of the India**, principles of the Rule of Law and the directives of the Hon'ble Supreme Court on the Basic Structure of the Constitution i.e. secularism (asserted by the Hon'ble SC in Bommai case).

11/- **Secondly**, the SIB is tasked to collect intelligence relevant to the developments affecting the law and order, communal situation, etc. brewing at the subterranean level, by adopting suitable trade craft methods and thereafter, send advance, preventive, operational, real-time intelligence reports to relevant authorities. In fact, it is the duty of the SIB to cover every citizen, irrespective of one's position, in the perspective of equality before law, to find out a person's deviant behavior adversely affecting or harming the National interests. SIB also has to keep watch on organisations, groups, collection of people, etc. in

the perspective of relevant inputs regarding the possible prejudicial posture from targeted people, organisations and groups. **I maintained the aforesaid Register primarily and exclusively as a record of information about actions and activities by important Govt. functionaries with whom I had to interact as part of my official duty.**

12/- To my utter surprise I had noticed from the first week of my taking over as the ADGP (Int.), on 9/4/2002 that on many occasions the Govt. functionaries including the **Hon'ble CM were giving verbal directives, amounting to subversion of the Constitution of India and tampering with the structured administrative apparatus in the State** for satisfying the perceived political interests and tactics of the ruling party and particularly the Hon'ble CM, Shri Narendra Modi. The analytical reports dispatched by me to the higher formations had drawn a lot of information and assessment from the contents of the Register. These analytical reports dtd. 24/4/2002, 15/6/2002, 20/8/2002 and 28/8/2002 have been submitted to the Justice Nanavati & Shah Commission, in 3 Affidavits dtd. (1) 15.7.2002, Commission No. 4006, (2) 6.10.2004, Commission No. 9129 / 04 and (3) 11.4.2005,

Commission No. 37916. **It is very relevant to note that the higher authorities, particularly ACS (Home) and DGP, did not offer any comments rejecting or amending or even asking for deeper probe into the observations and conclusions in the above reports.** But, in the case of report dtd. 20/8/2002, ACS (Home) send his comments on certain points.

13/- A scrutiny of the contents of the Register (Annexure-F of my Third Affidavit) will graphically uncover the **anti constitutional orientation and illegal posture of the Hon'ble CM, the Chief Secretary (CS)**, and other bureaucrats in those crucial days of prolonged riots and its aftermath in year 2002. This profile of the Hon'ble CM and other bureaucrats was explicit with duplicity as the same was contrary to their public disposition and written instructions given by them to the jurisdictional officers. **The nature and character of ground level situation, the partisan role of the administration, particularly the police**, at the cutting edge level, etc., during and subsequent period of the year 2002 communal conflagration have been **graphically brought out in the verdicts of the Hon'ble SC**, assessment reports of national level bodies like NHRC, etc.

14/- ADGP (Int.) is the head of the State Intelligence Deptt. and in that capacity he can and should device ways and means to achieve higher efficiency in various facets / stages of intelligence work viz. collection, collation, analysis, dissemination, arbitration and adjudication.

Functions of SIB are enumerated in Gujarat Police Manual Vol. III,

Rule 461. “(a) The collection and collation of information regarding political, industrial and other similar developments or movements in the State; (b) Verification of character and antecedents, protection and security of VIPs, watch over anti-national activities, movements of foreigners and all matters pertaining to internal security, etc.; (c)

Collection of intelligence regarding all types of communal activities will be an important work of this Branch (d) To keep the government

informed of all the above activities from time to time”. The maintenance of the Register duly sealed and numbered by the then IGP (Administration), Shri O.P.Mathur, in SIB was a right step in that

direction aiming at **qualitative upgradation of intelligence performance and for recording of information on intelligence**

trends, relevant to the SIB charter of duties. Kindly note that Shri Mathur had confirmed that the Register was certified by him “for official purpose” and that the pages were not of personal nature. It may also

kindly be noted that there was no need for an officer certifying any record / diary / Register of personal nature. These solid grounds will establish that **the Register was opened for bonafide, authentic and official objectives, as a functional tool for intelligence work** and signed by IGP. Kindly see the page 128 of Annexure-F of my Third Affidavit.

15/- Please see statement of imputation, Charge 1, para (ii). The claim of Shri G.C.Raiger (ADGP), immediate predecessor of Shri R.B.Sreekumar, that he did not maintain any such diary be viewed against the self evident truth that Shri Raiger, who headed the SIB during the most violent period of communal disturbances in 2002 (February, 2002 to 9/4/2002) **did not send a single analytical report about the communal situation**, advising the higher officers, on remedial counter measures. (There were numerous meetings convened by senior officials including the Hon'ble CM in those days, but there was no record of the same put up to me by SIB office or handed over to me by Shri Raiger). Moreover, Shri Raiger did not care to submit an Affidavit to the Justice Nanavati & Justice Shah Commission, so far, either relating to the first or second terms of reference of the Commission.

16/- It may kindly be noted that the above mentioned Register was opened by me, as a device for record of trends, inclinations and developments, at the official levels of my interaction, with the objective of reflecting the same, as part of my basic duty, in my appraisal reports to appropriate authorities. Any intelligence officer has to collect data from numerous sources keeping in view his areas of concern. **The Register was, therefore, a reliable aid to my memory, in analysis and dissemination of intelligence, at that juncture. So, it may be seen that the opening of the Register was on my own initiative and it was not done basing on any administrative directives but as a prudent way of intelligence collection and collation.**

17/- The Commission may kindly note that, the recording of the facts in the Register, which was done mostly within the 24 hours of the transaction, or the meeting, as the case may be, was done with a purpose to have a data on illegal, unethical and improper verbal directives of higher officers, who were actually not only disobeying numerous instructions on the handling of major law and order situation, particularly the communal riots, but creating an ambience for the Hindu communalists to have a free run on the minority community. **The case of non-compliance of the codified wisdom in the**

compilation of secret circulars, supplied to all officers of and above the rank of District Magistrates and District Superintendents of Police, captioned “Communal peace” is illustrative of this trend.

18/- **These aspects may kindly be viewed by the Commission in the context of the unprecedented situation brought out in 2002 riots and subsequent days reportedly by the ruling party including the Hon’ble CM and his companions.** Serious critical observations indicting the role of State Govt. during 2002 riots and subsequent period have been made by the Hon’ble SC, the National level bodies like, NHRC, National Commission for minorities, reportedly by the former President of India Shri K.R.Narayanan, Shri Atal Bihari Vajpayee, the then PM and numerous other political leaders from various parties. (Documentary evidentiary support is available). Shri A.B.Vajpayee had, in a public speech directed the Hon’ble CM to perform his duties as per “Rajdharmā” (An elucidation of the **quintessence of the “Rajdharmā”** **may kindly be seen in my 3rd Affidavit (para 21 to 29) to the Justice Nanavati & Justice Shah Commission).**

19/- I respectfully further submit to the Commission that, **none can deny the legal imperative that every Govt. functionary, irrespective**

of his position, is a servant and soldier of the Constitution of India, as per the oath of allegiance administered to him at the time of his appointment / swearing in ceremony. When senior officials, political leaders, including the Hon'ble CM, though were hierarchically superior to me, were unabashedly going contrary to the provisions of the Constitution, I thought that my intrinsic duty is to resist such a trend and initiate possible and feasible remedial measures for obviating, if not totally curbing, consequential damage and injury to the communal amity, social cohesion, health of the Criminal Justice System (CJS) and also neutralize the abuse and misuse of Governmental machinery. It may kindly be seen that my Register recorded illegal directives from authorities like (1) Submission of reports regarding alleged involvement of an opposition party in fomenting communal trouble in A,bad city, without any basis, (2) Illegal direction to do the tapping of telephone of a very senior leader of the opposition party, (3) Not to closely cover activities of the ruling party and its sister bodies, (4) Report about activities of a State Minister with call details of his friend's telephone, (5) Consider even elimination of those trying to disturb A'bad Rathyatra or planning to spoil the same, (6) To provide situation assessment reports indicating normalcy in the State for facilitating early Assembly Election

and general instructions to send intelligence estimation reports, in tune with the political strategy and tactics of the ruling party (BJP), etc.

20/- The Commission kindly take note of the fact that, the **vast majority of the field officers and their seniors were actually complying with such illegal verbal directives, as narrated in my Register and this has impacted the quality, the integrity, and the speed of the justice delivery system.** This has been amply confirmed by numerous judicial decisions on the state of health of CJS in Gujarat. **The illustrative cases** are (1) the Hon'ble SC had ordered review of 2000 odd riot cases (August, 2004), in which largely Muslims are the complainants and victims. Such a decision was unprecedented in the judicial history of India, (2) the Hon'ble SC ordered reinvestigation of a mass rape case (Bilkisbanu case) and also transferred its trial along with that of another case (Best Bakery case) to Maharashtra, (the Hon'ble SC has passed severe strictures against Gujarat Govt. in its verdict of these cases) (3) In August, 2005, the Hon'ble Supreme Court scolded the Gujarat police for not arresting the main accused, who jumped the bail in a mass carnage case at Naroda patia, Ahmedabad city, during 2002 riots, (4) nearly a dozen petitions are pending in the Hon'ble SC from the

victims of riots and public spirited citizens praying for CBI investigation of numerous mass carnage cases, in which minorities were butchered in large numbers, etc. It is also relevant to note that a few jurisdictional officers, who did not comply with illegal verbal orders, were reportedly transferred, over - ruling even DGP's objection in March, 2002. The illustrative cases are

- (1) **Shri Rahul Sharma, IPS, 1992** Batch, the then SP of Bhavnagar, was **transferred, reportedly to the unimportant post of DCP Control Room**, Ahmedabad city, in the thick of the riots in March, 2002, **for his "sin" of saving a Madrasa**, housing nearly 200 Muslim children, in Bhavnagar city from attacking Hindu crowds, by opening fire at them.

Later, he was transferred, reportedly to lesser important post of SRPF Commandant, **for opposing the anti minority line in the investigation of Ahmedabad city cases by Ahmedabad city Crime Branch**. He had revealed these facts to the Justice Nanavati & Justice Shah Commission, with supporting documents, in September, 2004. He has gone on deputation to CBI, in 2003.

- (2) **Shri Vivek Srivastava, IPS, 1989** Batch, was transferred, reportedly from the post of SP Kachchh **for arresting Home Guard Commandant**, (pro BJP) **for his involvement in riots**, despite instructions reportedly from the CM office, in March, 2002.
- (3) **Himanshu Bhatt, IPS, 1996** Batch, was transferred from the post of SP, Banaskantha district in March, 2002, **for initiating action against a Sub Inspector, who joined with rioting Hindu crowd**. Strangely the SI was reinstated from suspension and posted in the same Police Station. Shri Bhatt is now on long study leave.
- (4) **Shri M.D.Antani, IPS, 1990 Batch**, transferred from Bhruch district reportedly for taking action against BJP supporters, in March, 2002. He is now on deputation to Central Govt.
- (5) **Shri Satishchandra Verma, IPS**, 1986 Batch, the then Range DIGP, Kachchh (Bhuj) was shifted in last week of March, 2005 to the unimportant post of incharge of SRP Training Chowky. Sorath, Junagadh (which was a post for SP rank officer), by upgrading the post from SP to DIGP. According to media report, Shri Verma's fault was ordering the arrest of a BJP MLA, belonging to Banaskantha District, namely, Shankarlal Chaudhary, for his

direct involvement in the murder of two Muslims boys, during 2002 riots. Shri Verma has done it as part of the review work of 2000 odd cases, entrusted to him as per the Hon'ble Supreme Court's orders.

21/- **The relevance, necessity and legal propriety of the Register maintained by me may also kindly be viewed in** the light of information contained in shelf load of literature, media / study reports, narratives from victims of riots, Affidavits to the Justice Nanavati & Justice Shah Commission, graphic videographs of the riots, etc. throwing light on the despicable and unethical role of the senior functionaries of the State Govt. including the Hon'ble CM, during the 2002 riots and subsequent period of investigation of riot cases and rehabilitation of riot victims. This had only prompted Shri Atal Bihari Vajpayee, the then Hon'ble PM, to direct to the Hon'ble CM, Gujarat State, during his first visit to Gujarat in the course of the riots (April, 2002) to follow the Rajdharm. **This exhaustive data had well established that the Hon'ble CM and many Govt. officials had acted unbecoming of functionaries of the Constitution of India or even as ordinary citizens.**

22/- In my humble view, a Govt. servant serves the Govt., which is the sum total of “the aspiration, resolve and will of the people”, as indicated in the Preamble of the Constitution of India. “The people” constitute the real Sovereigns of the Nation. And Govt. is guided by well-established statutes. **The Hon’ble CM or any Govt. official, however, senior they may be, cannot personify the State or the Govt., as conceived by the father of the subject of political science, Aristotle and other jurists of the West and East.** It is a well-established concept in jurisprudence of the Constitutions of modern Nation – States. A contrary view will land us in the lap of the 19th Century autocratic French Monarch, Louis XIV, who asserted, whenever his arbitrariness was challenged that “I am the State”. To my utter surprise and bewilderment, during my tenure as ADGP (Int.), I have witnessed and experienced that the **Hon’ble CM and a set of senior officials are flagrantly going against the fundamental values, concepts and structural core of the Basic Law of the land – the Constitution of India.** Since, I am serving the Indian State or the Govt., which is a permanent phenomena and not the Hon’ble CM and set of officials, I am bound to do everything possible not to join the illegal ways of those

functionaries, however senior they may be. This will further explain the raison-d-etra of myself maintaining a Register.

23/- The real and rational Govt. (in Hegelian terms), is the one who holds fast to the intrinsic values of the Constitution of India, as the Govt. is a product of it. In the given situation in Gujarat, the senior functionaries of the Govt., operating as “the actual Govt.” digressed from and in certain occasions, even moved contrary to the above noted core values and basic pith and substance of our Nation’s legal edifice. **It is an abnormal situation of “the real and rational Govt.” and “the actual Govt.” coming in confrontation as regards to the performance of the statutory Governmental functions, thanks to the ulterior motive, perverted strategy and harmful political tactics of the Ruling party.** In such a state of affairs, the only way left to a conscientious Govt. servant, worth his salt, is to oppose the illegal posture of those Govt. functionaries, projecting themselves as “the actual Govt.” and also not to comply with directives of questionable legality and also advise the concerned to act as per the statutes and in tune with the responsibilities vested on them. **In fact, I had taken the above discreet line and the act of the maintenance of the Register,**

the submission of reports to higher formations, and to the Justice Nanavati & Justice Shah Commission, utilising the data in the Register, etc. are actions towards that objective. To give an illustration, if a senior police officer, say DGP or ADGP drives a two-wheeler, through the Highway without wearing helmet, the junior police officer, enforcing the MV Act has to initiate action against the violator of law and he has no other alternative to follow. In the arena and the dimension of my area of responsibility as ADGP (Int.). I was in a similar predicament and so **I followed the right and legitimate legal trajectory of reporting against my own supervisory officers, hence the maintenance of the Register.**

24/- The legal stand that the CM or a set of officials at the higher echelons of Govt. will not be identical with the "State Govt." is accepted by the Gujarat State Govt., itself, in its Notification of Legal Deptt. vide No. GK / 16 / 2004 / COI / 102002 / 797 A, dtd. 20.7.2004. This Notification had enlarged the scope of terms of reference to the Justice Nanavati & Justice Shah Commission and requested the Commission, "to look into the role and conduct of the Hon'ble CM as well as other Hon'ble Ministers, officers of the Govt., other individuals and

organisations” with regard to their legal role and duties during the riots.

So, the CM, other Ministers and officials, on the one hand and the State Govt., on the other, are two different legal personalities. In this perspective, the Commission may kindly note that **I have remained loyal and sincere to the objectives and the legal entity of “the Govt.” and not to “the CM”**

25/- The Commission may also kindly consider the possibility, in the future, of a judicial verdict indicting senior functionaries of the State Govt., including the Hon’ble CM. At that juncture, I will not have any defence to prove that I did not comply with the illegal directives from my hierarchical superiors. **In Nuremberg trials of Nazi officials, the latter’s defence that they followed the verbal instructions of Adolf Hitler and his crookish cronies had not been accepted by the judicial authority.** This factor had also prompted me to maintain the Register.

26/- Regarding confirmation of verbal instructions, as mentioned in sub para 6, of Charge 1, in the Statement of Imputation of Misconduct, I am to submit that I consciously did not seek confirmation because

practically all instructions were illegal and unethical. **But, I did comply with the legal and proper instructions.** This can be confirmed by referring to entries in Annexure-F of my Third Affidavit (the Register) on the dates of (1) 16.4.2002, (2) 17.4.2002, (3) 22.4.2002, (4) 28.4.2002, (5) 7.6.2002 and 12.6.2002, (6) **11.9.2002, etc.**

27/- As regards, sub para viii, of Charge 1, in Imputation of Misconduct, I do not claim that signature of Shri Mathur, in the Register did convey any authenticity. Nevertheless, it had established that the Register was opened on 18th April, 2002, itself and not afterwards. Secondly, it had also established that the entries were made from the above date onwards. **In this context I request that the Commission, may forensically confirm the period and age of writings.** To establish authenticity of the entries, the Commission may kindly conduct due enquiries and investigations and this should also include putting myself and those Govt. functionaries, including the **Hon'ble CM**, who are figuring as participants in the discussions and also as those imparting instructions, **to undergo the modern methods of verification of truth i.e. polygraph, narco-analysis, brain finger print testing, etc.**

28/- In the event of a point wise and entry wise investigation or inquiry about the facts narrated in the Register. **I shall produce reliable corroborative, circumstantial and documentary evidence.**

29/- As regards, sub para ix, of Charge 1, in Imputation of Misconduct, it is respectfully submitted that the above Register was kept by me as an aid to my intelligence collection and collation, for facilitating me in deeper analysis of the ground conditions and dissemination of relevant analytical intelligence to the higher authorities. Further, I did not claim that it is an “official diary”, in any of the documents submitted by me to the appropriate authorities. I had merely referred to it as “Register for recording verbal instructions from higher officers viz. DGP and above”. **In actual terms the Register was a record kept for my assistance and there was no question this being handed over to any other person, than to appropriate judicial and investigative authorities.**

30/- On the question of the character of the Register being “private” or “official”, the following legal and factual aspects be taken into consideration, by the Commission. (A) **the Register was kept in my official capacity** as ADGP (Int.), (B) the Register was **opened in the**

legal and regular manner, following the convention of opening the Register, i.e. being signed and sealed by the officer incharge of the Administration, i.e. the then I.G. Shri O.P.Mathur, (C) ADGP (Int.) **as head of the sub department of intelligence can start new records, Registers**, periodical returns, etc. for achieving professional excellence and (D) the Register was **signed and issued at the relevant time** by the competent officer and was not made as an after thought in a later period.

31/- The Commission may kindly note that, in Charge 1, the Principal Secretary, Home Department had accepted the Register in question as “private diary”, but in Charge 2, it is charged that I did not obtain permission of any higher authority before disclosure of the same to the Press or Media. These 2 contentions are self-contradictory and misleading and a clear indication of insufficient application of mind by the competent authority. **This is also reflective of the malafide intention of authorities to frame charges without sound grounds, cogent and reliable facts.**

32/- **Secondly**, the Register contained largely details of illegal and unethical instructions and so these materials cannot be having any

bearing on security, unity and integrity of India, disclosing of which would entail the provisions of the Official Secret Act. On the contrary, once a pointwise and threadbare enquiry into each of the entry in the Register is made, it would be established that the Register was kept in the interests of the State, unity and integrity of India. **The enquiry will also prove that the CM and many Govt. officials were part of a design to disturb internal security for the obvious objective of gaining political capital and also electoral and personal benefit to the CM and the ruling party.**

33/- I respectfully submit to the Commission that I had no intention of maligning the State Govt. by public disclosure of contents of the Register. As the Register was part of public documents, submitted to the Justice Nanavati & Justice Shah Commission, the same was accessible to all and so contents were revealed by advocates. Moreover, as stated above (in my defence relating to Charge 1) the **gist of the Register was included in numerous reports send to the Govt. and many of these were submitted to the Justice Nanavati & Justice Shah Commission,** as these had a direct relevance to the terms of reference of the Commission. There was no criticism of the Govt. therein, but

entries in the Register list out illegal and unethical instructions imparted by a given number of Govt. officers and the Hon'ble CM. Even if it is accepted that the same amounts to criticism it should be taken as criticism against those functionaries. In no stretch of imagination these persons can personify or embody 'the Government'. **These persons issuing directives against the letter, spirit and ethos of the Constitution of India were actually acting quite asymmetrical to the intrinsic values, objectives and fundamental focus of the "Government"**. So the very language of this charge and Statement of Imputation of Misconduct is erroneous and ill motivated.

34/- I respectfully submit to the Commission that, as alleged in the statement of imputation of misconduct under Charge 5, I did not request Shri Murmu, Secretary (Law & Order) to arrange a meeting with Special Govt. Pleader Shri Arvind Pandya before myself giving deposition before the Justice Nanavati & Justice Shah Commission. **It was Shri Murmu, who informed me that Govt. tasked him to brief all Govt. officers, who were deposing evidence before the Justice Nanavati & Justice Shah Commission to ensure that the officer would not harm the Govt. interests.** Thereupon, I informed DGP Shri

A.K.Bhargava about the proposed meeting at GNFC office on 25/8/2004 convened by Shri Murmu and DGP directed me to attend the same. **It was in pursuance of DGP's verbal order that I have attended the meeting chaired by Shri Murmu.** It may be noted that as per the official protocol Shri Murmu (1985 batch officer) cannot summon me as myself belonged to a higher rank and conduct a meeting. But, I attended the meeting on the verbal order of DGP. This matter was reported by me to the Home Deptt. vide my office letter No. ADGP (PR) / PS / 102 / 2004, dtd. 3/11/2004, and also reported this to the Justice Nanavati & Justice Shah Commission in my 3rd Affidavit.

35/- It is submitted that the meeting convened by Shri Murmu was an exercise to intimidate me to commit perjury. Earlier on 21/8/2004, an Under Secretary from State home Deptt. Shri Dinesh Kapadia, tried to cajole me to give deposition in favor of the State Govt. The details of the same may be seen in Annexure – A, to my 3rd Affidavit. It may be seen that **Shri Kapadia, being a functionary of the Home Deptt., the supervisory authority of the police officers of Gujarat State, had thrown his weight around me to ensure that I will speak in favor of the political interests of the Govt.** In his briefing to me Shri Kapadia was critical of the Hon'ble SC, the media and he was also advising me not to tell the truth before the Commission as in his view **no purpose will be served by telling truth to the Justice Nanavati & Justice Shah Commission and that the Commissions are paper tigers.**

36/- The Commission may kindly take note of the fact that, since I had refused to accept the advice of Shri Kapadia, in my view, the higher authorities had directed Shri Murmu to summon me and tutor me accordingly. Shri Murmu had summoned me on 25/8/2004. It may kindly be noted that I did not ask for any briefing or guidance from Shri Murmu, who is junior to me in hierarchy, nor does he have any experience of handling post Godhra situation. **An analysis of the authoritative flavour and directional focus of Shri Murmu's conversation with me will prove that he had called / convened this meeting.** During the meeting, Murmu and Govt. Pleader Shri Arvind Pandya, pressurized and even intimidated me to avoid giving any statement, which could harm the political interests of the Govt. They also insisted that they had briefed all witnesses i.e. Govt. officials, who were called by the Justice Nanavati & Justice Shah Commission, to depose before the Commission in such a way that their deposition will not damage the Govt. interests. I was specifically asked to be careful about questions put by one advocate Shri Mukul Sinha. I was also told that I should not give deposition in such a way that more names would be opened up leading to their summoning for cross-examination. **I was also threatened that if I give statement contrary to State Govt.**

interests, I will be declared a hostile witness and dealt with suitably later. I told them that I would depose before the Commission as per the statutory requirements and will not suppress truth, because that would be an act of perjury. **In short, the whole meeting was a pre-planned and well-focused massive exercise to coerce me to suppress facts, tell lies and present data in such a manner that would not expose the Govt. functionaries, senior politicians and others, who played diabolical and criminal role during the long-drawn-out communal riots, after the Godhra incident in Gujarat State.**

37/- A scrutiny of the verbatim version of the interaction between Shri Murmu, Shri Arvind Pandya and myself will prove that **Shri Murmu had indulged in gross misconduct as per All India Service Rules, and his action had also amounted to the commission of offences of abetment to perjury punishable (U/s 193 r/w 116 IPC) and obstructing the Govt. servant from discharge of his public functions punishable (U/s 186 IPC), etc. criminal intimidation punishable (U/s 506) IPC, offence U/s 153 A, IPC, etc.**

38/- I submit to the Commission that, the act of recording conversation by me was a safety measure to bring on record the illegality of whole transaction. **It may kindly be seen that as details of briefing or instructions can be noted down, the same can be recorded also.** In the present case the whole meeting was an illegal exercise to brief a senior police officer by an officer of the Home Deptt., who was authorised by the competent authority to brief even officers senior to him in official rank and status. This was evident from the fact that the DGP Shri A.K.Bhargava had asked me to attend the meeting convened by Shri Murmu. **It is also relevant to submit that had I not recorded the illegal instructions of Shri Murmu and Shri Pandya no judicial authority had ever accepted my complaint / deposition in this connection.** Moreover, it may be seen in the verbatim details of Shri Murmu's conversation that he had even planned to brief Shri Ashok Narayanan, the senior most IAS officer serving the State, now as the State Vigilance Commissioner and the then ACS (Home). Please see page 23 of Annexure-B, Third Affidavit. This would also establish that all Govt. officers appearing as witnesses were tutored by Shri Murmu. The reluctance of most of the Govt. officials viz. Shri K.Chakravarthi, the then DGP, Shri P.C.Pande, the then C.P., A'bad city and many other

senior officials to tell truth to the Commission may kindly be appreciated in the light of “guidance” to them by Shri Murmu.

39/- I respectfully submit to the Commission that, **I had brought to the notice of the Home Deptt. vide my letter No. ADGP (PR) / PS / 102 / 2004, dtd. 3/11/2004, on my reply as explanation submitted on an inquiry pending against me that Shri Murmu summoned me and tutored and intimidated me to commit perjury.** But no inquiry was initiated by the Home Deptt. or Govt. in this matter against Shri Murmu. In my above mentioned letter I had also informed the Home Deptt. that I would place data on grounds of prejudice against me, viz. my refusal to comply with illegal briefing by Shri Murmu at appropriate legal forum in case of my supercession or any other unjust action.

40/- The Commission may kindly note that, in **the Statement of Imputation of Misconduct under Charge 6 & 7 the same language** is used and it is a case of lack of adequate application of mind by competent authority.

41/- The Commission may kindly note that, I have submitted in my First Affidavit on 15/7/2002 only those relevant materials to the Commission, which has a direct applicability to the first terms of reference to the Commission issued by the Govt. on 6/3/2002. **This was done as per Sec 6 B of the Commission of Enquiry Act, 1952.** The Commission had accepted this fact in an implied manner, by accepting my First Affidavit fully and permitting cross-examination on the facts and assessments narrated therein. **Secondly, as an abundant precaution I had requested the Commission to treat the whole Affidavit as a privileged document.** This can be seen in forwarding letter of my First Affidavit to the Commission. But the Commission did not accept my submission and had released my Affidavit to the public and press.

42/- The Commission may kindly note that, **the inclusion of reports from Subsidiary I.B. (MHA) in the Affidavit was quite essential to establish that the State IB also did not get any intelligence from Central I.B / MHA regarding Godhra incident and about the pre planning of post Godhra riots.** All relevant secret messages from Subsidiary IB and MHA, which dealt with specific intelligence, had been

shared to the field officers by the O/o the ADGP (Int.). In order to prove that ADGP (Int.) office was quite prompt in sharing intelligence received from the Central Govt. and other sister agencies, I had appended these to the Affidavit.

43/-The terms of reference to the Justice Nanavati & Justice Shah Commission issued by Govt. of Gujarat. Legal Deptt., vide No. GK / 07 / 2002 - COI / 102002 / 797, dtd. 6.3.2002, stated that “the following shall be terms of reference of the Commission, namely (1) To enquire into (A) the facts, circumstances and course of incidents that led to setting on fire some coaches of Sabarmati Express train on 27.2.2002, near Godhra Railway Station; (B) the facts, circumstances and course of events of the subsequent incidents of violence in the State in the aftermath of the Godhra incident, and (C) **The adequacy of administrative measures taken to prevent and deal with the disturbances in Godhra and subsequent disturbances in the State;** (2) to **ascertain as to whether the incident at Godhra was a preplanned and whether information was available with the agencies,** which could have been used to prevent the incident, (3) to recommend suitable measures to prevent recurrence of such incidents.”

44/- I sincerely felt that the information on **intelligence inputs** received from Central I.B. and MHA on the Godhra incident and subsequent riots, as available in SIB records was **quite essential and relevant** for the Commission to take a decision on “the adequacy of the administration measures”, and as “to whether information was available with the agencies, which could have been used to prevent the incident”. **The term “agencies” will cover both Central and State Intelligence units.**

45/- It may kindly be seen that as mentioned by me in my First Affidavit to Justice Nanavati & Justice Shah Commission (See my First Affidavit, dtd. 15.7.2002, para 18) the Central I.B. having extensive nation wide network to collect intelligence also did not provide any advance, preventive, actionable real time intelligence about the return journey of Karasevaks, the possibility of attack on them at Godhra and also about the exact areas wherein attack on minorities would be targeted by Hindu communal elements. **Internal security is in the unwritten charter of duty of Central I.B., which singularly failed in case of Godhra incident and subsequent riots to provide advance preventive intelligence.** It may be noted that whenever there are

movements of activists like Karsevaks, as part of a nationwide programme the Central I.B. does the formal drill of sending reliable sources (agents) along with the group. In the case of Karsevaks going from Gujarat to Ayodhya in February, 2002, this essential exercise appears to have not been done by the Central I.B. Unit of Gujarat State, called Subsidiary Intelligence Bureau (SIB), Ahmedabad. **Had it been done one would have known about the belligerent behavior of the Karsevaks, their tiff with vendors etc. on the Railway Stations, return of the Karsevaks one day earlier to Gujarat and related information. Such an intelligence was not supplied to local police by Central I.B. That real time intelligence would have prompted Gujarat Police to arrange effective police deployment at Railway Stations, en-route the train journey of the Karsevaks. Certainly this was a major professional failure on the part of the Central I.B.** Moreover, strangely, Shri Rajendrakumar, the then Joint Director, Central I.B. (Subsidiary Intelligence Bureau, Ahmedabad) had come out with the theory of ISI conspiracy behind Godhra incident within hours of the incident and the then DGP Shri K.Chakravarthi had told me on 27/2/2002, afternoon, that Shri Rajendra Kumar had advised and even cajoled the DGP to pursue investigation on Godhra incident on the line

of the same being a conspiracy by ISI of Pakistan. **It is learnt that, subsequently also Shri Rajendrakumar insisted upon police investigation on this direction, to the officer in charge of the investigation team.**

46/- In many an interaction with me also, in the year 2002, Shri Rajendrakumar stressed upon the urgency and desirability of Gujarat police to collect evidence to prove the ISI conspiracy angle. On my query about the basis of the conspiracy theory, he could not provide sound and acceptable clarification or material. I had refused to accept his advice and informed him that I did not deal with the investigation of riot cases. Strangely, Shri Rajendrakumar did not send any report with inputs on the genesis, course and perpetration of the ISI conspiracy and the persons involved therein, during my tenure as ADGP (Int.). This posture of Shri Rajendrakumar, was reported in the newspaper "Times of India" Ahmedabad edition, dtd. 24.1.2005. *Significantly, media reported BJP leaders projecting conspiracy theory. Shri Murmu also forced me to depose on conspiracy (see pages 9, 13 & 15 of Annexure-B, of my Third Affidavit).* **Kindly note that this line of investigation was quite advantageous to the then**

ruling coalition at the Centre – the National Democratic Alliance (NDA) and the ruling party in Gujarat State (BJP) at that juncture.

47/- **It appears that the State Govt. does not want the Justice Nanavati & Justice Shah Commission to know about the failure of Central I.B., for the reasons best to known to the Govt., in providing preventive intelligence about the Godhra incident and subsequent riots.** Issuing a charge on the count of myself appending relevant intelligence reports from the Central I.B. / MHA, in my view, was to preempt any further revelations from me or other Govt. officials in case the Justice Nanavati & Justice Shah Commission summoned the relevant officers for cross-examination, on the above sensitive issues.

48/- **Secondly,** my First Affidavit was scrutinized by Shri K.Chakravarthi, the then DGP before my submission to the Commission and he had approved the same after making deletions and amendments. At that juncture he did not make objection to my inclusion of documents of Central I.B. / MHA in my Affidavit. On the contrary he told me that **this must be done to bring out the inadequacy of Central I.B. in providing clean-cut intelligence** on Godhra incident and subsequent extensive communal disturbances.

49/- **Thirdly**, the State Govt. and the then DGP Shri K.Chakravarthi and his successor were in possession of my First Affidavit in which MHA documents were appended, since July, 2002, but they did not move for initiating any action to request the Justice Nanavati & Justice Shah Commission to withdraw these documents nor did any amended Affidavit was issued. I was also not asked to do any such exercise. **I was also not asked any clarification or explanation in this matter, till the above charge is issued, by the State Govt.**

50/- **Fourthly**, being sensitive about the privileged nature of these documents, when I was informed about my cross examination on 31/8/2004, before the Justice Nanavati & Justice Shah Commission, by DGP Shri Bhargava, **I sought formal guidance from the DGP about the desirability or otherwise of referring to these documents in the cross examination**, as per my letter No. ADGP (PR) / PS / 69 / 2004, dtd. 15/7/2004. **(Please see Annexure A)**. But, DGP Shri Bhargava did not give any clear directive in this matter. He asked me to contact Shri Arvind Pandya, the Govt. Pleader and get the required clarification, vide his letter No. G-2/1927/Com-Godhra/Punch/1263/2004, dtd.

20/7/2004. **(Kindly see Annexure B)**, Thereupon, I formally addressed a letter to Shri Arvind Pandya on July 26, 2004, vide letter No. ADGP (PR) /PS/Nanavati Commission/2004/73, dtd. 26.7.2004 **(Kindly see Annexure C)**, but he did not respond to this letter so far. It is relevant to note that during the meeting convened by Shri Murmu to tutor me, **I raised this question again to Shri Arvind Pandya and he replied that “no document is a secret document to the Commission.** This has been the policy, we are just pursuing the transparency.....”, “I also told the Justice for keeping that secret”. (kindly see Third Affidavit, page 49). In short, Shri Arvind Pandya did not give any guidance in this connection. The matter was reported by me verbally to DGP, Shri A.K.Bhargava, who advised me to go according to the briefing given by Shri Murmu and Shri Arvind Pandya. DGP confirmed it in Press statement (Indian Express, 4th March, 2005). Thereupon, I told the DGP that I will tell the truth to the Commission and will not commit the offence of perjury.

51/- The above facts would prove that **the higher authorities had no objection in my inclusion of MHA document** in my First Affidavit to the Commission.

52/- **Fifthly**, it may be noted that I mentioned in my forwarding letter, to the Justice Nanavati & Justice Shah Commission, of my First Affidavit that all documents appended therein are confidential and so may kindly be treated as privileged documents. It is pertinent to note that all documents in the custody of SIB or any other intelligence agency are classified documents and in case they are to be kept away from production before the Commission, ADGP (Int.) SIB would not be in a position to submit any Affidavit. Such an act, in my view, would have brought out adverse remarks from the Justice Nanavati & Justice Shah Commission. Moreover, this would be an act of disloyalty to the Commission and going against the public interest. This aspect was also discussed by me with the then DGP Shri K.Chakravarthi, who insisted upon myself filing the Affidavit, with documents. **So it is felt that having known the background of my inclusion of classified documents in the First Affidavit as early as July, 2002, and not objecting it so far, the action of initiating DE on this issue in September, 2005, is indicative of malafide and discriminative approach against me by the Govt.**

53/- **Sixthly**, it may be seen that before a Commission of Inquiry, the witness is bound to give relevant facts as per Section 6 B of the

Commission of Enquiry Act. **This provision will supercede and override other administrative regulations about seeking permission for inclusion of documents.** It was the Justice Nanavati & Justice Shah Commission, who had de-classified the documents and not me. The Commission may kindly note that, had I not included the Central I.B. / MHA documents, it would be an act of starving Justice Nanavati & Justice Shah Commission of relevant facts and violative of provisions of the Commission of Inquiry Act.

54/- It is relevant to note that the Justice Nanavati & Justice Shah Commission did not even accept the claim of privilege about **correspondence between His Excellency the President of India and the Hon'ble Prime Minister** relating to the Godhra incident and subsequent riots.

55/- **Seventhly**, it appears that facts revealed in my three Affidavits had adversely affected the political interests of the Govt. and put **serious question mark on the loyalty shown by a set of Govt. officers and the Hon'ble CM to the letter and spirit of the provisions of Indian Constitution.** This is a factor, which prompted

the authorities to issue me the above charge after a lapse of over 3 years of submission of the First Affidavit.

56/- **Eighthly**, it may be seen that before a judicial authority and that too a Commission headed by Rtd. Judge of Hon'ble SC, nothing can be classified. **Such a ruling was given by the Division Bench of Hon'ble Kerala High Court** in OP No. 17367 of 1994 – P (WA No. 167619949), on 13th January, 1995. In this case the Union Home Secretary in his Affidavit had claimed privilege about production of documents relating to correspondence between Central I.B. and MHA, on the state of investigation of a Spy case, popularly known as ISRO Spy case. The Hon'ble High Court of Kerala ruled that these documents cannot be treated as privileged and their perusal by the Court was imperative for meeting the ends of justice.

57/- Later, one of the parties in the case viz. the CBI went on appeal to the Hon'ble Supreme Court, which, however, did not reject the above verdict of Hon'ble Kerala High Court on privilege of documents from Central I.B. In the light of the above judgment **also my decision of inclusion of documents of Central I.B. was legal and without any**

ulterior motive and was done in good faith. So, a charge on this count is malafide in facts and law and so is also infructuous.

58/- **Ninthly**, it may be noted that the Central I.B., particularly, **Shri Rajendra Kumar, the then Joint Director**, Subsidiary Intelligence Bureau, Ahmedabad, who is cited as a witness in my DE **did not even care to file any Affidavit** in response to the terms of reference of the Justice Nanavati & Justice Shah Commission, before the Commission. In my humble view, it was for forestalling submission of any information by Shri Rajendrakumar, on demand from the Justice Nanavati & Justice Shah Commission, in an Affidavit or in a cross-examination that a charge is served on me on the ground of including I.B. / MHA documents in my Affidavits to the Justice Nanavati & Justice Shah Commission.

59/- **Tenthly**, it may be seen that I was asked to file a Second Affidavit vide the letter No. (1) G-2 / 1927 / Tapas / Panch / Affidavit / 1690 / 2004, dtd. 16 / 9 / 2004 (**Kindly see Annexure D**) and (2) G-2 / 1927 / Tapas / Panch / Affidavit / 1711 / 2004, dtd. 21 / 9 / 2004, (**Kindly see Annexure E**), by the DGP Shri A.K.Bhargava. DGP was aware that I

had appended classified documents in my First Affidavit, still he insisted upon my filing the Second Affidavit, in relation to second terms of reference to the Justice Nanavati & Justice Shah Commission from the State Govt. dtd. 20/7/2004. This **fact will indicate that there was implied clearance and consent from the higher authorities about the inclusion of classified documents in the Affidavit by me.** Now due to prejudice against me this is made a point of the charge.

60/- It is alleged that I have violated Section 128 of Indian Evidence Act, 1872. It is an accepted principle of jurisprudence that the provisions of a specific law enacted later will supercede and overshadow the provisions of the earlier statutes. **Accordingly, Section 128 of I.E. Act of 1872 is superceded in the present case by the Section 6 of the Commission of Inquiry Act, 1952.** It may also be noted that I did not violate the provisions of Section 5 of the Official Secret Act, because this Section itself had deemed that “the communication to a Court of Justice or to a person in the interests of the State” is not violative of Section 5 of O.S. Act. I have appended relevant classified documents to the Justice Nanavati & Justice Shah Commission because **the Commission has the status, if not the authority, of “a Court of**

Justice” and moreover this act was done in “the interests of the State”.

61/- The Commission may kindly note that, the documents referred to in the charge 9 and Statement of Imputation of Misconduct are 4 intelligence assessment reports send to the Home Deptt. with copy to DGP on (1) 24/4/2002, (2) 15/6/2002, (3) 20/8/2002 and (4) 28/8/2002. These reports are documents having relevance to the First Affidavit submitted by me to the Justice Nanavati & Justice Shah Commission on 15/7/2002. In fact, report dtd. 24/4/2002 was Appendix 24 of the First Affidavit. The subsequent 3 reports are those, which repeat and reiterate the contents of the report dtd. 24/4/2002. Report dtd. 24/4/2002 was released to the press by the Justice Nanavati & Justice Shah Commission along with the First Affidavit. I retained copies of these reports with me **because these have a direct relevance to the facts and assessment submitted to the Commission in my First Affidavit. It was quite essential for me to retain these to answer any further query from Justice Nanavati & Justice Shah Commission.**

62/- It is pertinent to note that on the eve of preparation of my Second Affidavit to the Commission, while I requested Shri J.Mahapatra, the present ADGP (Int.), SIB to supply copies of correspondence from ADGP (INT.) office to the Home Deptt. and DGP, during my tenure as ADGP (Int.), he replied that no such material was available, vide his letter No. D-2/Affidvair/717/2004, dtd. 28.9.2004 **(Kindly see Annexure F). This will prove that had I not carried the copies of relevant papers I would have faced the wrath of the Commission during cross-examination on 31/8/2004.** It would have been impossible for me to corroborate many facts and inputs included by me in my First Affidavit without copies of those 4 documents. Hence, I retained these documents.

63/- The Commission may kindly consider the fact that **the utilization of my deposition and material presented by me before the Commission** in my 3 Affidavits and during the cross-examination for initiating a DE **is violative of Section 6 of the Commission of Enquiry Act, 1952.**

64/- It is also submitted that I have appended these 4 documents in my Second Affidavit to the Justice Nanavati & Justice Shah Commission on 6/10/2004 and the Commission had treated it as a public document as in the case of the First Affidavit and reportedly released the same to the press and media in October, 2004. I appended those 4 reports in my petition to the Hon'ble CAT in April, 2005 and by that time those documents had no confidentiality. On these legal grounds, the above charge and imputation of misconduct, do not have, any legal validity. **Moreover, the authorities did not ask my clarification in October, 2004, when I submitted these documents along with my Second Affidavit as the copies were submitted to DGP and Home Deptt. This will indicate that the above charge is an after thought on the part of authorities and arising out of prejudice operating against me.**

65/- I appeal to the Commission respectfully to take note of fact that on the whole, the charges served on me are reflective of **unmerited prejudice and malafide approach of the Govt. operating against me,** on account of my discharge of my duties as per the provision of the Constitution of India, other statutes and police regulations. Such an animosity was generated since April, 2002, **when I as ADGP (Int.)**

started sending correct assessment reports bringing out the involvement of supporters of ruling party in the communal riots and subsequent manipulation of cases, contrary to the principles of the Rules of Law. The Govt. was quite appreciate of my work till that time. A short chronology of germination and sustenance of ill will against me in the minds of authorities is given below:

(1) From August, 2000 to April, 2002, Addl. DGP (Armed Unit)

A. The State Govt. appreciated my work as special officer supervising relief and rescue operation in Kachchh district after major earthquake in January, 2001 and that too in the initial 15 days, after the disaster.

B. I was inducted as a member to revamp the State Intelligence Bureau (SIB) in the Mehta Committee, tasked to revamp the SIB. (Shri R.C.Mehta, is a Rtd. Special Director, Central Intelligence Bureau).

C. In the first week of April, 2002, soon after the visit of the Hon'ble Prime Minister, Shri Atal

Bihari Vajpayee, I was posted as head of the SIB.

(2) Performance as ADGP (Int.) – April, 2002 to September, 2002,

A. During this period I have sent reports highlighting the unconstitutional and unethical role played by pro BJP elements in the communal riots, besides providing actionable, preventive, advanced intelligence on the plans of communal and criminal elements belonging Hindu and Muslim Communities.

B. In my detailed analytical report on communal situation dtd. 24/4/2002, I focused on (1) partisan approach of a few police officers in the investigation of communal riot related cases, (2) soft attitude of police towards offenders belonging to the majority community, (3) biased role of the Govt. Public Prosecutors, (4) police officers obeying verbal instructions of political leaders ignoring legal

orders from departmental superiors, (5) non-implementation of recommendation of National Human Rights Commission (NHRC) and National Commission for Minorities, (6) exacerbating loss of faith in the efficacy of the Criminal Justice System among the minorities, (7) stock piling of weapons by criminal and fundamentalist elements of both minority and majority groups, etc.

C. As remedial measures by the State Govt. were not taken on the above reports of mine, I had sent further situational appraisal reports to the Home Department emphasizing on the need for urgent counter measures for normalization of situation, (1) on 15/6/2002, (2) on 20/8/2002 and (3) on 28/8/2002. In this process, I had strictly adhered to the letter, spirit and ethos of the Constitution of India, instead of pursuing the political strategy and tactics of the

ruling party and the CM, conveyed through verbal instructions to Govt. functionaries.

D. Submission of First Affidavit to the Justice Nanavati & Justice Shah Commission - On 15/7/2002, I had filed 172 pages long Affidavit to the Justice Nanavati & Justice Shah Commission inquiring into the communal riots in 2002, in which I had included the gist of situation reports send by me to the Govt., as noted in para 2 (B).

2/- Presentation to the Chief Election Commission (CEC), on 9/8/2002.

I made a presentation to the full member session of the Central Election Commission about the then prevailing law and order situation with substantial evidence, data, statistics, etc., which was contrary to the perception of higher officers in the State Govt. The CEC accepted my version, and acknowledged it in its Open Order dtd. 16.8.2002 para 20 and 32, and postponed the Assembly election. **This was a major cause of ill will against me by the State Govt.**

3/- 16/8/2002 – The State Home Department asked my **explanation on the trivial issue** of sending a secret message by fax.

4/- 17/9/2002 – On the written instructions of the National Commission for Minorities, the verbatim of an anti minority speech by the CM, Narendra Modi was reported to the Home Department, though the higher officers, (DGP and ACS, Home) instructed me not to send the report.

Perhaps, deeming this act to be the last straw on the camel back, **on 17/9/2002, night I was transferred** to the post of Addl.D.G. of Police (Police Reforms), wherein I continue now also.

5/- 9/4/2002 to 17/9/2002 During this period when I was working as ADGP (Int.), there were many instances of higher formations asking me to comply with verbal instructions, which would fall in the category of directives to commit criminal offences like illegal tapings of telephones, proposal to eliminate persons, submission of reports suiting to the political interests of BJP, etc. There were other **commands of doubtful legality and questionable propriety**, during my tenure as Addl.DGP (Int.). Certainly, I did not comply with such directives. These include instructions from the highest levels for (1) Submission of reports

regarding alleged involvement of an opposition party in fomenting communal trouble in A,bad city, without any basis, (2) Illegal direction to do the tapping of telephone of a very senior leader of the opposition party, (3) Not to closely cover activities of the ruling party and its sister bodies, (4) Report about activities of a State Minister with call details of his friend's telephone, (5) Consider even elimination of those trying to disturb A'bad Rathyatra or planning to spoil the same, (6) To provide situation assessment reports indicating normalcy in the State for facilitating early Assembly Election and general instructions to send intelligence estimation reports in tune with the political strategy and tactics of the ruling party (BJP), etc. **These verbal instructions have been recorded in an Official Register kept by me, numbered and certified by the then IGP (Admn. & Security), the SIB.**

6/- **August, 2004**

- A. When I was summoned by the Justice G.T.Nanavati & Justice K.G.Shah Commission for cross-examination on 31/8/2002, **many Govt. officials put pressure on me to speak in favor of the Govt.** differing from my Affidavit dtd. 15/7/2002. But I had refused to oblige them.

- B. On **21/8/2004**, **Shri Dinesh Kapadia, Under Secretary** (Home Deptt.) met me and persuaded and influenced me to give deposition to the Justice Nanavati & Justice Shah Commission without harming the political interests of the Govt. and the CM
- C. On **25/8/2004**, **Shri G.C.Murmu, IAS, Secretary (Home Deptt.), 1985 Batch and Shri Arvind Pandya, Govt. Pleader to Justice G.T.Nanavati & Justice K.G.Shah Commission summoned me and intimidated me directing that I should not go against the political interests of Govt., while deposing before the Commission. This long briefing session was a pre-planned and well-focused massive exercise to coerce me to suppress facts, tell lies and present data in such a manner that would not expose the Govt. functionaries, senior politicians and others, who played diabolical and criminal role during the long-drawn-out communal riots, after the Godhra incident in Gujarat State.**

7/- 31/8/2004 Deposition before Nanavati Commission – I had deposed before the Justice Nanavati & Justice Shah Commission bringing out the acts of omission and commission by

the politicians, bureaucracy, the police, etc. during the post Godhra riots. I had not only fully corroborated data submitted in my First Affidavit on 15/7/2002, but also provided documents about the communal incitement by the Hindu and Muslim communal elements, failure of the Govt. in initiating legal action against Hindu communal elements, etc. This had exacerbated the animosity and acrimony of the State Govt. against me.

8/- 28/9/2004 The Home Deptt. asked my explanation for not reporting about an inquiry pending against me while I was on Central deputation. As per Rules, viz. Govt. of India, DPAR letter No. 5/21/72/AIS III, dtd. 4/12/1972, the deputationist officer is debarred from reporting such service matters to the State Govt. This move was to revert me to the rank of IGP from ADGP, though the State Govt. had actually promoted me from April, 1999, while no inquiry was pending against me. It is pertinent that in the given DE I was fully exonerated by the MHA, Govt.of India.

9/- 3/10/2004 On a trivial issue of sending a DO letter to the CP, Ahmedabad, about involvement of VHP supporters in

certain illegal activities, my explanation was called **for, even though the then DGP, Shri K.Chakravarthi, who inquired into this matter reported that the** act of sending the DO letter was “in good faith, as part of normal duties”. (Explanation on the matter noted in sub para 8 & 9 were asked to pressurise me to avoid filing the Second Affidavit).

10/- 6/10/2004 **I had submitted** my Second Affidavit to the **Nanavati Commission, as per DGP’s written instructions, despite pressure from pro Govt. bureaucrats to avoid filing of the Affidavit. In the Affidavit, I brought out the unholy role of Govt. functionaries and politicians during 2002 riots and non-implementation of remedial measures suggested by me to normalize the situation.**

11/- February, 2005 **I was superseded in promotion to the rank of DGP, on the baseless ground of a criminal case pending against me since 1987. Pertinently, the proceedings of this criminal case was stayed by the Hon’ble High Court of Gujarat, in 2002. Secondly, the case was in an inquiry stage by the learned Magistrate, Bhuj (Kachchh District) and no charge was framed**

against me. Thirdly, the State Govt. itself had appointed lawyers to defend me at JMFC Court in Bhuj and High Court, Ahmedabad. Fourthly, the State Govt. did not give sanction for prosecution to the complainants, in the cases against me, under Sec 197, Cr.P.C. Fifthly, during the so-called pendency of the above criminal case, I was promoted three times, to the posts of DIG, IG and ADGP. I was also awarded with 2 medals on recommendation of the State Govt.

12/- 11/4/2005 **Being apprehensive of more spiteful and malevolent action by the State Govt., I had submitted my Third Affidavit to the Justice Nanavati & Justice Shah Commission, delineating the data on the germination and aggravation of unwarranted prejudicial approach of the State Govt. against me, as I remained loyal to the Constitutional provisions and other statutes than to the political strategy of the ruling party, and requesting the Commission to direct State Govt. to desist themselves from any further acts of ill-treatment and persecution.**

13/- 15/7/2005 The State Govt. asked my explanation on the trifling issue of myself getting a duplicate simcard as it was lost / stolen

along with the Handset. It was done to comply with the Govt.'s instruction of keeping the Mobile on always. Still, for harassing me explanation was sought in this matter.

14/- 6/9/2005 The State Govt. had served a charge sheet on me initiating departmental proceedings on flimsy grounds.

66/- I have brought to the notice of the Home Deptt. (in November, 2004) the above prejudice of the authorities and requested them for desisting themselves from any discriminative and vindictive action vide my letter No (1) ADGP (PR) / PS / 101 / 2004, dtd. 3/11/2004 and (2) ADGP (PR) / PS / 102 / 2004, dtd. 3/11/2004. I also informed the authorities in these letters that in case any further prejudicial action against me like supersession is initiated, I will be forced to approach appropriate legal authorities for redressal and then I may reveal embarrassing data about the Govt. **But these submissions were of no impact on the authorities and hence these 9 charges served on me.**

67/- **Secondly**, the Commission may kindly note that, there is no evidence to link me with the Press reports, as indicated in the charges.

It may kindly be noted that as per All India Services (Discipline & Appeal) Rules, 1969, and other related regulations, every culpable misconduct or misbehavior of a Govt. servant is based on his own personal act of commission or omission. **The Govt. servant is not responsible for the conducts and deeds of others. So, I cannot be held vicariously liable for what my Advocates have done.** In other words, acts of others can never be a basis to charge me for commission of any misconduct or violations of conduct rules.

68/- **Thirdly**, Charge 5, has no validity because **recording a conversation of an unauthorized meeting in which offence punishable U/s 193 IPC r/w 116, 186, 153 A IPC and 506 IPC were committed, is no illegal act.**

69/- **Fourthly**, as regards charge 8, documents of MHA and Central I.B. were included in First Affidavit to the Justice Nanavati & Justice Shah Commission in compliance with Section 6 of the Commission of Inquiry Act, and the Justice Nanavati & Justice Shah Commission were requested to treat them as privileged documents **but Justice Nanavati**

& Justice Shah Commission had declassified these and revealed to the Press.

70/- **Fifthly**, as regards charge 9, documents mentioned in Charge 9 had become public documents in October, 2004, when I had appended them with my Second Affidavit on 6/10/2004 and **so myself appending these with my petition to the Hon'ble CAT does not become an act of misconduct.**

71/- **Sixthly**, the materials and documents used for framing charges against me are under the judicial scrutiny of the Justice Nanavati & Justice Shah Commission and the Hon'ble CAT, Ahmedabad Branch. **So it is a sub-judice matter and no departmental action can be initiated on these matters.**

72/- **Seventhly**, the competent authority (the Principal Secretary, Home Deptt.), who issued the charge has in a press statement (Times of India), Ahmedabad Edition, dtd. 10/9/2005) opined that I have been charge sheeted earlier by the Central Govt. But the fact that I have been fully exonerated from that charge sheet has not been mentioned. **It is**

indicate of preconceived bias operating against me in the mind of the competent authority. It may be seen that the Principal Secretary, Home Deptt., is one of the Respondents of my petition before the Hon'ble CAT. Similar statements had also appeared in the name of other Respondents to my petition, i.e. DGP and Hon'ble Minister of State (Home), Govt. of Gujarat, in other newspaper also. **It is an obvious case of conflict between duty and interests of the competent authority and so violative of the principles of natural justice, equity and fair play.**

73/- **This would establish that the authorities do not have an open mind about me and they had already made up their mind to impose major punishment on me.**

74/- **Eighthly**, the general import of the charges served on me indicates that I have a tendency to leak out information to the Press. It is a fact that the details of my First Affidavit to the Justice Nanavati & Justice Shah Commission, submitted on 15/7/2002, did not appear in any media till the Commission released the same to the Press, in August, 2004. **This would establish that there was no move on my part to**

share any information relating to my duties and transactions with the higher officers, to the Press.

75/- **In sum**, the charges are vague, ambiguous and also reflective of erroneous interpretation of law, regulations, etc. and faulty comprehension of the implication of various facts regarding actions taken by me in pursuance of my charter of duty as ADGP (Int.), in tune with my oath to protect and defend the Constitution of India. **It may also be noted that these charges do not pertain to allegations of moral turpitude, corruption and lack of integrity.**

76/- The unidimensional focus of the 9 charges served on me is centered around my revelation of truth about the role of the State Govt. functionaries, including the Hon'ble CM, during the protracted riots and its aftermath in 2002, to the Justice Nanavati & Justice Shah Commission. This unwarranted and ill-motivated action will certainly dissuade and frighten other Govt. officials, who are likely to be called for cross-examination by the Commission, from telling truth. Even, I may be called for cross-examination or clarification by the Commission, as requested by me in my 3rd Affidavit. **I sincerely feel that the charges**

are served on me to intimidate me to avoid telling truths about the role of Govt. officials including the political executives before the Justice Nanavati & Justice Shah Commission, in case I am summoned for deposition or cross-examination. Therefore, the service of charges on me goes against the letter and spirit of Articles 14, 16, 21 and 51 A of the Constitution of India.

77/- By disseminating timely, advanced and preventive intelligence assessment reports to the State Govt. and subsequently providing relevant information including documents to the Justice Nanavati & Justice Shah Commission, bringing out the undesirable proclivity of a set of senior Govt. officials, during the long-drawn-out communal riots and the aftermath in 2002, **I was actually living upto the expectation of the Hon'ble Prime Minister, Shri Manmohan Singh.** Recently, on September 1, 2005, **the Hon'ble Prime Minister,** addressing the National Conference of Superintendents of Police had **called upon the officers not to succumb to unwarranted interference in their professional work.** (Kindly see Press Information Bureau, Govt. of India, Press release, dtd. September 1, 2005, as **Annexure G**).

78/- I have **an unblemished service of 34 years of professional excellence**, as a member of IPS in Gujarat Cadre and have not been awarded even a 'displeasure' or any minor punishment by the authorities so far.

79/- The Commission may also kindly consider **the following apt and germane additional facts** and aspects, which would explain causative factors behind the authorities' ongoing acts of harassment against me.

80/- **The Media reports indicated that the instruments of transfer, promotions, release on deputation to the Central Government, deployment for foreign training, etc. have been used by the Govt. "to reward and punish" officers according to the measure of their willingness or otherwise to carry out the dictates of the higher-ups.**

There are cases of (1) Rewarding of senior IAS officers by posting them in semi judicial posts with fixed tenure, after their retirement, (2) Deputation to important Central Government posts during the period of NDA Govt. at the Centre, (3) Assigning additional charges of important posts in Corporations and departments having huge budget allocations, for longer periods viz. more than 6 months, (4) Transfer to and out of important executive posts for going against or supporting the interests

of the Ruling party, (7) Upgrading and down grading of posts to facilitate placement of the relevant officers, (8) Promotion of officers against whom criminal charge is pending in the Court, (9) Selection for foreign training and visits, (10) Exoneration of officer facing serious charges in DE, etc.

Specific inputs, with names of officers, can be submitted as and when required.

81/- There were critical media reports about the role of Central I.B., particularly, touching upon its failure to provide intelligence on Godhra incident, the likely pattern of communal response, etc. **The Commission may kindly consider the scrutiny of correspondence between the Central I.B. Unit of Gujarat viz. Subsidiary Intelligence Bureau, Ahmedabad and the State Government / DGP / ADGP (Int.) during relevant period** and also examine the reports sent by SIB, A'bad to I.B. Hqrs. I distinctly remember that SIB reports under the **letter head** of 'Snow Peak' had projections against the minority community. I had replied to one of such reports on 6th May, 2002, by informing the Joint Director, Shri Rajendrakumar, that statistics regarding casualties of riots, police firing, destruction of property, etc. is heavily weighed against the minority community.

82/- It is widely reported in the Media that senior police officers viz. Addl. Chief Secretary (Home), DGP, Commissioner of Police, Ahmedabad city, Vadodara and other senior officers **did not come out with facts and data, relevant to terms of reference of the Justice Nanavati & Justice Shah Commission** in their Affidavits or during the cross examination. **Secondly**, practically none had brought records and relevant documents to refresh their memory, during deposition. **Thirdly**, they did not present as exhibits important Govt. records throwing light on the course of communal riots vis-à-vis quality and character of professional response to the situation by the Govt. functionaries and also on the nature of interface between the Chief Minister and his office on the one hand and the line functionaries (jurisdictional officers) on the other. **Fourthly**, there is no clarification by senior officers, about the reasons behind the non-implementation of the instructions **in the booklet “Communal peace”** and the **Instruction to deal with communal riots (strategy and approach) compiled by Z.S.Saiyed**, IPS, officer on Special duty – circulated to all senior police officers as per DGP letter No. SB / 44 / OSD / 1175, dtd. 19.11.1997. This letter directs field officers to be pre active, pro active, process active and post

active, on the line of Lord Buddhas exhortation in Dhamapadda. **The Commission may kindly take note of the fact that I have not only submitted a lot of relevant inputs in my 3 Affidavits but had even presented 4 exhibits during my cross examination before the Commission on 31/8/2004.** Certainly this is a cause of annoyance for the authorities. The reluctance of Govt. functionaries to present facts before the Commission, in a free frank and fearless manner was, in fact, in my humble view, the direct consequence of specific briefing to that effect by the Home Department officers. This fact was admitted by Shri G.C.Murmu, Secretary (Home) and Shri Arvind Pandya, Govt. Pleader during their interaction with me. **(Kindly refer to page 18 of the Annexure – B of my 3rd Affidavit to the Commission)**

83/- Shri K.Chakravarthi, the then DGP is cited as a witness in the DE against me. This fact prompts me to bring to the kind notice of the Commission certain facts regarding my interaction with Shri Chakravarthi, for the sake of justice, during the period from 27/2/2002 to 9/4/2002, while I was ADGP (Armed Unit). **These facts are fully and directly relevant to the terms of reference to the Commission.**

84/- The Commission may kindly note that my First and Second Affidavits are filed as per the orders of competent authority and these are filed in my capacity as ADGP (Int.). So, I did not include data of my interaction and discussion with Shri Chakravarthi, during the period prior to my assuming charge of ADGP (Int.) viz. on 9/4/2002. But, the data on my discussion with him during the period from 27/2/2002 to 9/4/2002 has a direct bearing on the terms of reference and period of scrutiny of **the Justice Nanavati & Justice Shah** Commission. I was ADGP (Armed Unit), in charge of 11 State Reserve Police Force (SRPF) Battalions from August, 2000 to April 9, 2002. On the 27/2/2002, forenoon, and soon after the call for holding a Bandh against Godhra incident by BJP and its front organisations, I was called by Shri Chakravarthi and ordered that I should mobilise all SRPF men serving, except the Ministerial staff for deploying them for the Bandh on 28/2/2002. Accordingly, I did the needful. On 28/2/2002, I met Shri Chakravarthi, at his Chamber, to inform about the total mobilization of SRPF personnel. During the discussion DGP told me that law and order situation is quite fragile and things are practically out of control in the cities of Ahmedabad and Vadodara. **He also told me that the activists of VHP, Bajarang Dal, BJP and its sister bodies are leading the riots**

and the police officers were not intervening effectively as they were keen to avoid crossing swords with the supporters of the ruling party. Shri Chakravarthi also told me that on 27/2/2002, late evening, there was a meeting convened by the Hon'ble CM, Shri Narendra Modi, in his Chamber, after his return from Godhra. **The Hon'ble CM had said in the meeting that** (Police) **AZFAZL SZM KMP TD[A[ICgN]G[5S0M TM TD[A[D];,DFGMG[56 5S0M KM4 CJ[V[D GIC RF,[P ICgN]VMGF[U];;F[pTFZJF NMPcc** (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”). He added that no officer present in the meeting (Shri P.C.Pande, the then C.P., Ahmedabad, Shri Ashok Narayanan, ACS, Home, etc.) did express any comment or objection to those verbal instructions from the Hon'ble CM. **Shri Chakravarthi also observed that this posture of the CM was a major obstacle to police officers in initiating action against Hindu communal elements, who were on a rampage against minorities.** He also added that the act of parading of dead bodies, in A'bad city, of those killed in Godhra train burning, including dead bodies of those who did not belong to A'bad city, was highly objectionable and this had made the atmospheric more volatile

the rage of Hindu Communal elements against the minority community. He also said that Shri P.C.Pande, C.P. A'bad city objected to the parading of dead bodies in A'bad city. But, the objection of the C.P. A'bad was over ruled by the Hon'ble CM. I suggested that the DGP should issue instructions to jurisdictional officers to act as per law and follow various instructions regarding the strategy and tactics of handling communal riots.

85/- Later, viz. (March, 2002) on two to three occasions Shri Chakravarthi told me that ruling party supporters were attacking the minorities and the CM and Cabinet Ministers were responsible for such a situation. **Shri Chakravarthi, was quite critical about positioning of a Cabinet Minister, Shri I.K.Jadeja, in DGP office, during the days after Godhra incidents, and DGP remonstratively bemoaned that the presence of the Minister was adversely affecting his supervision of the riot situation.** He added that officers at cutting edge level, in the field, are carrying out the verbal orders of the ruling party leaders instead of directives of jurisdictional officers. (Kindly see Appendix-24 of my First Affidavit). In one of these occasions, I advised him to plan for approaching the Hon'ble High Court of Gujarat through a PIL, under Article 226 of the Constitution of India, so that the Court

would know the reality of the situation and issue directives to the Hon'ble CM and political hierarchy heading the State Govt. **But, Shri Chakravarthi was quite perplexed about this suggestion and told me that the State Govt. was all-powerful and one will not succeed in a PIL like this. He also added that he would not like to have a confrontation with the C.M.**

86/- On the whole, the reported aberrations of Govt. officials were on the line of the prophetic lines of the greatest writer in English literature – **William Shakespeare**, in his drama “Measure for measure”. (Act II, Scene 2 / 117)

**“But man, proud man,
Drest in a little brief authority,
Most ignorant of what he is most assured
His glassy essence, like an angry ape,
Plays such fantastic tricks before high heaven,
As make the angels weep; who, with our spleens
Would all themselves laugh mortal”**

87/- The threat to VIPs, certain Sections of the population, vital installations, etc. from multi dimensional and hydra headed

internationally organised Muslim militants and Islamic terrorists, coupled with danger from extremists and disgruntled elements within the Country were graphically brought out in my intelligence reports from April to September, 2002. All jurisdictional police officers were given specific guidelines to streamline the security framework and ensure the operation of a well-oiled security infrastructure, both in terms of material and human resources, vide my letter Nos. (1) J / Security / 139 / 2002, dtd. 18.4.2002 and (2) G-8 / Security / 160 / 2002, dtd. 1.6.2002. A periodical monitoring system was also designed. The security cover of the Hon'ble CM, Shri Narendra Modi, was got thoroughly reviewed through expert teams from Central I.B. and systemic energisation of security infrastructure and target hardening was achieved. **It may kindly be noted that during my tenure as ADGP (Int.) there was no major security lapse or attack on VIPs or sensitive centres, on the magnitude of onslaught on Akshardham temple, Gandhinagar (September, 2002) and assassination of the late Haren Pandya, former State Home Minister, 26th March, 2003.** I would like to submit that the higher authorities have tasked me to design and engineer schemes for (1) optimization of resource utilization for intelligence production, (2) framing of charter of duties of agencies

positioned for the Chief Minister's personal security, even after my leaving the charge of ADGP (Int.) of security infrastructure and target hardening was achieved. (Documentary proof is available)

88/- **The Commission is also requested to take cognisance of another facet of culpable negligence and misconduct of State Govt. officials, perhaps with the verbal instructions from higher-ups, viz. their failure to file Affidavits to the Commission on 2nd terms of reference issued by the State Law Department, on 20.7.2004.** This Notification requested the Commission, inter alia, to inquire into the "Role and conduct of the then Chief Minister (Narendra Modi) or any other Ministers in his Council of Ministers, Police Officers, other individuals and Organisations" relating "to the facts, circumstances and course of events of the subsequent incidents in the aftermaths of the Godhra incidents"

89/- It is obvious that the second terms of reference to **the Commission emphasize on examination of the role of the CM, etc. For probing this aspect, an endoscopic and incisive inquiry into the interface of the CM and senior bureaucrats including police officers**

is quite imperative. For want of Affidavits from the relevant officials, on this aspect, the Commission would be handicapped and deprived of germane and valuable inputs.

90/- The Chief Secretary is the bridge and link between the political echelon of the Govt. and the bureaucracy, including the police. **But the then Chief Secretary, Shri G.Subba Rao, (1965 Batch) did not care to file any Affidavit so far.** It is relevant to note that Modi Govt. gave 3 months extension to Shri Subba Rao, as Chief Secretary and later in April, 2003, he had been posted as Chairman – Electricity Authority, with the fixed tenure of 6 years.

91/- Other senior officials, who had done this gross dereliction of duty of not filing on Affidavit relating to second terms of reference to the Commission, are:

- (1) **Shri Ashok Narayanan, IAS (1966),** the then Addl. Chief Secretary (Home) – He also was given the post retirement benefit of tenure posting as State Vigilance Commissioner.

Kindly note that the post retirement assignments, given to these two IAS officers, while the Nanavati Commission is inquiring into their role also in the riots, is highly unethical and an act of favoritism for the “services” rendered by them to the Hon’ble CM – Shri Narendra Modi, during the riots and the subsequent months.

- (2) **Dr.P.K.Mishra, IAS (1972)** – Principal Secretary to the CM Modi during the critical days. He was instrumental in giving illegal verbal instructions to Govt. functionaries.
- (3) **Shri K.Chakravarthi, IPS (1965)** the then DGP
- (4) **Shri K.Nityanandam, IPS (1977)** the then Home Secretary – who often briefed the Media about the riots.
- (5) **Shri P.C.Pande, IPS (1970)** the then Commissioner of Police, A’bad city
- (6) **Shri K.R.Kaushik, IPS (1972)**, in his capacity as ADGP (Crime), who supervised Godhra incident investigation and later as CP, Ahmedabad in May, 2002.
- (7) **Shri A.K.Bhargava, IPS (1967)** the then ADGP (Crime), who supervised Godhra investigation

- (8) **Shri Maniram, IPS** (1971) the then ADGP, incharge of Law & Order of the whole State during the protracted riots in 2002
- (9) **Shri G.C.Raiger, IPS** (1972) the then ADGP – Intelligence, during the crucial period of riots viz. from 27th February, 2002 to 9th April, 2002. He attended meetings convened by the CM, the Chief Secretary and Addl. CS. But, there are no notes or records about the proceedings in these meetings, nor there is any minutes issued.
- (10) **Shri Sanjeev Bhatt, IPS** (1988), who was Supdt. of Police (Security) and attended many meetings convened by the higher authorities, as staff officer to Shri Raiger.
- (11) **Dr.K.N.Sharma, IPS**, the then Range IGP of Ahmedabad Range, in whose jurisdiction many people were killed in riots.
- (12) **Shri Deepak Swaroop, IPS** (1976) the then Range IG of Vadodara Range, in whose jurisdiction Godhra incidnet had taken and more over, there were many incidents of mass killings and other atrocities on minorities during riots.
- (13) **Shri M.K.Tandon, IPS** (1976) the then Addl.C.P., Ahmedabad city in whose jurisdiction many gruesome mass murders (Naroda Patia, Gulburg Society, etc.) had taken place.

(14) Shri Amitabh Pathak, IPS (1977) the then Range IG of Gandhinagar Range, in whose jurisdiction many people were killed in riots, i.e. Sardarpura in Mehsana District and many places in Sabarkantha District.

(15) Shri Shivanand Jha, IPS (1983) the then Addl.C.P., A'bad city in whose jurisdiction many notorious atrocities on minority community were committed.

(16) Shri D.D.Tuteja, IPS the then C.P. Vadodara

(17) Superintendents of Police of Districts of Mehsana, Banaskantha, Sabarkantha, Patan, Gandhinagar, Ahmedabad Rural, Anand, Kheda, Vadodara Rural, Godhra, Dahod, where mass killings during the riots were reported.

(18) District Magistrates / Collectors of the Districts mentioned in No. 17.

92/- It is relevant to note that the DGP Shri A.K.Bhargava in his letter (1) No: G-2 / 1927 / Tapas Panch / Affidavit / 1690 / 2004, dtd. 16.9.2004 **(Annexure - D)** and (2) No: G-2 / 1927 / Tapas Panch / Affidavit / 1711 / 2004, dtd. 21.9.2004 **(Annexure - E)**, directed all police officers, who filed the First Affidavit to submit Affidavits on second terms of reference, positively. He had even instructed that it was

the duty of the current incumbent in a post to ensure that his predecessor would file the Second Affidavit. Still, none of the above police officers complied with DGP's directives. **Strangely, the Govt. had ignored this misconduct of insubordination and disobedience of DGP's orders by his juniors.**

93/- The Govt. did not take notice of this culpable omission and misconduct by these officers, done with the intention of starving of the Nanavati Commission of the relevant data, because this was suiting to the political interests of the ruling party and the CM. **This will establish that the Govt. is not keen and sincere in bringing out truth before the Justice Nanavati Commission.** The Commission may kindly take note of the fact that **I have complied with the above instruction of DGP and filed my Second Affidavit to the Commission on 6.7.2004.** This Affidavit contains data relevant to second terms of reference to the Commission, which are, in my view, damaging to the interests of the CM and a few senior officers. In my humble view **this is a major factor for initiating a DE against me on flimsy grounds (as narrated earlier) on 6.9.2005.**

94/- The Hon'ble Supreme Court had made critical observations against the standard of investigation of cases transferred by the Hon'ble Supreme Court to Maharashtra, viz. Bilkis Bano Rape case and Best Bakery case. The order for review of 2000 odd riot related cases by the Hon'ble Supreme Court (August, 2004) had also brought out serious flaws in the structured system of supervision of grave and serious crimes by the higher officers as envisaged in Rules 24, 134, 135 and 240 of Gujarat Police Manual, Vol. III. **Many specific instructions under the above Rules were not followed by the hierarchical officers, from the rank of the Investigation Officers of cases viz. Sub Inspector to Range Officers / Commissioner of Police and DGP.** The reopening of cases is a vindication and corroboration of my assessment about the lacunae in investigation of riot cases in 2002, as covered in my reports to the Home Department, dtd. (1) 24.4.2004, (2) 15.6.2002, (3) 20.8.2002 and 28.8.2002. The above reports pinpointed specific acts of commission and omission by field officers in dispensing justice to the minority community and also suggested remedial measures. **I sincerely feel that non-implementation of suggestions in my assessment reports for achieving faster normalisation of the situation was a strategic move, by authorities, for creating and**

sustaining an ambiance (mahol) for gaining political, electoral and personal advantage for the Hon'ble CM, in the context of State Assembly election in 2002. But so far no move is on record on the part of DGP office and Home Department to go into such professional flaws. Media reports also indicate that the lackadaisical supervision of investigation of riot cases by supervisory officers, was more “beneficial” to the supporters of the ruling party, who were largely the culprits in the perpetration of violence against the minority community. Hence the soft approach towards these erring supervisory officers, by the higher formations.

95/- **The Commission may kindly note that as revealed in the media reports, senior Govt. officials, particularly the functionaries of Home Department, Police and Executive Magistracy, did not disclose vital information on the crucial issues / points, raised in both terms of reference by State Law Department to the Commission.** This can be deemed to be a major intentional dereliction of duty, which was quite injurious to the public interests. Going by press reports one feels that the following pivotal and vital questions, regarding the riots, had not been satisfactorily covered by the Govt.

officials, either in their Affidavits, or during their cross-examination. A few illustrative issues left out are the following.

- (a) Why no minutes of the meetings held by the CM and other senior officers for review of the situation from 27th Feb., 2002, onwards were prepared and circulated to the concerned ?
- (b) Why copies of such minutes, if any, were not presented to the Commission ?
- (c) Why dead bodies of Godhra train fire victims were paraded through the streets of Ahmedabad city and that too when many of the deceased persons belonged to places out side Ahmedabad city and a few dead bodies were not even identified at that juncture ?
- (d) Did CP or DGP report to CM or higher officers, in writing, about the possible adverse repercussions on law and order about parading of dead bodies ?
- (e) In case any such letters were sent to higher authorities, why these were not informed to the Commission ?
- (f) Why no preventive action against communal elements on February 27/28, 2000, even after the announcement of Bandh call by the Sangh parivar on 27th February, 2002 ?
- (g) Why the Communal Riot scheme was not put into operation in relevant areas, from 27th Feb., 2002, evening onwards ?
- (h) Why no prompt and effective action against the rioters by the officers of the rank of Dy.SP and above, particularly in Ahmedabad city (nearly 40 of them) and Vadodara city (nearly 30), who were having striking forces of additional policemen moving with them ?

- (i) Why no action by nearly 100 police mobiles in Ahmedabad city and similarly in Vadodara city against crowds which congregated in small numbers in the morning of 28th February, 2002 ?
- (j) Why no action, when the enforcers of the Bandh indulged in traffic disturbance and petty nuisance, more for testing the mood and strategy of police, in the morning of 28.2.2002 ?
- (k) Why delay in imposition of curfew, particularly in Ahmedabad city ? In Ahmedabad city curfew was imposed as late as 13.00 hrs on 28th February, 2002 ?
- (l) Despite regulations, why there was no arrangement for videography of violent mobs ?
- (m) Why police failed to videograph mobs, while electronic media succeeded ? Any constraint from higher authorities ?
- (n) Why no effective action by policemen in static points and by mobile patrolling groups, both by vehicles and on foot, against rioters from 27th Feb., 2002, evening onwards ?
- (o) Why delayed response in distress calls from prominent Muslim citizens, like Ahsan Jafri, (Ex.MP), despite their contacting the Chief Secretary, the DGP, the CP Ahmedabad city, etc.
- (p) Why more casualties of police firing and riots among the Muslims ?
- (q) Why the instructions in the compilation of Circulars captioned “Communal Peace”, issued to all District Magistrates and police officers in the rank of SPs and above were not implemented ?
- (r) Why “Instructions to deal with communal riots (strategy and approach)” prepared by Shri Z.S.Saiyed, IPS Retd., Officer on Special Duty and forwarded to all executive police officers for strict implementation, vide DGP,

K.V.Joseph's, letter No. SB / 44 / OSD / 1175, dtd. 19.11.1977, had not been implemented ?

- (s) Why no monitoring of the implementation of instructions issued by the Chief Secretary, Home Department, DGP and other higher officers, from 28th Feb., 2002 onwards ?
- (t) Why no action against vernacular press publishing communally inciting news and articles, despite proposals from SP Bhavnagar, CP Ahmedabad and ADGP (Int.), Sreekumar ? Please note that ADGP (Int.), Sreekumar had even presented one of such reports as an exhibit to the Nanavati Commission, on 31.8.2004, during his cross-examination ?
- (u) Why no action or enquiry against police officers for their alleged failure to record FIRs and provide proper response to the complaints of riot victims, mostly minorities, though this matter was reported graphically and repeatedly by ADGP (Int.), R.B.Sreekumar, in his reports to Govt. dtd. (1) 24.4.2002, (2) 15.6.2002, (3) 20.8.2002 and (4) 28.8.2002, etc. ?
- (v) Why no action or enquiry against officers of the Executive Magistracy, particularly, the District Magistrates of the Districts, who failed to initiate prompt action against rioters, particularly, from 27th Feb., 2002 to 4th March, 2002 ? Similarly, why no action or enquiry against the DM and his staff for recommending pro BJP, VHP advocates for appointment as Public Prosecutors, to present cases against Hindu rioters ?
- (w) Why no action on Supervisory Officers, i.e. from Supdt. of Police of Districts, Range IGs / DIGs, Commissioners of Police and the DGP, who violated Rules

24, 134, 135 and 240 of Gujarat Police Manual, Vol. III, by not properly supervising investigation of serious riot-related crimes and thereby committing culpable omission and grave misconduct ?

- (x) Why no action on the supervisory officers i.e. the Range IG, Vadodara Range and CP Vadodara, who had done the misconduct of negligent supervision of Bilkis Banu and Best Bakery cases, whose trials had been transferred by the Hon'ble Supreme Court to the Maharashtra State?
- (y) Why no investigation on the deposition of Shri Rahul Sharma, IPS, the then S.P., Bhavnagar, on 30.10.2004, before the Commission, about the location of BJP leaders and senior officers ? In November, 2004, the newspaper Indian Express, published a investigative report in this matter ?
- (z) Why no clarification on inadequate implementation of recommendations of NHRC, National Commission for minorities, etc. ?

96/- By avoiding throwing light on the above points many Govt. officials had deliberately deprived the Commission, of indispensable and cardinal facts, figures and assessment. I humbly submit this aspect of grave omission by Govt. officials, which the Commission may kindly and suitably look into.

97/- **The action of the Home Deptt. to charge me** with alleged misconduct by prejudicial and faulty interpretation of my conscientious performance of assigned duties, on the legally chartered orbits, is

reflective of application of double standards, bereft of equity and fair play.

98/- The Commission may kindly note that **I discharged my assigned duties as ADGP (Int.) from 9th April, 2002, itself, by reporting unpalatable bitter, painful and naked truths instead of well-dressed lies, about the ruling party and its supporters, disregarding the advice of my well-wishers in the bureaucracy** that the BJP led Govt. is likely to be re-elected with comfortable majority in the next Assembly election and that I should not annoy the Govt. But, I have willingly chosen the painful trail of **a whistle blower “within the Establishment”**, totally ignoring my career interests. In this context, I may submit that whenever, I felt enfeebled, de-motivated and helpless in sending truthful reports to the Govt. **the images of riot victims living with half-burned bodies, arresting scenario of riot victims chased by mobs**, other ghastly and gruesome sights of violence, etc. infused emotional empathetic energy to me to be steadfast to the spirit of the Rule of law, and obey the inner call of my conscience. Exhortation from scriptures of great religions had also bestowed an evergreen spring of inspiration and motivation (Gangotri) to me.. To quote a few: -

(a) “That sacrifice which is offered by man without desire for fruit, and as enjoined by ordinance, (in the present context, the Constitution of India), with a firm faith that sacrifice is a duty, is, sattwic or pure” (Bhagwadgita, Chapter 17 verse 11)

(b)
$$\begin{aligned} & \text{ÙèÒÈâï ËÑôÖÖôÿsÖï} \\ & \text{ÙçtÖâ çìÖ ãÖçâÒèÈâÑ |} \end{aligned}$$

$$\text{áâtÑìð ÍýãÈ»èÖâãÌ}$$

$$\text{ÍÓëwânÌ ãÖçâÓÒëÈ || (Nitisaram}$$

2)

Meaning

Listen to these, all precepts of Dharma

And ponder over them in your own mind

Do not do on some one else’s account

What appears to be repulsive to you.

(c) SARVA PAAPASYA AKARANAM

KUSHALASYA UPASAMPADAA

SWACHITTA PARYA VADAAPANAM
ETAM BUDDHAANA SHAASANAM.

Meaning

Avoid doing evil deeds all

Carry out good deeds in benefit of all

Continuously purify own mind too

This is Buddha's message for you.

(Dhamapadda of Lord Gautama Buddha)

(d) *“Blessed are the peacemakers,
for they shall be called sons of God.” – Jesus Christ*

(Holy Bible, Saint Mathew, 5/9)

(e) *“Masters, give your bond servants what is just and fair,
knowing that you also have a master in heaven”*

(Holy Bible, Colossians, 4/1)

(f) *“Oh man kind ! Lo! We have created you male and
female, and have made you Nations and Tribes that you
may know one and another. **Lo! the noblest of you , in***

the sight of Allah, is the best in conduct. Lo! Allah is Knower, Aware.”

(Holy Quran, Sura, 49/13)

- (g) *“O ye who believe ! **Be ye staunch in justice, witnesses for Allah, even though it be against yourselves or (your) parents or (your) kindred,** whether (the case be of) a rich man or a poor man, for Allah is nearer unto both (than ye are). So follow not passion lest ye lapse (from truth) and if ye lapse or fall away, then lo ! Allah is ever Informed of what ye do.”*

(Holy Quran, Sura, 4/135)

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

- A. **The Commission may kindly take notice of the above facts regarding the ongoing harassment and victimisation** faced by me on account of my candid and

honest deposition to the Commission, in spite of my request to the Govt. and prayers to the Commission in my Third Affidavit, dtd. 9/4/2005.

- B. The Commission may kindly direct the state Govt. authorities **to desist themselves from initiating any further acts of ill treatment and persecution against me.**
- C. **The Commission may kindly order inquiry or investigation, through CBI or any agency** not under the control of the State Govt., to go into the contents of the “Register” (Annexure-F to my Third Affidavit) as the same are directly relevant to the terms of reference of the Commission.
- D. **The Commission may kindly order inquiry or investigation, through CBI or any agency** not under the control of the State Govt., to go into the acts of Shri G.C.Murmu, IAS, Home Secretary and Shri Arvind Pandya to intimidate me for not revealing truth to the Commission, as narrated in Annexure-B to my Third Affidavit.

E. **The Commission may kindly summon me** so that I can submit more details about the facts narrated in my Second, Third and the Fourth Affidavits and related matters.

Yours faithfully,

(R.B.Sreekumar)

Addl. Director General of Police,
Police Reforms, Gujarat State,
Gandhinagar