Districts. Shri Deepak Swaroop has stated that on the night intervening 2/3-03-2002 following large scale violence and arson, three convoys led by SP, Dahod, Dy.S.P. Limkheda and PI, LCB comprising of 6, 5 and 2 vehicles respectively were formed and 2000 Muslims were shifted to Dungarwada in Banswada District of Rajasthan State. On the same night following large scale attack on Fatehpura P.S. in Dahod District, where 1500 Muslims had taken shelter during the last two days, they were shifted in a convoy led by Dy.S.P. Limkheda to Muslim dominated areas of Galiyakot and Salopad in Banswada District of Rajasthan. According to Shri Deepak Swaroop, on the same night 20 Hindus were shifted from Randikpur in Dahod District to Limkheda. Shri Deepak Swaroop has further stated that his mobile no. 9825049187 had become very popular amongst the general public and he had received calls from Calcutta, Jaipur, Mumbai in addition to Dahod, Godhra, Devgadh Baria, Chota Udaipur etc. to which he had responded promptly. Shri Deepak Swaroop has narrated an incident of prolonged police encounter with the tribals at Orson River Bridge, the only entry point to Bodeli town, in which two Hindu tribals were shot dead and Bodeli town could be saved. Shri Deepak Swaroop has denied any inaction or involvement of any policeman in the range during the riots in which 13 Hindus and 10 Muslims were killed in the effective police firing. Subsequently, he was transferred and posted as IGP (Int.) in April, 2003. Further, on his promotion, he remained posted as Addl. DG (Law & Order) till February, 2005, when he was posted as Commissioner of Police, Baroda City.

(9) Shri K. Nityanandam, former Secretary, Home Deptt., Guj.

Shri K. Nityanandam had worked as Secretary in the Home Department during the period 2001 to 2005. It has been alleged that he was promoted and posted as Commissioner of Police, Rajkot City by upgrading that post by two levels i.e from DIG to Addl. DG as a reward for his services rendered in manipulating the statistics, fabricating and drafting pro-Government reports for

sending to NHRC, Courts and Higher bodies. The allegation is too general in nature and nothing specific has been alleged against him. As regards his posting, earlier this post was held by Shri Upendra Singh, the then IGP from 16-12-2001 to 08-07-2002, Shri S.K. Sinha, the then IGP from 08-07-2002 to 05-11-2002, Shri V.V. Rabari, the then IGP from 05-11-2002 to 26-04-2003 and Shri Sanjay Srivastava, the then DIG from 26-04-2003 to 28-02-2005. Shri K. Nityanandam remained posted as Commissioner of Police, Rajkot City from 28-02-2005 to 01-10-2007. Subsequently, this post was held by Shri S.K. Sinha, Addl. DG from 01-10-2007 to 20-02-2009. At present this post is held by Smt. Geetha Johri, Addl. DG with effect from 20-02-2009. It may thus be seen that the up gradation/down gradation is the discretion of the Govt. and there are no hard & fast rules governing the same.

(10) Shri Rakesh Asthana, formerly IGP, Baroda Rural Range:

Shri Rakesh Asthana at present Addl. DGP & Commissioner of Police, Surat City remained on Central Deputation to CBI with effect from 04-05-1992 to 31-01-2002. On repatriation from CBI on 31-01-2002, he remained on leave for about two months and reported for duty in Gujarat on 04-04-2002. He was posted as DIG, CID Crime on 09-04-2002 and was entrusted with the supervision of investigation of Godhra Railway P.S. case No. 9/02. He was promoted as IGP on 25-04-2003 and was posted as Spl. IGP, Vadodara Range. He has stated that the supervision of investigation of case relating to Godhra carnage was conducted in a most professional manner on the basis of available evidence and charge sheets filed in the concerned court of competent jurisdiction from time to time. However, he had refused to comment upon the merits of the case as the trial of this case was going on the time of enquiry, which has since been concluded.

(11) Shri A.K. Sharma, formerly DCP, Rajkot City:

Shri A.K. Sharma remained posted as DCP, Rajkot City during the period 29-12-2001 to 26-03-2002 and was transferred

to Mehsana District on 26-03-2002. He took charge of SP, Mehsana District on 27-03-2002. He has stated that after he took over as SP, Mehsana some incidents took place in Kadi town on Holi festival and thereafter. The police bandobast was made and Kadi town was put under curfew. In this incident, 12 rounds were fired and 97 teargas shells were bursted. However, there were no casualties on account of firing or even otherwise, but one police jawan was injured. Several incidents of arson and rioting were reported on 30-03-2002, 31-03-2002, 01-04-2002, 02-04-2002, 03-04-2002 & 06-04-2002. Again on 21-04-2002, on the occasion of Ram-Navmi festival some arson and robbery incidents were reported at Kadi town. Some more incidents were reported from Kadi town on 24-05-2002 & 29-05-2002. He has stated that in all four persons died during the period 27-03-2002 to 29-05-2002. At the peak time of riots i.e. from 28-02-2002 onwards, he remained posted in Rajkot City, where there were no incidents after 03-03-2002. The allegation that he was posted as DIG, Ahmedabad Rural Range by down grading the post of IGP for his services during the riots as SP, Mehsana, is not maintainable inasmuch as DIG/IGP could be posted as in charge of Range and this is the prerogative of the Govt.

(12)Shri Shivanand Jha, former Addl.CP,Sector-I, Ahmedabad:

Shri Shivanand Jha was posted as Home Secretary in February, 2005. Enquiries revealed that he had been transferred from the post of Addl. Commissioner of Police, Sector-I, Ahmedabad City with effect from 09-04-2002 and posted as DIG, Arms Unit, Rajkot. He was promoted as Spl. IGP on 17-07-2002 and remained posted as Spl. IGP, Arms Unit, Rajkot with effect from 18-07-2002 to 03-05-2003. Thereafter, he remained posted as Spl. IGP, Municipal Corporation, Ahmedabad City with effect from 04-05-2003 to 20-02-2004. Subsequently, he remained posted as Spl. IGP (SC/ST cell, Gandhinagar) with effect from 21-02-2004 to 25-02-2005 and then posted as Home Secretary, Gandhinagar on 25-02-2005. The allegation that he was posted as

Home Secretary in February, 2005 for not revealing anything adverse before the Nanavati-Shah Commission of Inquiry does not have any force. As Home Secretary, he had filed affidavits on behalf of the Govt. in the various Courts as a part of his duty and it can not be said that he unduly defended the Govt.

(13) Shri S.K. Sinha, formerly CP, Surat City:

It has been alleged that Shri S.K. Sinha was posted as Commissioner of Police, Surat City in February, 2005, the most rewarding post in Gujarat Police for his services in turning Zahira Sheikh, the key prosecution witness of Best Bakery case hostile during his tenure as Commissioner of Police, Baroda City. In this connection, Shri S.K. Sinha has stated that the allegation is absolutely false, absurd and without any basis. He has further stated that Ms. Zahira Shiekh was under the protection and custodianship of Ms. Teesta Setalvad and that her whereabouts had been kept secret for security reasons, as is clear from her letters dated 12-11-2003, 03-09-2004, 14-09-2004 & 20-10-2004. He has also stated that on 03-11-2004, a telephone call had been received by him at about 1215 hrs from Shri Unwala, Advocate of Ms. Zahira Sheikh that his client was going to address a press conference at Surya Palace Hotel, Vadodara at 1300 hrs and that the police protection should be given to her. Shri Unwala wanted him to send a police force at the hotel opposite to the airport, where they were staying. Shri Sinha has stated to have given instructions to the concerned PI to provide the police protection, as ordered by the Hon'ble Supreme Court of India. A similar request had been received by Shri Sinha from Collector, Baroda City, to which he had informed that the police protection had already been ordered to be given to Ms. Zahira Sheikh and her family members. According to Shri Sinha, Ms. Zahira Sheikh held a press conference on the same day at about 1345 hrs, which lasted for about half an hour. In view of the aforesaid position, there is no evidence to establish the allegation that Shri Sinha was given the

most rewarding post of Commissioner of Police, Surat City in lieu of his services rendered by him in turning Zahira Sheikh hostile.

(14)Shri D.G. Vanzara, formerly DCP(Crime), Ahmedabad City:

It is alleged that Shri D.G. Vanzara had been posted as DIG, Anti Terrorist Squad in July, 2005 by down grading the post from the rank of IGP to DIG for his services in killing many Muslims in police encounters during his tenure as DIG, Ahmedabad City Crime Branch from May, 2002 to July, 2005. Shri D.G. Vanzara has stated that the said encounter killings happened in the course of cross firing in self defence of the police officers present on the site and they were in the normal course of discharge of the official duties of the concerned police officers. However, he has stated that all such cases are sub-judice in different courts and he would prefer not comment upon the same. In view of this, no inquiry/ investigation is called for in respect of this allegation.

➢ **ALLEGATION NO. VIII :**

No follow up action was taken (by the Gujarat Government/CM) on the reports sent by R. B. Sreekumar on 24.04.2002, 15.06.2002, 20.08.2002 and 28.08.2002 about anti-minority stance of the Administration. Copies of these reports are appended in second Affidavit dated 06.10.2004 of R. B. Sreekumar to the Nanavati Commission.

Shri R.B. Sreekumar has stated that he had sent his first analytical note on "Current Communal Scenario in Ahmedabad City" to Shri Ashok Narayan vide his DO letter dated 24-04-2002 with a copy to DGP. In brief, it has been mentioned in this note that of late the minority community was found to be taking an increasingly belligerent posture as they felt themselves, as a section of population left at the total mercy of the radical communal elements of Bajrang Dal and VHP. It was further mentioned that the loss of life and property was heavily weighed against Muslims inasmuch as 636 Muslims were killed (including 91 killed in police firing) as against 181 Hindus (76 killed in police

firing), 329 Muslims injured as against 74 Hindus and loss of property of Muslims came to Rs. 600 crores as against 40 crores to Hindus. It was also mentioned that in Ahmedabad city 278 Muslims were killed in the riots (including 57 killed in police firing) as against 91 Hindus (including 30 persons killed in police action). Further, the figure amongst Muslims injured in Ahmedabad was 408, as against 329 Hindus victims of incidents of stabbing and arson. Shri Sreekumar had further observed that the Muslim communities, being the major victims of the riots had developed a major grudge against the Criminal Justice System, which they felt was highly biased against them. In addition, it was mentioned that the Muslims alleged that the police officers were not fair in recording the FIRs lodged by them inasmuch as they had used pressure tactics to dissuade the complainants from giving complaints, reduced ingredients of an offence and some times the police officers themselves became the complainant and also omitted the names of specific accused persons with a view to favour them. Further, many different acts of crime pertaining to different transactions were clubbed together to register a single FIR, which affected the process of insurance claims. Shri Sreekumar had further mentioned that the majority of Muslims complained that the police officers avoided the arrest of Hindu leaders, though they had been named in the FIR and made no efforts to recover the property. Further, on account of the partisan attitude adopted by the public prosecutors they were released on bail immediately even in non-bailable offences. Shri Sreekumar had also reported in the said note that certain VHP and Bajrang Dal leaders had started extorting protection money from the businessmen of both the communities and were pressurising the merchants and general public not to employ the members of the minority community, which found corroboration from the letter dated 15-4-2002 sent by Shri P.C.Pande, C.P. to the DGP. It was further reported that both Hindu and Muslim communalists had been inciting violence by way of distribution of pamphlets and handbills, which did not contain the names of publisher/printer and

that VHP had issued a pamphlet containing elements of communal instigation for which a proposal had been sent to DGP with a copy to ACS (Home) for examining the legal action against them. The material in the pamphlets was meant to generate anti Muslim feelings by resorting to selective reference to various books, newspapers, etc., referred to gang rapes, cutting of breast of Hindu women and similar provocative information, economic and social boycott of Muslims and exhorting the Hindus to take retaliatory action against Muslim violence in an organised manner. Shri Sreekumar had also reported that the inability of Ahmedabad police to control the violence by the communal mob had eroded the image of police as a law enforcing agency of the society and the media attacks on the police had a demoralising impact on the police personnel. It was also pointed out that the Inspectors in charge of the police stations had been ignoring the instructions given by the senior officers and complying with the direct verbal instructions from the political leaders of the ruling party who ensured their placement and continuance in their choice postings which found corroboration from the inquiry report dated 21-8-2001 of his predecessor in Vatwa police station CRNo.398/2001. He had also suggested the remedial measures such as restoration of faith amongst the minorities in Criminal Justice System, replacement of present incumbents from executive posts at the cutting edge level, the spiritual leaders of Hindus and Muslims should launch a state wide campaign to expose the politicised pseudo religious leaders, action at social level through non-political leaders, intellectuals and NGOs to restore mutual trust between the Hindus and Muslims, improvement of security in the riot affected areas to facilitate the rehabilitation of riot victims and purposeful legal action against publication and distribution of pamphlets inflaming communal passions etc. He had specifically pointed out that reports indicating that extremists of VHP and Bajrang Dal were planning mass action against Muslims in their strongholds and that the tactics of the assault would be generating fear psychosis in the Muslim population causing migration of the

minorities from the riot hit areas. Lastly, it was mentioned that the trend towards ghettos formation would become source of recruitment of extremists/terrorists to the ranks of Pan-Islamic and Pro-Pakistani organisation.

Shri Ashok Narayan, the then ACS (Home) has stated he received the letter in question. He has further stated that this letter contained general observations and concrete details were missing. He discussed the matter with the DGP in the light of intelligence inputs received from Shri R.B. Sreekumar. Shri Ashok Narayan has stated to have requested him to take action at his level as far as possible. However, he does not recollect having shown or put up this letter to the Chief Minister. Shri Ashok Narayan has also stated that the subject matter in general was discussed with the Chief Minister a number of times and he agreed to do whatever was possible at his level. Shri K.Chakravarthi has stated that most of the points and issues raised by Shri R.B. Sreekumar had been effectively dealt with by him in the months of March & April, 2002. As regards the undesirable activities of Vishwa Hindu Parishad and Bajrang Dal in indulging in extortion of money and publishing/distributing pamphlets containing the elements of communal instigation, a report was sent earlier in point of time by CP, Ahmedabad and he had discussed with ACS (Home), who said that he would bring it to the notice of the Govt. As regards the loss of faith of the minority community in criminal justice system, adequate steps were taken by him to instruct the concerned police officers to be fair to ensure proper registration of FIRs, to name all the concerned accused persons, arrest them and to proceed ahead with the investigation, as per law. Subsequently, teams of police officers were sent to the relief camps for direct contact with the affected persons and to proceed with the investigation in a fair manner. Senior Officers were also instructed from time to time to closely supervise these cases to avoid any allegations of this kind. As regards the migration of the affected persons from the riot hit areas, specific instructions had been given by him to all the police officers to provide suitable protection to those, who chose to return

to their original residence/business. Shri Chakravarthi has also stated that the observations made by Shri R.B. Sreekumar were totally general in nature and no specific instance had been cited by him which would have called for an immediate action on his part. This matter was also discussed by him with Shri Ashok Narayan, who assured him that this would be brought to the notice of the Govt.

Shri R.B. Sreekumar has further stated that at the request of Shri P.S. Shah, the then Addl. Secretary (Law & Order), Home Department, a review of Law & Order situation was done and a report was sent by him on 15-06-2002. In this report, he had mentioned about an unprecedented degree of revengefulness of the majority community resulting in massive and ghastly violence against Muslims in a period of five days after Godhra carnage. Mentioning that the communal violence was still continuing, Shri Sreekumar strongly recommended for the implementation of remedial measures to contain communal violence and neutralizing the fundamentalist elements in both majority and minority communities as suggested in his analytical note dated 24-04-2002.

Shri Ashok Narayan, the then ACS (Home) has stated that this Law &.Order assessment report was asked for in view of the Rath-Yatra, which was likely to be held sometime in July, 2002. It may be mentioned here that Rath-Yatra is being held in Ahmedabad City for the last many years. Shri R.B. Sreekumar was of the view that on the various grounds mentioned by him in his report, the Rath-Yatra should not be taken out in the near future till an atmosphere of durable peace and good will between majority and minority communities was established. On receipt of this report, the matter was discussed by Shri Ashok Narayan with the Chief Minister, who was of the view that the Rath-Yatra could not be stopped on the grounds mentioned by Addl. DG (Int.) in his letter and that the police should make fool proof bandobast so that no untoward incident took place. As per Shri Ashok Narayan, the

administration did not agree with the views of Shri R.B. Sreekumar and the Rath-Yatra was taken out on 12-07-2002, under police bandobast and no untoward incident was reported from anywhere.

Shri K. Chakravarthi, the then DGP has stated that Shri R.B. Sreekumar had sent his assessment report vide his letter dated 15-06-2002, in which he had suggested that Rath-Yatra should not be taken out in the near future till an atmosphere of durable peace and good will between majority and minority communities was established. He has further stated that by that time adequate steps had already been taken to bring normalcy in the State. According to Shri Chakravarthi these views were the personal views and perception of Shri R.B. Sreekumar, which were duly considered by the Govt. Shri Chakravarthi has also stated that after due consideration, it was decided by the Govt. to hold the Rath-Yatra as per original route and schedule and Rath-Yatra was held accordingly on 12-07-2002, and the event passed off peacefully without any incident. This would by itself go to show that the reports sent by Shri R.B. Sreekumar were not well thought of and not based on realities, but were his personal views and perception.

Shri R.B. Sreekumar has further stated that at the request of Shri P.S. Shah, the then Addl. Secretary (Law & Order), another report on the then prevailing Law & Order situation was sent through a letter dated 20-08-2002 signed by Shri E. Radhakrishna, DIG (Communal & Political) on his behalf to ACS (Home). In this report, Shri Sreekumar has stated to have included a gist of his presentation made before the Full Election Commission on 09-08-2002. According to Shri Sreekumar, even at the time this letter was sent the communal tension continued and the communal gap between Hindus and Muslims had widened to an unprecedented degree. It was further mentioned in this letter that there was latent communal tension in most of the places where incidents were reported and that any minor issue involving members of minority and majority community would reignite communal passions resulting in clashes, as had been witnessed in

Dhoraji (Rajkot District) on 17-08-2002. It was further mentioned by Shri Sreekumar that large sections of the minorities being the major victims of the recent riots (117 Muslims killed in Police firing as against 83 Hindus and 587 Muslims killed by the rioters as against 177 Hindus killed, which included 59 Godhra train victims also) was still to develop adequate faith in Administration, Police Department and Criminal Justice System. Shri Sreekumar also mentioned that the minorities continued to complain that many rioters belonging to Hindu community were not arrested since they held important positions in Hindu organisations. It was also reported that the circumstances reported in his (Shri Sreekumar's) letter dated 24-04-2002 continued and the minority community was feeling dejected due to non-implementation of the recommendations of NHRC and NCM.

The aforesaid letter dated 20-08-2002 was responded by Shri Ashok Narayan, the then ACS (Home) vide his DO letter dated 09-09-2002 addressed to Shri R.B. Sreekumar, in which he had clearly informed Shri Sreekumar that his assessment of Law & Order situation conveyed vide the aforesaid letter dated 20-08-2002 was not in tune with the feed back received from the other agencies like Revenue and District Officials, where there was a grass root presence of the Govt. Shri Ashok Narayan further mentioned that some apprehension and a feeling of insecurity amongst the members of the minority community was understandable in isolated pockets, from where incidents were reported, but the same do not indicate the feelings of general insecurity anymore. Shri Ashok Narayan has also mentioned that Dhoraji's incident was an isolated incident and that communal incidents had come down drastically during the last few months. Shri Ashok Narayan disagreed with the views of Shri Sreekumar on the ground that no broad based inputs were relied upon by him before arriving at a conclusion. Shri Sreekumar replied to the said letter dated 09-09-2002, in which he mentioned that there was a perceptional difference between the Home Department and the State IB in assessment of the Communal scenario at the relevant

time in the State and that the Election Commission had observed that the appraisal of the communal situation by the State IB was in consonance with the inputs received by the Commission. No further correspondence was made with Shri Sreekumar as he had already been transferred. Shri K. Chakravarthi has stated to have brought these facts to the notice of ACS (Home). In view of the aforesaid position, it can be inferred that the Govt. differed with the views of Shri R.B. Sreekumar and as such did not act upon the intelligence inputs passed on by the latter.

Shri R.B. Sreekumar had sent another report regarding the emerging Law & Order trends in the light of ensuing Assembly polls to ACS (Home) with a copy to DGP vide his letter dated 28-08-2002. In this letter, he had assessed that the social relations between the Hindus and Muslims remained highly strained in the traditional communal pockets as well as new areas where the riots had taken place due to various reasons. Shri Sreekumar had suggested that District Magistrates/Commissioners of Police/Superintendents of Police be suitably advised to ensure that the organizers of the public functions/ political campaigns should avoid projecting communal issues that might widen the rift between the two communities and also to abide by the conditions of the licence/permission granted to them. Shri Ashok Narayan has stated that he can not recall the action taken by him on the said letter, but the suggestions made therein seem to be logical and in the normal course action must have been taken by the Home Department, but he was not in a position to comment, unless he went through the relevant file. Shri K. Chakravarthi has stated that Shri R.B. Sreekumar had given some suggestions and most of it pertained to the Revenue Department and other departments. As far as police department was concerned, he had given directions based on his suggestions.

The relevant files containing these letters could not be traced. However, keeping in view the versions of Shri Ashok Narayan and Shri K. Chakravarthi, the facts about Rath-Yatra and

discussions that took place between ACS (Home) as well as reply sent to Shri R.B. Sreekumar vide his DO letter 09-09-2002, it can not be said that no action had been taken on letters dated 22-04-2002, 15-06-2002, 20-08-2002 and 28-08-2002. The allegation is therefore not substantiated.

➢ **ALLEGATION NO. IX :**

Indictment by the Hon'ble Supreme Court about injustice done to minority community and riot victims in the investigation of riot cases in respect of (i) Bilkis Bano case and (ii) Best Bakery case, as narrated in paras 13 and 14 of the complaint dated 08.06.2006.

(i) BILKIS BANO CASE:

Pursuant to Godhra carnage incident on 27-02-2002, large scale communal riots erupted in the State of Gujarat following the call for Gujarat Bandh given by Vishwa Hindu Parishad on 28-02-2002, which was supported by the BJP. During these communal riots there were incidents of arson and looting in the village Randhikpur, Taluka- Limkheda, Distt. Dahod, Gujarat from 28-02-2002 onwards. Consequently, there was exodus of Muslims from Village Randhikpur in search of safety and Smt. Bilkis Yakub Rasul along with her family members also left Randhikpur in search of safety. After leaving Randhikpur, Smt. Bilkis Bano and her family members initially took refuge at the residence of Shri Kadkyabhai, Sarpanch of Village Randhikpur and stayed for about one or two hours and went to village Chunadi, where they stayed in a school for a couple of hours and then took refuge in a mosque in village Kuvajal, where her cousin Shamim delivered a baby girl. Next day i.e. on 01-03-2002 around noon, all of them went to Khudra and on the way one person from Nayak tribe took pity on them and arranged for their stay at his place for about two days in village Sarjumi after which they left. They passed through the fields of village Chhaparwad and then came on a kachcha road leading to village Pennivel. On this road, they were attacked by

about 25-30 persons, who came in two white vehicles carrying weapons like swords, sickles and sticks. While some of them killed the minor daughter of Bilkis Bano by smashing her head on rocky ground, others caught Bilkis Bano and tore her clothes; others remained busy with the rape of Bilkis Bano and killed her family members after sexual assault and rape. Smt. Bilkis Bano fainted and after she regained consciousness, she put on her clothes and stayed at a hillock. Next morning, she came down the hillock and went to a hand pump, where she met a tribal woman, who provided her some clothes. Thereafter, she saw a man in uniform near one vehicle on kachcha road and approached him, who took her to Limkheda P.S. in his vehicle. In Limkheda P.S., a police Head Constable on duty, registered a case against unknown person, but did not record the complaint of Bilkis Bano as per her narration. The investigation of this case changed hands. On completion of the investigation, Shri Ramsingh M. Bhabhor, Circle Police Inspector, Limkheda filed a closure report ('A' summary) on flimsy grounds and was recommended by Shri Ramabhai Bhagora, Dy. SP, Limkheda for acceptance in the court of Judicial Magistrate First Class, Limkheda.

Thereafter, a Writ Petition (Crl.) No. 118/2003 was filed by Smt. Bilkis Bano Yakub Rasul Vs State of Gujarat and others in the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India on 16-12-2003 passed the following order:

> "Considering the nature of the allegations made, Shri Mukul Rohtagi learned Additional Solicitor Genreal appearing for the respondent accepts that further investigation in this case may be done by the CBI, though he does not concede that the Gujarat Police is incompetent to investigate the matter. Hence, we direct the CBI to take over further investigation of this case and report to this Court from time to time".

As per the orders of the Supreme Court, CBI, SCB, Mumbai registered a case no. RCI/S/2004,SCB, Mumbai. On completion of investigation a charge sheet was filed in the court of Chief Metropolitan Magistrate, Ahmedabad Rural on 19-04-2004. The

learned CMM, Ahmedabad committed the case to District & Sessions Judge, Panchmahal, Godhra vide his order dated 18-05-2004. Thereafter, a Transfer Petition (Crl.) No. 192 of 2004 was filed by Smt. Bilkis Yakub Rasul Vs. CBI & Ors. and the trial of this case was transferred to a competent court in Mumbai on 06-08-2004 by the Hon'ble Supreme Court of India for trial and disposal. The Chief Justice of India marked this case to Special Judge for Greater Mumbai at Mumbai. On completion of trial Shri U.D. Salvi, Special Judge, Greater Mumbai pronounced the Judgment on 21-01-2008 and convicted 11 accused persons under various sections of law and 8 persons were acquitted. One accused person had died and hence the case against him stood abated. The accused persons, who had been convicted, have filed appeals in the High Court against their conviction, which are pending.

(ii) BEST BAKERY CASE :

This case is also a fall out of the communal riots that took place in Baroda City and elsewhere also in the State of Gujarat pursuant to the incident of burning of a bogie Sabarmati Express near Godhra Railway Station on 27-02-2002, carrying kar-sevaks returning from Ayodhya. The belief that the Muslims had burnt the bogie carrying kar-sevaks was spread in Baroda City through various sources and media, which gave rise to the excitement and feelings of anger against the Muslims resulting in the atmosphere in Baroda City becoming tense and communally charged.

In brief, during the period between 2030 hrs on 01-03-2002 and 1100 hrs on 02-03-2002, a bakery known as *"Best Bakery"* belonging to a Muslim family on the ground floor and residential portion on first and second floors were set on fire and burnt by the members of an unlawful assembly, the object of which was to attack and kill the Muslims and to snatch, damage or destroy their properties. A number of persons were burnt to death due to the fire set on 01-03-2002 night. Those who survived till morning were made to get down from the terrace of the said building after which they were attacked with deadly weapons causing serious injuries

to them and some of them succumbed to those injuries. In this ghastly incident 14 persons died. The movable properties such as vehicles had also been set on fire by the mob of rioters, whereas the other articles such as Ghee, Maida were looted.

After the fire was extinguished, the injured and dead bodies were sent to SSG hospital. PI Bariya, in charge of Panigate P.S. reached SSG hospital and recorded a complaint of Ms. Zahira Sheikh out side emergency treatment department. On the basis of said complaint, I CR No. 82/2002 was registered at Panigate P.S. at 1515 hrs on 02-03-2002. On 10-03-2002, further investigation of this case was entrusted to PI Shri P.P. Kanani of DCB P.S. by the order of Commissioner of Police, Baroda City. On completion of investigation, a charge sheet in this case was filed by PI Kanani on 24-06-2002 against 21 arrested accused persons in the Court of Judicial Magistrate, 1st Court, Vadodara. However, the further investigation continued u/s 173 (8) Cr.PC. The trial of this case was held by the Fast Track Court Judge Shri H.U. Mahida. The prosecution of this case was conducted by Shri Raghuvir N. Pandya, Public Prosecutor. By judgement dated 27-06-2003 the trial court acquitted all the accused persons. The complainant as well as Govt. of Gujarat filed appeals before the Gujarat High Court, but the same were dismissed by the Gujarat High Court. Ms. Zahira Habibulla Sheikh and another filed appeal before the Hon'ble Supreme Court of India and requested for a fresh trial on the following grounds:

(i) A large number of witnesses turned hostile and it should have raised a reasonable suspicion that the witnesses were being threatened or coerced, but no steps were taken by the Public Prosecutor to protect the star witness Ms. Zahira Sheikh.

(ii) The Public Prosecutor was not acting in an appropriate manner, defeating the position held by him.

(iii) The Trial court should have recalled and re-examined witnesses u/s 311 Cr.PC as their evidence was essential to arrive at the truth and a Just decision in this case.

(iv) The Public Prosecutor did not examine the injured witnesses that the summon on one eyewitness could not be served as very short dates were given by the Court and ultimately

Public Prosecutor dropped him as a witness and the same was granted by the Court.

(v) An important witness was not examined by the prosecutor on the ground that he was of unsound mind, but the police had not reported him to be of unsound mind.

(vi) Several other witnesses were either not summoned or very little time given during which summons could not be served upon them and eventually dropped.

(vii) Some of the relatives of the accused persons were examined as witnesses with a view to help the accused persons.

The Hon'ble Supreme Court of India after hearing all the parties pronounced the Judgment on 12-04-2004, and ordered for the retrial to be conducted by the Court under the jurisdiction of Bombay High Court. The Hon'ble Supreme Court of India passed strictures against the Public Prosecutor, Trial Court and the Gujarat High Court.

The retrial of this case was conducted by Shri A.M. Thipsay, Addl. Sessions Judge, Greater Bombay at Mazgaon, in which 17 accused persons were charged. On completion of trial, the judgment was pronounced on 24-02-2006, vide which 9 accused persons were convicted and 8 acquitted. The appeals filed in the High Court are still pending. It may be mentioned here that the learned Addl. Sessions Judge, Greater Bombay at Mazgaon has made adverse comments and passed strictures against Shri K. Kumaraswamy, the then Joint CP, Baroda City. However, neither the Govt. of Gujarat nor Shri K. Kumaraswamy had filed any appeal or petition for expunction of adverse remarks/strictures passed by the Trial Court.

In view of the aforesaid position in both these cases, it was not possible for the SIT to interfere in these matters.

➢ **ALLEGATION NO. X :**

Partisan investigations were conducted betraying prejudice against riot victims, as indicated by Rahul Sharma, the then SP, Bhavnagar District during his cross-examination

before the Nanavati Commission, as noted in Para 18 of the complaint dated 08.06.2006.

Enquiries revealed that Shri Rahul Sharma, the then SP, Bhavnagar was transferred as DCP, Control Room, Ahmedabad City in March, 2002 (relieved on 26-03-2002, and he resumed duties as DCP, Control Room, Ahmedabad City on 08-04-2002). However, on 07-05-2002, he was instructed by Shri P.C. Pande, the then Commissioner of Police, Ahmedabad City to report to the Crime Branch, Ahmedabad City and assist the then Addl. CP, Crime Branch Shri A.K. Surolia in the investigation of serious riot related offences. Shri P.C. Pande had told him that there would be no formal written order in this regard. Shri Rahul Sharma has stated that later he came to know that he had been asked to assist the Crime Branch in the investigation of riot cases at the insistence of Shri Surolia, who wanted some officers to help him out with the investigation of the cases. Shri Surolia had subsequently written a letter to the DGP confirming that Shri Rahul Sharma had reported to assist him in the investigations. Shri Rahul Sharma has further stated that after Shri Surolia had been posted out of the Crime Branch, he had stopped visiting the Crime Branch as there was no formal order for his attachment to the aforesaid investigations and that he had also not been called to the Crime Branch for this purpose. Accordingly, he had not been associated with any arrest or any other investigative process in respect of these riot cases after Shri Surolia had left.

Shri Rahul Sharma has further stated that the filing of charge sheet in the Gulberg Society case had attracted a lot of criticism. The first charge sheet in this case was filed on 03-06-2002. As per Shri Rahul Sharma, on 04-06-2002, while going to his office from residence he was called by Shri P.P. Pandey, the then Jt. CP to his office in the Crime Branch. Accordingly, Shri Rahul Sharma reported to the Crime Branch. After a brief introductory conversation Shri P.P. Pandey called for the case papers of Naroda Patiya case and asked Shri Rahul Sharma to go through

the draft charge sheet, which was proposed to be filed in the Court on the next day. Shri Rahul Sharma expressed his reluctance to give his comments in this case as he had not been a part of the investigation. However, at the insistence of Shri P.P. Pandey he perused the charge sheet.

Shri Rahul Sharma has further stated in the draft charge sheet, it had been mentioned that the mob at Naroda Patiya had got enraged and violent, because some truck driver while fleeing had killed two persons. Shri Rahul Sharma did not agree with this line of argument. Shri Rahul Sharma raised a few questions, as to why did the truck driver try to flee and why did the mob gather there? Moreover, the conduct of the mob had not been found during investigation either friendly or benign. There was no indication in the charge sheet that the mob was not aggressive. Shri Rahul Sharma had a heated argument with Shri S.S. Chudasma, ACP and Shri D.G. Vanzara, DCP. However, Shri P.P. Pandey remained quiet during the interaction. At the end, Shri Rahul Sharma left the Crime Branch with an expression of disagreement. On return to his office in Control Room, he wrote a DO letter to Shri K.R. Kaushik giving the details of the happenings in the Crime Branch on that day. Shri K.R. Kaushik had subsequently discussed the issue with Shri P.P. Pandey and issued a formal order directing the association of Shri Rahul Sharma with the investigation of the said cases.

Shri S.S. Chudasma has confirmed the meeting held on 04-06-2002 in the chamber of Shri P.P. Pandey, when he along with Shri D.G. Vanzara was also present. He has further stated that as per the orders of Shri P.P. Pandey the draft charge sheet in Naroda Patiya was shown to Shri Rahul Sharma, DCP and that after going through the charge sheet, Shri Rahul Sharma disagreed with the assessment that the mob got provoked in Naroda Patiya when one person ran over the person of another community by a truck and the serious incident happened thereafter. According to Shri Chudasma this was followed by the

heated discussion between us and Shri Rahul Sharma, the then DCP and thereafter, Shri Sharma left. Shri Chudasma has stated that it was incorrect to say that partisan investigations were conducted which caused prejudice against the riot victims inasmuch as the charge sheets were based on the investigation conducted under the close supervision of DCP. He has also stated that this was only a preliminary charge sheet and after the arrests of the absconders, a number of charge sheets were filed in this case subsequently and it was open to the IO to amend the subsequent charge sheet on the basis of new facts revealed during further investigation.

Shri D.G. Vanzara, formerly DCP, Crime Branch and at present DIG under suspension, who is lodged in Sabarmati Central Jail in Soharabuddin encounter case was examined in the Jail. He has stated that during February, 2002, he was posted as ADC to the Governor and as such had no role to play either directly or indirectly regarding the riots and the consequential killings. He has further stated that by the time he was posted as DCP, Crime Branch in May, 2002, the basic investigation of three serious riot cases i.e. Naroda Gam, Naroda Patiya and Gulberg Society had almost been completed and charge sheets were to be filed within 90 days so that the accused persons did not get release on bail in the absence of charge sheet. He has further stated that these charge sheets were filed on the basis of analysis and appreciation of evidence contained in the reports of the Investigating Officer, approved by him and Shri P.P. Pandey. As regards the involvement of Shri Rahul Sharma, he has stated that he had nothing to say about it, because this matter was between Shri K.R. Kaushik and Shri Rahul Sharma on one hand and Shri P.P. Pandey on the other hand.

Shri P.P. Pandey has stated to have joined Crime Branch, Ahmedabad City as Joint CP on 17-05-2002. He has further stated that Shri Rahul Sharma, who had been given additional duties for the supervision of some of the riot cases, had approached him on

28-05-2002 and expressed a grievance that thought he was a part of a investigation team, yet he had not been informed about the raids and arrests of some of the accused persons in Naroda Patiya and Gulberg Society case on 27-05-2002 night, to which he informed Shri Rahul Sharma that many of the squads/parties were conducting raids in the night for the arrest of the absconders and even he was not aware as to who had gone to a particular place. Shri Pande also told Shri.Rahul Sharma that in case the persons had been arrested the previous night, they were still in custody and that he had full opportunity to interrogate anyone of them he liked. According to Shri Pande, Shri K.R. Kaushik had ordered in writing for the assistance of Shri Rahul Sharma in the supervision of riot cases pending investigations with the Crime Branch. Shri Pandey has further stated that a draft charge sheet in Naroda Patiya case was shown to Shri Rahul Sharma for his views in the matter and the discussion took place in his office, when Shri Vanzara and Shri Chudasma IO of the case were also present. According to Shri Pandey, there was a difference of opinion between Shri Rahul Sharma and other officers, but he does not recollect the details due to passage of time. However, ultimately the draft charge sheet submitted by the IO through DCP was filed with the approval of CP, Ahmedabad City. However, he has denied that the investigation had been conducted in a partisan manner, which caused prejudice to the riot victims, because the charge sheets were based on the investigation conducted by the IO under the close supervision of DCP. Lastly, he has stated that this was only a preliminary charge sheet and that a number of charge sheets were filed, as and when the accused persons were arrested and it was always open to the IO to suitably amend the same on the basis of the facts that had subsequently emerged.

It may be mentioned here that there is confusion in the allegation mentioned at Para-18 of the complaint inasmuch as the facts relating to Gulberg Society case had been mixed up with that of Naroda Patiya case. Enquiries revealed that the fact relating to running over a person by a person of another community by a

truck, as a result of which the mob got provoked had been mentioned in the first charge sheet filed by Shri S.S. Chudasma and is a part of official record. A separate offence in this regard had been registered at the Naroda P.S. on 28-02-2002 and the truck driver arrested. This fact had not been controverted in the Supplementary charge sheets filed in the Court subsequently. However, this particular fact does not go to show that the investigation of this case had been conducted in a partisan manner.

➢ **ALLEGATION NO. XI:**

CM Shri Narendra Modi did not visit the riot affected areas in the initial days, though he visited Godhra Railway Station on 27.02.2002 itself.

Shri Sanjay Bhavsar, OSD to CM has stated that on 28-02-2002, the Chief Minister held a meeting in the morning concerning business in the Assembly. Further, at 0830 hrs the Chief Minister attended the Assembly session, in which there was an obituary reference for those killed in Godhra incident. In the Assembly, the Chief Minister announced the Judicial Inquiry into the incident under the Commission of Inquiries Act instead of a High Level Inquiry announced on 27-02-2002, and the house was adjourned. The Chief Minister held a meeting in the Assembly Secretariat with the acting Chief Secretary, ACS (Home), DGP and Addl. DG (Int.) about the prevailing situation in the State. In this meeting, the matter relating to the calling of Army was also discussed, but no decision was taken and it was decided to watch the situation.

Further as per Shri Sanjay Bhavsar, OSD to CM, the Chief Minister met Shri George Fernandes, the then Union Defence Minister on 01-03-2002 at about 0830 hrs at his residence in the presence of Govt. Officials and Army Officers. As per the press release issued by the Gujarat Information Bureau on 01-03-2002, Shri Gordhan Zadafia, the then MoS (Home), Shri G. Subba Rao, the then Chief Secretary, Shri Ashok Narayan, the then ACS

(Home) and other senior police officers including Shri K. Chakravarthi, the then DGP, Shri K. Nityanandam, the then Secretary (Home) and senior Army and Air-force officers attended the said meeting. In this meeting, CM requested for deployment of more PMFs and BSF, to which Shri George Fernandes agreed. CM also apprised the Defence Minister about the allotment of 5 Coys of PMFs to the State of Gujarat. The Chief Minister met the H.E. Governor of Gujarat at 0930 hrs at Rajbhavan and apprised him about the latest law & order situation in Gujarat and also about the security arrangements and bandobast made in the State. During 1000 hrs to 1300 hrs, CM had attended to the Govt. work and gave directions to the Administrative functionaries to take preventive actions to ensure that the disturbed situation did not spread. The Chief Minister also met the Congress delegation, informed them about the action taken by the Govt. and advised them not to lodge any protest in this regard. The Chief Minister also gave directions for the safely and security of the Haj Pilgrims returning to Gujarat. CM also discussed the cash doles and about the other help to be given to the riot victims. He also discussed the packages for the relief camps started by various NGOs and gave directions for other essential services to be provided to riot affected victims. He also gave directions to the Hospitals in the State to make available uninterrupted medical services to the affected persons and other citizens. CM held a law & order review meeting at 1300 hrs. Another law & order review meeting was held by CM at 1500 hrs at his residence. At 1630 hrs, CM held a press conference at Circuit House Annexe, Shahibaug, Ahmedabad City. In this press conference, CM informed the press that 13 columns of Army had been deployed to assist the State Civil Administration and that shoot-at-sight order to maintain law & order situation had been issued. CM also briefed the press about his meeting with the Union Defence Minister and also about the deployment of Army. He also gave the details of various riot incidents and also about the deployment of CPMFs in the State. CM also informed the press about the requisitioning of the

additional security forces from the neighbouring States and appealed to the media to keep restraint. CM held another law & order review meeting at 2030 hrs at his residence.

Shri Sanjay Bhavsar, OSD to CM has further stated that on 02-03-2002, the Chief Minister held another meeting with Shri George Fernandes, the then Union Defence Minister at 0830 hrs at his residence. During 0930 hrs to 1230 hrs, CM met the H.E. the Governor of Gujarat and apprised him of the latest situation and the security arrangements and bandobast made by the administration. CM further discussed the packages for the relief camps started by the various NGOs. CM also discussed the cash doles and about the other help to be given to the riot victims. The Chief Minister also gave instructions that SSC/HSC board examination be held as scheduled in peaceful atmosphere and also to ensure the safely of students. Two Law & order review meetings were held by the Chief Minister at his residence at 1300 hrs and 1500 hrs respectively. CM held a meeting of the officials of the Home Department at 1600 hrs at Circuit House Annexe, Shahibaug, Ahmedabad City. CM held a press conference at 1630 hrs in Circuit House Annexe, Shahibaug, Ahmedabad City, during which a detailed press release was issued by the Govt. of Gujarat. CM held an all party meet at 1800 hrs, in which the Congress leaders did not participate. Another law & order review meeting was held by the Chief Minister at his residence at 2030 hrs.

As per Shri Sanjay Bhavsar, the Chief Minister left for Ahmedabad airport on 03-03-2002 at 0900 hrs, and received the then Union Home Minister Shri L.K. Advani at 1050 hrs. From airport the Chief Minister accompanied the Union Home Minister at 1145 hrs to some of the riot affected areas like Delhi Darwaja, Idgah area and then went to Civil Hospital to see the riot victims. At 1215 hrs, CM accompanied the Union Home Minister to Godhra by helicopter and reached Godhra at 1300 hrs. At Godhra, the Union Home Minister visited Godhra Railway Station and

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

Shri Sanjay Bhavsar, OSD to CM has further stated that on 04-03-2002, the Chief Minister met the then H.E. the Governor of Gujarat at latter's residence at 0930 hrs and apprised him of the latest law & order situation and bandobast made in Ahmedabad City. Between 1030 hrs and 1300 hrs, CM held a law & order review meeting and also held discussions with the officials of Home, Police and Legal department for the appointment of a Judicial Inquiry Commission. The Chief Minister further held discussions about the Panchayat elections and local bodies' elections, which were due in March-April/2002. The Chief Minister also held discussions for ex-gratia payment to the riot affected persons, NGO relief camps, compensation for destruction of the

properties during riots with the concerned officers. The Chief Minister also held discussions with regard to Gram Panchayat and local bodies' elections and also about SSC/HSC exams. Shri Advani came to Bhavnagar directly on 04-03-2002. In view of this the Chief Minister left for airport at 1300 hrs and then left for Bhavnagar by air at 1330 hrs. The Chief Minister reached Bhavnagar at 1410 hrs and met Shri L.K. Advani at 1420 hrs. At Bhavnagar, they had a round of riot affected areas like Ranika, Ghogha Darwaja and S.T. Station Road. They also visited Akwada Madressa, where 400-500 Muslim students were saved on account of a timely action by the police, held law & order review meeting and met the representatives of different organisations including minority delegations and political leaders. They left for Rajkot at 1600 hrs and reached there at 1630 hrs. At Rajkot, CM, the then Union Home Minister and others visited Gondal Road, Lodhawad chawk, Parevadi Chawk and Lati plot areas. It may be mentioned here that during the earlier riots in Gujarat, the Kutch and Saurasthra region were peaceful, but in the year 2002 some signs of riots were noticed in these areas, as a result of which CM and other leaders visited these areas so that the riots did not spread there. A Law & order meeting was also held with the police officers at Rajkot. At Bhavnagar and Rajkot, High Level meetings were held by CM and other leaders, in which CM directed to launch combing operations to track down the antisocial elements and recover lethal weapons and explosives. CM left Rajkot at 1800 hrs and reached his residence at Gandhinagar at 1915 hrs. At 2030 hrs, CM held a meeting with the Ministers of his Government. CM had also instructed on 04-03-2002, that "SHANTI KOOCH" should be held in villages and as such a wireless message to this effect sent by ACS (Home) to all the DMs, CsP, SsP etc on the same day.

Shri Sanjay Bhavsar has also stated that on 05-03-2002, CM held a law & order review meeting at his residence. The Chief Minister also addressed a High Level meeting attended by Chief Secretary, Revenue Secretary, Health Secretary, Secretary (R &

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

It is established that on 28-02-2002, events in the aftermath of the gruesome Godhra episode of 27-02-2002 unfolded and violent incidents were reported from many parts of the State. A High Level review of the situation at the Chief Minister's level was made on 28-02-2002 afternoon. The meeting was attended by the Chief Minister, MoS (Home), the DGP and Addl. DG (Int.). By 1430 hrs. the Chief Minister had made an oral request to the Union Home Minister for Army deployment. At about the same time, an official request was sent in writing by Shri K. Nityanandam, the then Secretary (Home) to the Secretary, Ministry of Defence to make the Army available for internal security duties. The Chief

Minister publicly announced at 1600 hrs in a press conference the decision of the State Govt. to call in the Army. Efforts were also made to requisition available Army personnel in the cantonment area of Ahmedabad but no force was available. It was understood that withdrawing the Army at such critical juncture when war like situation existed with the neighbour needed a high level decision at the Centre. This decision to withdraw the Army and deploy in Gujarat was immediately taken at highest level in the Centre on the request of Gujarat Govt.

Army personnel were airlifted from forward positions and they started arriving by the midnight of 28-02-2002. It may be mentioned here that 40 aircrafts were used to airlift Army personnel to Ahmedabad. The first plane landed at Ahmedabad on 28-02-2002 mid night and the last one on 01-03-2002 at 2300 hrs. The deployment of the Army/CPMF also required additional logistic support by the civil administration in the form of Executive Magistrates, vehicles, Liaison officers, mobile phones, guides and maps and same were promptly made available to them. The deployment of Army commenced by 1100 hrs after a high level meting of the Chief Minister and the Union Defence Minister with Senior officials of the Army and the State Administration. The Army was deployed in the affected areas of Ahmedabad City i.e. Paldi, Juhapura, Vejalpur, Shahpur, Bapunagar, Rakhial, Gomtipur, Meghaninagar, Dariapur, Kalupur, Naroda and Dani Limda. It may thus be seen that 9 columns of Army were deployed on 01-03-2002. Later on, 2 columns of the Army were moved to Vadodara on 01-03-2002 at 1830 hrs, 2 columns despatched to Godhra on 02-03-2002, and they reached Godhra at 0130 hrs, 2 columns moved to Rajkot on 02-03-2002 at 1100 hrs. It may be mentioned here that while the situation in the other parts of the Gujarat was grave, cities like Bhavnagar and Surat were initially unaffected. However, as incidents of violence were reported from Bhavnagar and Surat, Army columns were moved to Surat on 03-03-2002 at 1100 hrs and to Bhavnagar on 03-03-2002 at 2235 hrs.

In all 26 Army columns had been deployed at the peak of riots in the State.

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

Further investigation has established that the State Govt. was reasonably vigilant vis-à-vis the developments on the law & order front and immediately responded by bringing to the notice of all District officials, the need to maintain adequate bandobast in view of the Godhra incident on 27-02-2002. In addition, written communications were sent on day to day basis with specific instructions to control the law & order situation with a view to bring normalcy, communal peace and harmony in the State at all costs. The State authorities also impressed upon jurisdictional officers that violators of law should be effectively dealt with, no laxity shown and maximum force used to suppress and contain the violence.

Shri Narendra Modi, Chief Minister has admitted to have visited Godhra on 27-02-2002 evening during his examination before SIT. He has further admitted to have visited Gulberg Society, Naroda Patiya and other riot affected parts of Ahmedabad

City only on 05 & 06-03-2002. During these visits, he went around different relief camps. Shri Sanjay Bhavsar has given the movements of Shri Narendra Modi, CM and also the action taken by him for deployment of Army, directions given to the police and civil administration to control the riots in the State at all costs. He has also given the details of the steps taken by the Chief Minister for medical treatment and rehabilitation of riot victims. This would go to show that the Chief Minister remained awfully busy with the steps to control the law & order situation, providing medical treatment to the riot victims, their rehabilitation, ex-gratia payment to the riot affected persons, NGO relief camps and with the payment of compensation for destruction of the properties during riots and also with his efforts to restore peace and normalcy in the State. According to Shri Bhavsar, the Chief Minister had visited some of the riot affected areas of Ahmedabad City on 03.03.2002, along with Shri L.K. Adyani, the then Union Home Minister.

In view of the aforesaid position, it can not be said that the Chief Minister had the partisan attitude and visited Godhra on 27.02.2002 itself, but did not visit the riot affected areas till 05.03.2002. The allegation is therefore, not established.

➢ ALLEGATION NO. XII :

A press statement was made by Shri Narendra Modi that the reaction against the Muslim community was the operation of Newton's law of reaction.

Enquiries revealed that book titled as "Rights and Wrongs" published by Editors Guild Fact Finding Mission Report by Aakar Patel, Dileep Padgaonkar and B.G. Verghese contained the extracts of the Zee TV interview carried out by Shri Sudhir Chaudhary with Shri Narendra Modi, Chief Minister at Gandhinagar on 01-03-2002. The Zee TV correspondent questioned Shri Narendra Modi about the Chamanpura (Gulberg Society) massacre in which the former Congress MP, Ehesan Jafri was killed along with more than 50 others. The Chief Minister in

his replies referred to the reports that Jafri had first fired at the violent mob, which infuriated the crowd further and that the mob thereafter stormed the Housing Society and set it on fire. According to the Zee TV correspondent, Shri Narendra Modi referred to Jafri's firing as "action" and the massacre that followed as "reaction". His exact quote was: *"Kriya pratikriya ki chain chal rahi hai. Hum chahte hain ki na kriya ho aur na pratikkriya"*. When asked about the wide spread violence in Gujarat post Godhra CM's reply was:

> *"Godhra main jo parson hua, jahan par chalees (40) mahilaon aur bacchon ko zinda jala diya, is main desh main aur videsh main sadma pahuchna swabhavik tha. Godhra ke is ilake ke logon ki criminal tendencies rahi hain. In logon ne pahele mahila teachers ka khoon kiya. Aur ab yeh jaghanya apraadh kiya hai jiski pratikria ho rahi hai".*

During further investigation, a requisition was sent to the Zee TV to make available a copy of the CD of a television interview of Shri Narendra Modi, Chief Minister, Gujarat conducted by their correspondent Shri Sudhir Chaudhary on 01-03-2002. Despite two reminders and a notice u/s 91 Cr.P.C. sent to them, the CD was not made available to the SIT.

Shri Sudhir Chaudhary, Zee TV Correspondent has stated that he attended a press conference held by Shri Narendra Modi on 01-03-2002, at a Circuit House at the outskirts of Gandhinagar. Shri Sudhir Chaudhary has stated to have requested Shri Narendra Modi for a short interview after the conference and to which the latter agreed and as such he was interviewed for about 10 minutes. After going through the Editor's Guild Fact Finding Mission report dated 03-05-2002, Shri Chaudhary has stated that the same were only a few excerpts from the said interview and that the original CD of the said interview was not before him. As per his recollection he had questioned Shri Narendra Modi about the Chamanpura massacre (Gulberg Society Case), in which former

Congress MP Late Ahesan Jafri had been killed with many others to which the Chief Minister had replied that the mob had reacted on account of private firing done by Late Ahesan Jafri, Ex-MP. After refreshing his memory from the Editor's Guild report, Shri Sudhir Chaudhary has stated that the Chief Minister was of the view that he neither wanted action nor reaction. Shri Sudhir Chaudhary has shown his inability to elaborate the same, as he has not been able to recollect the exact sequence of events after a span of 9 years and moreover, the CD was not before him.

Shri Narendra Modi had been questioned about the aforesaid interview given to Zee TV on 01-03-2002. He has stated that those who have read the history of Gujarat would definitely be aware that communal violence in Gujarat has a long history and the State had witnessed serious incidents of such communal violence. As regards the Zee TV interview of 01-03-2002 is concerned, Shri Modi told SIT that after a period of eight years, he did not recollect the exact words, but he had always appealed only and only for peace. He had further stated that he had tried to appeal to the people to shun violence in straight and simple language. He had also stated that if his words cited in this question are considered in the correct perspective, then it would be evident that there is a very earnest appeal for people refraining from any kind of violence. He had denied all the allegations against him in this regard.

Regarding the statement made to the media about post Godhra riots by citing Newton's law that every action has equal and opposite reaction, Shri Narendra Modi had stated that the Times of India had published a news item on 03-03-2002, purportedly as though he had given an interview to them. According to Shri Modi, the truth is that nobody met him. He had further stated that the falsehood of his so-called justification "Action-Reaction Theory" is evident from this fact. According to Shri Modi, the State Govt. issued a denial with regard to his not having given any interview and the same was belatedly published

in a remote corner of the news paper. He had also stated that it had been his considered opinion that violence can not be replied to by violence and he had appealed for peace. As per Shri Modi's version before SIT, he had not and would never justify any action or reaction by a mob against innocents. He had denied all allegations in this regard.

In this connection, it is to be stated that Shri Narendra Modi has clearly stated in his Zee TV interview that it was Late Ahesan Jafri, Ex-MP, who first fired at violent mob and the provoked mob stormed the society and set it on fire. In this interview, he has clearly referred to Jafri's firing as "action" and the massacre that followed as "reaction". It may be clarified here that in case Late Ahesan Jafri, Ex-MP fired at the mob, this could be an immediate provocation to the mob, which had assembled there to take revenge of Godhra incident from the Muslims. Again, with regard to the Godhra incident, he clearly stated that the day before yesterday 40 ladies and children were burnt alive at Godhra and the incident had shocked the Nation as well as people abroad, and that the people belonging to this area had a criminal tendency and these people had earlier killed lady teachers and now they had committed heinous crime, for which the reactions were being felt.

No doubt, during riots ghastly violent attacks had taken place on Muslims at Gulberg Society, Naroda Patiya and elsewhere by unruly mob, yet the alleged statements made by Chief Minister Narendra Modi appear to have been quoted out of context and therefore, based on these statements,no case is made against him.

➢ **ALLEGATION NO. XIII :**

No direction was given by Shri Narendra Modi to Hindu organisations against the observance of Bandh on 28.02.2002. Bandhs had been declared illegal by Kerala High Court.

Enquiries revealed that professor Late K.K. Shastri, Chairman of VHP, Gujarat Unit telephoned Shri Kaushik J. Mehta, the then Joint Secretary of VHP on 27-02-2002 evening and informed him that some of the Ram-sevaks had been killed in train carnage near Godhra Railway Station. Shri Shastri further informed Shri Mehta that Shri Jaydeep Patel another Joint Secretary, VHP had already proceeded to Godhra and that homage was to be paid to the Ram-sevaks killed in Godhra incident and that call for Gujarat Bandh be given for 28-02-2002. Thereafter, Shri Kaushik J. Mehta, Joint Secretary, VHP went to VHP office, where many press and media persons had assembled to know the details of the incident. Shri Mehta informed them about the incident and also about the bandh call for homage to be paid to Ram-sevaks killed in Godhra incident on 27-02-2002. Shri Mehta also informed the media that programmes would proceed, as per schedule decided by the Central VHP and that Ram-Mandir would be constructed as decided.

In the media reports appearing in the news papers of 28-02-2002, it was reported that the bandh was supported by the ruling party i.e. BJP. Shri Vijay Badekha, Under Secretary to Home Department has stated before the SIT that both Gujarat bandh on 28-02-2002 and Bharat bandh on 01-03-2002, were supported by BJP. He added that keeping in view the Fundamental Rights of the Citizens of India, the bandhs were not banned by the Govt. and instead adequate police bandobast including deployment of Para Military forces particularly Rapid Action Force was made through out the State. Shri Badheka has further stated that the first alert message of 27-02-2002 from the Home Department emphasised the need to take precautionary measures including adequate police bandobast and preventive measures including issuance of prohibitory orders depending upon the local situation. As per Shri Badheka, instructions were issued that antisocial and hardcore communal elements should be dealt with firmly. According to Shri Badheka, it was impressed upon the District Administration that when the dead bodies of Godhra victims arrived at their respective

native places, the communal tension was likely to rise and therefore, adequate bandobast be made for funeral procession. Shri Badheka has also stated that all jurisdictional police and administrative officers were directed to remain present at their respective headquarters and closely monitor the situation. This message was followed by another message dated 28-02-2002 from the Home Department to all concerned to round up antisocial and known communal elements under the preventive laws. However, no notification was issued by the Govt. of Gujarat banning the bandh on 28-02-2002 & 01-03-2002, in the light of ruling given by the Kerala High Court declaring the bandh as illegal.

This issue has been raised by Shri R.B. Sreekumar from time to time. However, it is a fact that the Kerala High Court ruling is applicable to whole of the Country unless overruled by the Supreme Court of India. But this by itself does not make the State Govt. a co-conspirator to the riots. In view of this though this allegation is proved to be correct, yet it cannot be construed as evidence to bring home a charge of conspiracy.

➢ **ALLEGATION NO. XIV :-**

There was undue delay in requisition and deployment of army, though anti-minority violence had broken out on 27.02.2002 afternoon itself in cities of Vadodara, Ahmedabad etc.

Enquiries revealed that after the Godhra incident on 27-02-2002, the Chief Minister visited Godhra in the afternoon after the Assembly Session was adjourned and returned late in the night around 2200 hrs. In the night a Law & Order review meeting was called by the Chief Minister at his residence in the wake of a banch call made by the Vishwa Hindu Parishad. Shri Ashok Narayan, ACS (Home) was stated to have attended this meeting, which was also attended by DGP, acting Chief Secretary along with the staff of the Chief Minister. In this meeting DGP gave

detailed sequence of events of Godhra incident and possible repercussions of the same. He also gave his requirement of additional force and informed that SRP had been alerted and deployed wherever necessary even by curtailing their normal functions. The Chief Minister was also apprised about the deployment of Rapid Action Force in the State. It may be added here that the Army headquarters had been alerted on 27-02-2002 itself. However, enquiry with the local Army authorities had revealed that no force was available in Gujarat as the same had been deployed at the border.

Shri Ashok Narayan, the then ACS (Home) has stated that Army had been alerted on 27.02.2002, but inquiries conducted with the local Army authorities revealed that no force was available in Gujarat, as the same had been deployed at the border. In the morning of 28-02-2002, the Chief Minister had called for a high level meeting, which was attended by him, acting Chief Secretary, DGP and Addl. DG (Int.). In this meeting, the Law & Order situation was reviewed. He has further stated that the matter relating to calling of Army was also discussed, but no decision was taken. Further, as per Shri Ashok Narayan, on 28-02-2002, another law & order review meeting was called by the the Chief Minister at his residence around 1300 hrs or so,in which the situation was discussed and deployment of forces reviewed. In this meeting, it was uninimously decided that Army should be called to assist the Civil Administration to maintain law & order as the situation in the State was getting out of control. In view of this, the Chief Minister made an oral request to Shri L.K. Advani, the then Union Home Minister for deployment of Army in the State. As decided in the meeting, a fax message was sent by Shri K. Nityanandam, the then Secretary (Home) to the Union Defence Secretary, Ministry of Defence, Govt. of India at 1430 hrs seeking deployment of 10 columns of Army at Ahmedabad City and other affected places immediately by airlifting them. As decided in the meeting, Shri Narendra Modi, Chief Minister publicly announced at 1600 hrs about the decision of the State Govt. to call in the Army.

columns of the Army were moved to Baroda on 01-03-2002 at 1830 hrs and 2 columns of Army were moved to Rajkot at 1100 hrs. Initially, the cities like Bhavnagar and Surat were unaffected. However, as the incidents of violence were reported from Bhavnagar and Surat, Army columns were moved to Surat on 03-03-2002 at 1100 hrs and to Bhavnagar on 03-03-2002 at 2235 hrs. At the peak of the deployment, there were 26 Army columns in the State.

Shri G. Subba Rao, the then Chief Secretary has stated that he held separate meetings with high level Army officers on 07-03-2002, 18-03-2002 & 23-03-2002 to review the Law & Order situation. In a meeting held on 07-03-2002, it was decided that considering the improvement in the Law & Order situation Army would be sent back (except in Panchmahals District) to the barracks from 10-03-2002 at 0600 hrs. However, considering the Ram Maha-Yagna at Ayodhya and ensuing festivals, Army remained in a stand by position. Subsequently, some incidents were reported from Vadodara and Surat and Army had to be deployed again. On 15-03-2002, after reviewing the local situation at Ahmedabad, Army held a flag march in the City.

It will thus be seen that an oral communication and contact had been made with the Army on 27-02-2002 itself and on 28-02-2002 morning. It was however learnt that no Army personnel were available in Ahmedabad for internal security duties. An emergency review was under taken on 28-02-2002 and an oral request was made to the Govt. of India to move in Army as an aid to the Civil Administration. The Army, which was posted in the forward area was airlifted and it started landing at Ahmedabad by midnight of 28-02-2002 and 01-03-2002 (morning). The deployment of the Army commenced with effect from 1100 hrs on 01-03-2002 and the Army had taken up their positions after being flown in from the forward areas within 21 hours of its requisition by the State Govt. The allegation that there was an undue delay in requisition and deployment of the Army is, therefore, not established.

➢ ALLEGATION NO. XV :

Pro-VHP advocates were appointed as Public Prosecutors in riot cases as noted in Para 4 under the caption 'Present Situation' in the complaint dated 08.06.2006, wherein appointments of advocates Shri Chetan Shah (as District Government Pleader), Shri V.P. Atre (as Special PP in the Gulberg case), Shri Raghuvir Pandya (as Special PP in the Best Bakery case), Shri Dilip Trivedi (as Special PP in the Sardarpura case), Shri Rajendra Darji (as Special PP in the Dipda Darwaja case), Shri Piyush Gandhi (PP in Panchmahal District), have been questioned).

Enquiries revealed that the procedure for the appointment of a Public Prosecutor in a town is that the vacancy is notified by the Collector & District Magistrate in the local news papers. In response to the advertisement a number of eligible candidates are interviewed by a Board comprising Principal Sessions Judge and District Magistrate. Thereafter, a panel of three or four advocates selected by the Board is forwarded to the Govt. for the appointment of the Public Prosecutor. The Govt. exercises its own discretion, select and notify one of the empanelled candidates as a Public Prosecutor for a period of three years. It may thus be seen though the selection procedure is transparent yet the Govt. has got the discretion to appoint a particular lawyer out of the panel of 3-4 advocates forwarded to them.

Enquiries further revealed that Shri Chetan K. Shah remained a Member of Vishwa Hindu Parishad during 1990 to 1995. However, at present he is neither a member of BJP nor any of the Sangh Parivar organisations. It has further come to light that on 12-07-1986, seven or nine members of Muslim Parivar were allegedly burnt alive in Meghaninagar area during the riots in 1986. A case in this regard was registered in Shahibaug P.S. Shri Chetan K. Shah was not a FIR named accused in this case, but was arraigned as an accused during the course of investigation and charge sheet filed against him. After the committal

after a protest had been lodged by the eyewitnesses of the Gulberg Society case regarding his (Shri Shah's) appointment. Both, Shri Chetan K. Shah and Shri Atre have denied that the latter worked under the former.

Shri H.M. Dhruv, Sr. Advocate has corroborated the version of Shri Chetan K. Shah and has confirmed to have defended Shri Chetan K. Shah in a TADA case jointly with Shri J.M. Panchal, Sr. Advocate, which ended in acquittal. He has further stated that he had been appointed as Spl. PP to conduct the cases arising out of Meghaninagar P.S. CR No. 67/2002 and Naroda P.S. CR No. 100/2002 on 05-03-2009 and Shri Amit Patel, Advocate was appointed to assist him in the trial. However, Shri H.M. Dhruv did not appear in any of these cases on any of the dates as new Public Prosecutors were appointed by the Govt. of Gujarat on the recommendations of SIT.

Enquiries further revealed that Shri Raghuvir N. Pandya had started his practice in District & Sessions Court, Vadodara in the year 1986 on Civil and Criminal side. In the year 1997, he was appointed as Addl.PP in District & Sessions Court. Further, during the period 2000-2002, he worked as a incharge Public Prosecutor Vadodara District. He was appointed as a District Govt. Pleader in District Sessions Court, Vadodara in 2002 and worked there till 2008. He has denied any direct connection with BJP, Bajrang Dal, RSS or any of the Sangh Parivar organisations, but has admitted to have contested corporation elections from ward no. 20, Majalpur as an independent candidate in the year 1995, when he was elected. He remained Corporator for a period of six years till 2001. He applied for appointment as a Notary in the year 2001 and was appointed as a Notary by the Central Govt. He has also stated that the Best Bakery incident was a serious and sensitive case in Vadodara, as an aftermath of Godhra incident and that he had conducted the prosecution of this case as the Chief Public Prosecutor of District & Sessions Court in a sincere and diligent manner. According to Shri Pandya, it is incorrect to say that all

matters in the Fast Track Court Judge H.U. Mahida were being handled by Shri Gupta, Addl. PP. Shri Pandya has explained that keeping in view the work load as well as the availability of the prosecutors, he used to divide the workload between different Prosecutors including Shri Gupta, Addl. PP. Shri Pandya is of the view that being the Chief Public Prosecutor of District & Sessions Court, his appointment and notification in Best Bakery case was not necessary. Shri Raghuvir N. Pandya ceases to be a Public Prosecutor and Learned Fast Track Court Judge Shri H.U. Mahida had already retired.

Shri Dilip R. Trivedi, Advocate from Mehsana has stated to have started his practice as an Advocate in Mehsana Courts in the year 1977. He was appointed as Govt. Advocate and Public Prosecutor in Mehsana in April, 2000 and remained there till the end of 2007. He is a member of Rashtriya Swayam Sevak Sangh since childhood. In 1992, he joined VHP as a worker and in 1999; he became the General Secretary of VHP, Gujarat State. In 2006, he became the President of Vishwa Hindu Parishad, Gujarat State. According to Shri Trivedi, Vishwa Hindu Parishad is a social Hindu organisation with no political inclinations and had not been banned. According to Shri Trivedi, post Godhra carnage there were riots in Mehsana District particularly in Sardarpura, Tal-Vijapur and Dipda Darwaja, Visnagar and the bail applications of the accused persons involved in these cases were dealt with by him and other Addl. PPs. He has further stated that the bail applications of seven accused persons were argued by him in the Sessions Court, Mehsana and the same were rejected. All these seven accused persons had approached the Gujarat High Court and subsequently Supreme Court also, but their bail applications were rejected. Some other accused persons arrested in this case had also filed bail applications in the Court and were granted bail. Further, as and when the accused persons were arrested in Sardarpura case, Tal- Vijapur, they were released on bail on various conditions. The complainant had filed petitions in Gujarat High Court vide Crl. Misc. Appls. No. 3590/02, 3591/02 & 4026/02

against the bail order, which were dismissed by the High Court. Shri Trivedi has added that as and when the accused persons filed their bail applications the same were argued in an honest and impartial manner depending upon the evidence available for and against the accused persons. He has also stated that considering the arguments and the evidence available against and for the accused persons, as per police investigation, the court had either granted them bail or dismissed their bail applications on merits and that the same was purely the discretion of the Court. In these cases, the charge sheets were filed by the IO in the concerned Court of the competent jurisdiction, but the trial was not conducted by him.

Shri Rajendra Darji, Advocate had denied any connection with Vishwa Hindu Parishad, Bajrang Dal or any of the connected organisations. He has stated that he became Addl. PP and Addl. Govt. Pleader in Mehsana District in April 2000 and remained there till 2004. In 2005, he appeared for the interview and was appointed as Addl. Govt. Pleader till 2007. In 2008, he was again appointed as Addl. Govt. Pleader and he continues to be the Addl. PP. He has stated that Dipda Darwaja case was charge sheeted in the first Fast Track Court of Shri P.R. Patel and subsequently transferred to the Court of Shri S.J. Seth and again transferred to the Court of Shri I.B. Waghela. Initially, Shri R.M. Jani was the Prosecutor in this case, who examined 11 witnesses. Thereafter, this case was conducted by Shri Nirmalbhai S. Shah, Govt. Advocate, who examined 16 witnesses. Later on, he had conducted this case and had examined 25 witnesses. He has further stated that he had got dismissed the bail applications of the seven accused persons from the Court. He has also stated to have dealt with this case in an independent and impartial manner.

Shri Piyush L. Gandhi, Advocate remained a RSS activist since 1964, a worker of Akhil Bhartiya Vidharthi Parishad between 1968 to 1972, District Pramukh of Janta Yuva Morcha between 1973 to 1980, Secretary of Panchmahal District VHP between

1982 to 1990, Officiating Pramukh of Panchmahal District VHP between 1990 to 2006 and Administrator of schools associated with Vidya Bharti since 2006 till date. He had also been appointed as Director of Godhra City Co-operative Bank in 1996 and treasurer of National Blind Samiti in 1994. He remained Govt. Advocate and Public Prosecutor of Panchmahal from 15-01-1996 to 01-09-2009. He has stated that in the riot cases post Godhra carnage in the year 2002, Shri J.G. Pathak and Shri B.J. Trivedi advocates were appointed as Spl. PPs to conduct the trial of these cases. However, their appointment was cancelled with effect from 04-12-2003 and these cases were entrusted to him for trial. However, in some of the cases, Shri Rajendra Trivedi, Shri A.R. Dave and Shri D.P. Pathak were also appointed as Spl. PPs. Shri Gandhi has also stated that he had conducted the trial of Shabana-Suhana gang rape and murder case and that in this case the complainants had filed Crl. Revision Appls. No. 94/2004 & 142/2004 in Gujarat High Court, in which some allegations had been levelled against him. He has further stated that the Gujarat High Court had dismissed these allegations on the first date of hearing on 12-10-2004. He has also stated that he had concluded the trial of this case and many of the accused persons were convicted and awarded life imprisonment. He has also stated that appeals had been filed against the acquittal of some of the other accused persons in this case in the Gujarat High Court.

On overall examination of these allegations, it appears that government had usual practice of appointment of government pleaders, the political affiliation of the advocates did weigh with the Govt. for the appointment of the Public Prosecutors. However, no specific allegation of showing favour by them to any of the accused persons involved in the riots either in grant of bail or during the trial has come to light.

➢ **ALLEGATION NO. XVI:**

Officers at grass-root level were not transferred as per State Intelligence Bureau's recommendation till the arrival of Shri K.P.S. Gill as Advisor to CM, as indicated by Sreekumar in his second affidavit dated 06.10.2004 to the Nanavati Commission.

Shri R.B. Sreekumar has stated that after taking over as Addl. DG (Int.) on 09-04-2002, he had sent an analytical note on the Current Communal Scenario in Ahmedabad City on 24-04-2002, to Shri Ashok Narayan, the then ACS (Home) with a copy to Shri K. Chakravarthi, the then DGP. In this report, Shri Sreekumar has stated that repeated and strong media attack on Ahmedabad police had a demoralising impact on the confidence and dedication of the city police personnel. He has further stated that many senior police officers at the decision taking level, i.e., Inspectors in charge of the City police stations had ignored the specific instructions from the official hierarchy on account of their getting direct verbal instructions from the senior political leaders of the ruling party. According to Shri Sreekumar, such officers had become adept in the art of deceptive law enforcement for the benefit of their political masters and friends, who ensured their placement and continuance in their choicest executive posts at the cost of the spirit and letter of the laws of the land.

In this report Shri Sreekumar had suggested amongst other remedial measures, the replacement of the present incumbents from executive posts at the cutting edge level from those cities and districts, where police either remained inactive during the riots or played a collaborative role with the rioters. Shri Sreekumar also suggested that for deterrent effect, police functionaries, who had played collaborative and participatory roles during the riots should be given statutory punishment.

Shri Sreekumar has further stated that on 04-05-2002, Shri K.P.S. Gill, former DGP of Punjab State, who had been deputed

as an Adviser to the Chief Minister, Gujarat on Law & Order matter, convened a meeting of senior police officers in his camp at CRPF group centre, Gandhinagar. Shri K. Chakravarthi, Shri P.C. Pande, Shri R.B. Sreekumar, Shri Maniram, and Shri M.K. Tandon, attended the meeting. As instructed by Shri Gill each officer gave his assessment of the current situation. Both, DGP and CP, Ahmedabad City observed that the situation was normal due to effective police measures. Shri Sreekumar has further stated that Shri Maniram, who was responsible for maintaining Law & Order in the State, totally disagreed with the assessment given by DGP and CP, Ahmedabad City. According to the statement made by Shri Maniram before the SIT, he had informed Shri K.P.S. Gill that the tension continued to prevail in Ahmedabad City amongst the Hindus and Muslims and the officers, who were responsible for not preventing the riots resulting in loss of life and property in their jurisdiction should be transferred immediately irrespective of their status and good officers posted in their place. Shri Maniram also stated to have mentioned to Shri Gill that wherever effective officers had been posted, the Law & Order situation was under control like, Saurashtra and South Gujarat. In this meeting, Shri R.B. Sreekumar had fully endorsed the views of Shri Maniram. Shri Sreekumar also handed over a copy of his report sent vide letter dated 24-04-2002 to Shri Gill and had also prepared a separate note at the instance of Shri Gill. According to Shri Sreekumar, Shri K.P.S. Gill had called him on 08-05-2002, and informed that the suggestions and remedial measures indicated in his (Sreekumar's) note were quite relevant and that soon most of the officers at the decision making levels in Ahmedabad City would be transferred and a new team of officers positioned.

Shri K. Chakravarthi has stated that during initial discussions with Shri K.P.S. Gill, he along with Shri Ashok Narayan were given to understand that CM wanted to transfer the senior officers of Ahmedabad City and wanted alternate proposal. Shri Chakravarthi had accordingly given his suggestion to Shri Ashok Narayan, who

prepared a note and submitted the same to the Chief Minister for his approval. According to Shri Chakravarthi, Shri K.P.S. Gill had asked him about his views on these transfers, to which Shri Chakravarthi informed him that he had given these suggestions. Shri Chakravarthi has further stated that this note was approved by the Chief Minister and the transfers came into force in the end of first week of May, 2002. Shri Chakravarthi has also stated that the matter relating to the shifting of jurisdictional officers was already under consideration and it was not taken up at the instance of either Shri Maniram or Shri R.B.Sreekumar.

In view of this, the allegation of Shri Sreekumar that the transfers of the jurisdictional officers as suggested by State IB on 24-04-2002, were not carried out till the arrival of Shri K.P.S. Gill, an Adviser to CM, is therefore, without any basis.

➢ **ALLEGATION NO. XVII:**

Failure to take action against the print media making communally inciting reports though State Intelligence Bureau and some field officers had recommended for action, as noted in the first Affidavit dated 06.07.2002 of Shri R.B. Sreekumar during his cross-examination before the Nanavati-Shah Commission on 31.08.2004.

During the course of enquiries by SIT, Govt. of Gujarat has intimated in writing that no criminal action had been taken on the recommendations of Shri R.B. Sreekumar against the print media. However, this material is not sufficient to make out any criminal case against any of the accused persons.

➢ **ALLEGATION NO. XVIII :**

State Home Department gave misleading reports about normalcy in the State to Central Election Commission for ensuring early Assembly Election. The assessment of the Home Department was adjudged as false by the Election Commission in its order dated 16.08.2002. As per the Register for recording verbal instructions from higher formations kept

by ADGP (Shri R.B. Sreekumar), as noted in his third Affidavit, he was directed by the Home Department officials to give favourable reports about law and order for facilitating holding of early elections.

During enquiry, Shri R.B. Sreekumar has stated that on 9th August, 2002, the Central Election Commissioner Shri J.M. Lyngdoh along with other two members convened a meeting to assess law & order situation in Gujarat to decide on the pre-ponement of elections in the State, which was attended by him, Shri G. Subbarao, the then C.S., Shri Ashok Narayan, the then ACS(Home), Shri K.Chakravarthi, DGP, Shri K.R. Kaushik, the then C.P. Ahmedabad, Shri C.K. Koshy, the then Revenue and Relief Commissioner, Shri P.S. Shah, Addl. Secretary (Home) and Shri K. Nityanandam, Home Secretary. According to Shri Sreekumar, the Chief Secretary had informed in this meeting that two presentations, one on the Law & Order situation by Shri K. Nityanandam, Home Secretary and other by Shri C.K. Koshy on the rehabilitation of the riot victims were ready, to which the Chief Election Commissioner said that they were not interested in any presentation, as the ground situation was different from the items presented earlier to a team sent by the Election Commission. As per the version of Shri Sreekumar, the Chief Secretary informed that total normalcy had been restored throughout the state and tension was not prevailing anywhere. Shri Sreekumar has further stated that after hearing this, CEC Shri Lyngdoh was visibly annoyed and in an irritated mood said that the Commission visited certain riot affected areas in Ahmedabad city and the victims made so many complaints against the authorities, particularly the police and added that the victims were still intimidated by a section of people with the backing of the Administration. The CEC quoted an instance of a wall constructed in a locality in Ahmedabad city, wherein the right of passage of the minority community was blocked. Shri Sreekumar has further stated that the Chief Secretary intervened and said that these were stray cases and that rehabilitation was almost complete and that most of the riot

victims had gone back to their homes prior to riots. Further, according to Shri Sreekumar, the CEC became visibly angry and expressing displeasure said "Mr. Chief Secretary you have temerity to claim normalcy but everywhere we got complaints of threat from criminal elements voiced by the victims of riots". Shri Lyngdoh added that the Gujarat Govt. should give different data on communal violence.

Shri Sreekumar has also stated that the DGP Shri Chakravarthi in his presentation gave an account of the communal violence. He said that the Hindu mobs attacked the minorities in areas which were not affected by communal tension and asked for additional Paramilitary forces for the election. Shri Sreekumar in his presentation said that there was only modicum of apparent normalcy and there was latent tension in all those areas affected by the recent communal riots. The CEC interjected at that juncture and questioned the CS, asking him to reconcile the demand for additional forces and the claim of the administration about prevailing normalcy. As per Shri Sreekumar's version, the ACS said that what ADGP Sreekumar meant as apparent normalcy was about communal tension in certain places. According to Shri Sreekumar, these comments by ACS had visibly annoyed the CEC who said "Did ADGP require any interpreter or translator?". Continuing his presentation, Shri Sreekumar stated that there was only apparent normalcy because tension was prevailing in 993 villages and 151 towns which had witnessed riots during the period from 27-2-2002 to 31-7-2002 and that the above affected areas covered 284 police stations and 154 of 182 assembly constituencies. According to Shri Sreekumar, in these places there was no communal amity and due to gulf created between the Hindus and Muslims, any petty issue would ignite communal riots and that this was one of the major reasons for demanding additional forces.

The Chief Election Commission passed an order on 16th August 2002 in which it was mentioned as: "Significantly,

Additional Director General of Police, Shri R.B. Sreekumar, stated before the Commission that 151 towns and 993 villages, covering 154 out of 182 Assembly Constituencies in the State, and 284 Police Stations out of 464 Police Stations were affected by the riots. This evidently falsifies the claims of the other authorities that the riots were localised only in certain pockets of the State. It was further mentioned in Para 32 of the order that: "Before the Commission, the C.S. and DGP painted a similar picture of normalcy in Gujarat. But Add. DG (Int.), Shri R.B. Sreekumar, whose views were supported by the new C.P., Ahmedabad, Shri K.R. Kaushik, stated before the Commission that an undercurrent of tension and fear was prevailing beneath the apparent normalcy in the State". He further added that there was no interaction between the two communities even though moderates were trying their level best, as there were hawks in both the groups. He added that additional forces would be required to ensure that there were no communal clashes and the state Govt. have on the Commission's queries subsequently been avoiding giving a clear picture on the number and identity of persons complained against, similar details of persons included in the FIRs, similar details of persons who have been arrested, similar details of persons enlarged on bail as against whom appeals have been filed for cancellation of their bail bonds. The Full Commission was of the view that the law & order situation in the state was far from normal and there could be backlashes from the minority community due to the slow progress in relief and rehabilitation work and due to non arrest and non punishment of the guilty. The Commission further observed that similar feelings were shared by the persons from the majority community and that people had lost confidence in the local police, civil administration and political executive. Finally, Commission was of the view that in such on environment, election campaign evoking passions would only shatter the fragile peace unless adequate confidence building measures were taken up with urgency. The Commission also suggested the ways and means to introduce confidence building measures.

Shri G. Subba Rao, the then Chief Secretary has stated that the Chief Election Commissioner Shri J.M. Lyngdoh along with other two members of the Election Commission had held a meeting on 09-08-2002 to assess the Law & Order situation with a view to decide the holding of elections in the State. Shri Subba Rao has further stated that in such meetings with the CEC the Chief Secretary normally makes introductory observations and presents an overall view. According to Shri Subba Rao, the presentation on law & order was prepared by the Home Department and the presentation on relief and rehabilitation was prepared by the Revenue Department. Shri Subba Rao has further stated that his views were based on the factual data provided by these two departments that it would be possible to hold free and fair elections. Shri Subba Rao also stated that he recalls having referred to the following points as indicative of normalcy:

(i) The Law & Order situation had more or less stabilized. The statistics showed that the State remained relatively incident free.

(ii) The number of inmates in the relief camps declined from 1,33,000 to about 10,000. Even these were in the process of returning to their original residences.

(iii) Through a process of confidence building measures and dialogue between community leaders and village elders, many of the camp inmates could be sent to their respective places of original residences.

(iv) All Board Examinations (including UPSC examination) were held without any hitch with normal level of attendance.

(v) Panchayat Elections to nearly 1700 villages were held without any major incident.

(vi) All Haj yatris from the State (numbering 6,000) went back safely to their villages and were received with traditional fervour.

(vii) All religious festivals including Rath-Yatra in Ahmedabad City passed off peacefully. A mention might be made particularly of Maha-Shivratri, Moharrum, Poonam mela at Ambaji/Dakor and Urs at Bhaliyad Pir Dargah.

According to Shri Subba Rao, based on the aforesaid indicators, it was submitted to the Election Commission that the State Administration was ready to discharge any task, which might

be entrusted. Shri Subba Rao has further stated that during the meeting Shri R.B. Sreekumar gave his own version and assessment of the situation, which was different. As per Shri Subba Rao, being a member of disciplined force Shri Sreekumar could provide inputs and advice to DGP and ACS (Home), but could not have forced his views. Shri Subba Rao has also stated that he went by the assessment and judgment of ACS (Home), ACS (Revenue) and DGP. Finally, Shri Subba Rao has stated that in judicial/quasi judicial proceedings the matters are decided either way based on evidence and law and that a particular decision was taken in a particular manner can not lead to any adverse inference. Finally, Shri Subba Rao has stated that the election process started within three months time and the elections were held peacefully in the December, 2002.

Shri Ashok Narayan, the then ACS (Home) has admitted to have attended the meeting called by CEC on 09-08-2002, in order to assess the law & order situation in Gujarat to decide to pre-pone the elections in Gujarat. According to Shri Ashok Narayan, as instructed by Shri G. Subba Rao, CS Shri K. Nityanandam started his presentation, but he was cut short by Shri Lyngdoh with the remarks that they were not interested in elaborate presentation. Shri Ashok Narayan has stated to have taken over and assured the Commission that in the event of elections being held in near future, the Govt. would be in a position to hold the same in a fair and free manner and the voter, who wanted to exercise his franchise would be given due protection. Shri Ashok Narayan has further stated that the DGP also gave his view point, but Shri R.B. Sreekumar intervened and told the Commission that he had a different view point on the subject. According to Shri Ashok Narayan, Shri Sreekumar was of the view that tension still prevailed in a large number of talukas, which had witnessed riots covering 154 Assembly constituencies. According to Shri Ashok Narayan, the Home Department had correctly presented the facts on the basis of the reports received form DGP and that Home Department was not concerned whether the elections should be

held or not at that time. Shri Ashok Narayan has stated to have assured the Election Commission that given the necessary additional force from the Central Govt., law & order situation would be maintained and safety of the voters ensured, if the elections were held in near future. As per Shri Ashok Narayan, Shri R.B. Sreekumar had maintained that 154 Assembly constituencies out of 182 were affected by the communal riots and as per his recollection, this figure was arrived at by applying yardsticks, which were determined by the Govt. in Revenue Department in relation to distribution of food grains and other items of relief. Shri Ashok Narayan was of the view that these yardsticks were understandably liberal and that the actual number of constituencies affected by the communal riots in the context of law & order situation relevant to holding of elections were less. Shri Ashok Narayan has also stated that after the Election Commission meeting, he had told Shri Sreekumar that in case he had a different perception about the law & order situation in the State from the DGP and the Govt., he should have informed the latter before the meeting and that he wanted to make his presentation separately. Shri Ashok Narayan has also stated that the act of Shri Sreekumar in contradicting the DGP, ACS (Home) and Chief Secretary in an open meeting was not proper and did not sound of his being a disciplined officer. Shri Ashok Narayan is not aware of the talks held between Shri G. Subba Rao and Shri R.B. Sreekumar in this regard after the meeting.

Shri K. Chakravarthi, the then DGP has stated to have attended the meeting held by the Full Election Commission with a view to assess law & order situation in the State and also as to whether atmosphere was conducive to hold elections early. Shri Chakravarthi has stated that before the meeting Shri R.B. Sreekumar did not meet him and apprise him about his presentation before the Commission. According to Shri Chakravarthi, Shri K. Nityanandam wanted to start his presentation at the behest of Chief Secretary, but the Chief Election Commissioner interrupted him by saying that they were not

interested in such presentation, but would like to hear the views of the individual officers. Shri Chakravarthi has further stated that Shri Subba Rao mentioned that normalcy had been restored in the State and tension was not prevailing anywhere, to which Shri Lyngdoh disagreed and said that the ground situation in Ahmedabad City was different. Shri Chakravarthi had also given his brief presentation about the communal violence which had occurred in the State including non-traditional pockets, which were also affected by the riots. Shri Chakravarthi emphasized the need for adequate paramilitary forces to be deployed at the time of elections. However, Shri Sreekumar did not wait for his turn and intervened saying that he disagreed with views of the Chief Secretary and projected that the situation in large number of constituencies was not normal and that the tension was still prevailing. Shri K.R. Kaushik mentioned about the communal divide between the two communities in Ahmedabad City and pleaded that more forces would be required to ensure that there were no communal clashes during the elections. As per Shri Chakravarthi, the Commission observed that there was no room for complacency and proper arrangements will have to be made for peaceful elections. The Commission finally desired that DGP along with ACS (Home) should come to Delhi and make a proper presentation of the arrangements to be made for peaceful conduct of elections in Gujarat. Accordingly, Shri Chakravarthi prepared a presentation and went to Delhi along with ACS (Home) and Shri Rahul Sharma, the then Commandant SRP for technical help. Shri Chakravarthi also stated that his subsequent presentation before CEC was fully approved by the Commission, which had agreed to provide Central Paramilitary Forces as per his demand for the peaceful conduct of elections in the State. The Election Commission passed an order on 16-08-2002, elections were held in the State of Gujarat in December, 2002 and the event passed off peacefully.

The order dated 16-08-2002 passed by the Election Commission of India shows that the term of the Legislative

Assembly of the State of Gujarat was normally due to expire on 18-03-2003, but the Assembly had been prematurely dissolved on 19-07-2002 and a demand was being made by BJP, a few other smaller parties and NGOs to constitute the new Assembly urgently, so that the Assembly could meet for its first session before 06-10-2002 as the last session of the dissolved Assembly of Gujarat prorogued on 06-04-2002, was on time i.e. well before a period of six months was completed. On the other hand the Commission received a large number of presentations of Congress and other political parties not to hold the general elections to the Gujarat Assembly until the normalcy was completely restored and the people affected by the riots and violence in the aftermath of the Godhra incident on 27-02-2002, returned to their houses with a sense of security and safety and that there was no compulsion for the Election Commission to hold the elections before 06-10-2002. The Election Commission held that Shri R.B. Sreekumar had stated before the Commission that 154 out of 182 Assembly Constituencies in the State were affected in the riots, which evidently falsified the claim of the State Govt. that the riots were confined to pockets in 12 Districts and that 13 Districts remained unaffected. The Commission further observed that it was not in a position to agree with the views of the State Govt. that the inmates of the camps had mostly returned to their habitations as it contradicted the ground situation observed by the Commission while visiting some of the affected areas. The Commission further observed that there were defects in the electoral rolls and that some of the displaced voters had lost their electoral identity cards along with other belongings. As regards the Law & Order situation in the State, the Commission was of the considered view that the State was still far from normal and the people had lost confidence in the local Police, Civil Administration and Political Executive. It was also observed by the Commission that the claims of the State Govt. about the normalcy having been restored in the State on the ground that the elections to 1677 Panchayats were held in April, 2002 was not borne by evidence.

The Commission had also observed that there was a bias in the implementation of relief and rehabilitation measures. The Commission finally concluded that after the completion of updating of electoral rolls and creation of conditions, conducive for free and fair elections in the State, the Commission will consider framing a suitable schedule for general elections to the State Assembly in November-December, 2002. It may thus be seen that though the statistics and the picture projected by the various officials of the State Govt. was not accepted by the Election Commission, yet it agreed to hold the general elections to the State Assembly in November-December, 2002. Finally, the elections were held in the State of Gujarat on 15-12-2002, and the event passed off peacefully. Shri Subba Rao has given the various grounds to establish that normalcy had been achieved in the State, which can not be proved to be false/ incorrect. The very fact that the Commission agreed to hold the elections in 3-4 months' time and that the elections were finally held peacefully on 15-12-2002, goes to vindicate the stand taken by the Govt. The allegation that the State Home Department gave misleading reports about normalcy in the State to Central Election Commission to ensure early Assembly elections is, therefore, not conclusively established. No responsibility can be fixed in the matter, as this exercise was a joint effort.

➢ ALLEGATION NO. XIX :

The State Home Secretary Shri G.C. Murmu was presumably detailed for tutoring, cajoling and even intimidating officials deposing before the Nanavati Commission so that they do not tell the truth and harm the interests of CM and ruling party, as narrated in third Affidavit of Shri R.B. Sreekumar.

Enquiries revealed that Shri R.B. Sreekumar, the then Addl. DG had received summons on 15-07-2004, from Nanavati-Shah Commission of Inquiry to appear before it for his cross examination on 30/31-08-2004. On receipt of summons, Shri

Sreekumar requested Shri A.K. Bhargava, the then DGP vide his letter dated 15-07-2002 to give him specific guidelines in the matter relating to the questions put to him during the cross examination by the Commission on his first affidavit. Shri Sreekumar had further mentioned in his letter to the DGP that during cross examination, he would be constrained to reveal the contents of his affidavit, which had direct relevance on the internal security of the nation and hence, may be given specific guidelines in the matter in tune with the Govt. policy. In response to this request, Shri A.K. Bhargava sent a letter to Shri Sreekumar advising him to personally contact Shri Arvind Pandya, Advocate on behalf of Govt. of Gujarat in the Nanavati-Shah Commission of Inquiry and get this matter clarified about his affidavit, which he had marked as secret to be treated as confidential and, therefore, a privileged document. DGP desired that he may be informed of the action taken in this matter early. Thereafter, Shri R.B. Sreekumar wrote a letter to Shri Arvind Pandya, Govt. Advocate on 26-07-2004, requesting for specific guidelines about revealing the contents of his affidavit, which were marked secret/confidential, but no reply was received from him. Shri Sreekumar had reported the matter to DGP, who advised him to contact Shri Pandya again, but no guidelines were given by Shri Pandya and he told Shri Sreekumar that he would inform him about the meeting later.

In the mean while, the contents of the first affidavit were reported in the Times of India dated 18-08-2004 to the effect that an analytical note sent by Shri R.B. Sreekumar to ACS (Home) on 24-04-2002, had been annexed to the affidavit dated 15-07-2002 of Shri Sreekumar quoting senior police officers that the Inspector in charge of the police station ignored the specific instructions from the higher officers on account of their getting direct verbal instructions from the senior political leaders of the ruling party. The news item further mentioned about the letter dated 26-04-2002 of Shri P.C. Pande to Shri Chakravarthi to the effect that the Bajrang Dal leaders were likely to distribute lethal weapons on Hanuman

Jayanti to their workers had also been annexed. According to Shri Sreekumar, he was persuaded by Shri Deepak Swaroop, the then Addl. DG, Shri J. Mahapatra, the then Addl. DG and Shri A.K. Bhargava, the then DGP not to go against Govt. interest during his cross examination before the Commission, as he was due for promotion to the rank of DGP and a vacancy was available. According to Shri Sreekumar, since many people were pestering him, he decided to record the conversation of anyone coming in future to discuss his deposition before the Commission. Shri Sreekumar has stated that on 21-08-2004, Shri Dinesh Kapadia, the then Under Secretary (Budget & Co-ordination) in the Home Department met him in the chamber and tried to influence him to depose before the Commission without harming the Govt. and Sangh Parivar interest. As per Shri Sreekumar, Shri Dinesh Kapadia is a close confidant of Shri Damleji, Senior RSS pracharak in charge of Gujarat. According to the version of Shri Sreekumar, he recorded the conversations held with Shri Kapadia with the help of micro cassette tape recorder and a copy of the CD has been produced during the enquiry. Shri Sreekumar has further stated that Shri Kapadia exhorted him that no purpose would be served by telling truth, as its recommendations would not be accepted as all Commissions are paper tigers. Shri Sreekumar has further stated that Shri Kapadia told him that the Commission was not the forum to tell the truth and advised him to follow Shri P.C. Pande, who had done the good thing. As per Shri Sreekumar, Shri Kapadia viewed that he was partly biased in his assessment of the situation and that he should avoid telling more facts and providing additional material to the Commission. Shri Kapadia had also told Shri Sreekumar that the Supreme Court and media were prejudiced against Shri Narendra Modi, CM and that there were more critics of the Govt. than him in the police department, but they had not been exposed as they were doubly scared. Shri Kapadia also said that he (Shri Sreekumar) was harming himself. Shri Sreekumar has stated that he told Shri Kapadia that he could not give up the cause of truth for the sake of his own benefit. Shri

Sreekumar has further stated that Shri Kapadia had advised him not to give any additional facts about the meeting chaired by CM on 27-02-2002, to the Commission. Shri Sreekumar has also stated that Shri Kapadia advised him not to be excessively vocal before the Commission and that he (Shri Kapadia) personally felt that only inherent weaknesses in him was that he had been excessively vocal and there was no necessity to be vocal. Shri Sreekumar also added that Shri Kapadia concluded by saying that there were some forums, where you are to be vocal and some, where you are supposed to be reticent and that he thought that he (Shri Sreekumar) would agree with his unsolicited advice.

Shri Dinesh Kapadia has stated that he had known Shri R.B. Sreekumar since 2002 and had been introduced to him by one Shri S.M. Pathak, the then Dy.S.P. (Int.), Gandhinagar. In his first meeting with Shri Sreekumar in latter's office situated in Police Bhavan they exchanged some Sanskrit verses of mutual interest and thereafter, kept on meeting in each other's chamber over a cup of tea. According to Shri Kapadia, during one of these meetings on 21-08-2004 in the afternoon in the chamber of Shri Sreekumar, they entered into a discussion about the affidavit filed by him (Shri Sreekumar) before Nanavati-Shah Commission of Inquiry. During discussions, Shri Sreekumar took out a copy of his affidavit from his cupboard and showed it to him and remarked that he was a born rebel. Shri Kapadia has stated to have glanced through the affidavit and made a personal observation that no useful purpose would be served by telling all these things to the Commission as all Commission are paper tigers. Shri Kapadia has also stated to have conveyed his view to Shri Sreekumar that the Commission was not the proper forum to bring out these things and that such an action could lead to a misunderstanding. Shri Kapadia has further admitted to have told Shri Sreekumar that Shri P.C. Pande had rightly deposed before the Commission and that he should emulate him. According to Shri Kapadia, he had expressed a personal view that he (Shri Sreekumar) was partly biased in his assessment of situation and that he should avoid

speaking too much before the Commission as the same would further put him in some uncalled for controversy. Shri Kapadia has claimed that he had not been sponsored by anyone to influence Shri Sreekumar and these were his personal views expressed as a well wisher to Shri Sreekumar, whom the former considered to be honest and good officer. Shri Kapadia has further stated that subsequently he came to know that Shri Sreekumar had clandestinely tape recorded his informal chat with him and had enclosed the transcript of the same along with his affidavit submitted to the Commission. Shri Kapadia has also stated that on the day of his retirement i.e. 28-02-2007, Shri Sreekumar called him to his chamber, offered him a cup of tea and tendered an unconditional apology for the whole episode, which put him in an embarrassing situation. Further, according to Shri Kapadia, Shri Sreekumar regretted the whole incident and stated that he had been advised by his lawyer to do so as the same could have strengthened his case pending before the CAT.

Shri R.B. Sreekumar has stated that after the meeting with Shri Dinesh Kapadia, Shri G.C. Murmu, Home Secretary informed him that a briefing session had been convened by him in a private guest house in Paldi area of Ahmedabad City to guide him for the cross examination before Nanavati-Shah Commission of Inquiry fixed for 31-08-2004 and that Shri Arvind Pandya, Govt. Advocate would also attend the session. Shri Sreekumar has further stated to have approached DGP for instructions and that the latter had advised him to attend the session as Shri Murmu had been deputed to brief and tutor the witnesses appearing before the Commission. Shri Sreekumar has stated to have attended the meeting in a private guest house at Paldi on 25-08-2004. According to Shri Sreekumar, the meeting was clandestine and illegal and had been arranged in a private guest house instead of conference hall available in the Home Department. Shri Sreekumar had carried an electronic recording device, as he was apprehensive that Shri Murmu and Shri Pandya would pressurise him to suppress the truth and to tell lies in support of the Govt.

interests. Shri Sreekumar discussed the matter with Shri Pandya and Shri Murmu joined later. Shri Sreekumar has stated that Shri Murmu had directed him not to be hasty or hurried in answering questions particularly about Shri Mukul Sinha, who would ask very compounding questions. Shri Murmu continued his tutoring venture and said that Shri Mukul Sinha would put a long question, which would have 3-4 questions to get an affirmative response from him. Shri Pandya also cautioned to be very careful about it, as in the three compounding questions Shri Sinha would put a question in the affirmative and in case, Shri Sreekumar answered in affirmative the answer would be taken as positive for all the questions. As per Shri Sreekumar, Shri Pandya and Shri Murmu said that if one issue could be cleared by telling no, there was no need to say anything further, as another question would arise out of it. Shri Sreekumar has further stated that Shri Pandya guided him that he should avoid unnecessary explanation because from that they would get relevant material for further questioning and Shri Murmu added that something not known would become known to them. According to Shri Sreekumar, he informed Shri Murmu and Shri Pandya that the information covering period upto 09-04-2002 was based on record to which Shri Pandya said that they had been briefing all the witnesses. According to Shri Sreekumar, Shri Murmu also endorsed the views of Shri Pandya that there was no need to explain one point because from giving explanation another question would come up. Shri Murmu again told Shri Sreekumar that something not known will become known to them. Shri Sreekumar has further stated that Shri Murmu and Shri Pandya had then put up a set of anticipated questions, which would come up during the cross examination as per their view and elicited his answers. Shri Sreekumar has also stated that Shri Murmu questioned him as to why IB did not know, the conspiracy behind the Godhra train fire incident, to which Shri Pandya said that he would be certainly questioned, whether IB had any intelligence about the 27th incident. Shri Sreekumar was further questioned by Shri Murmu, as to whether he would admit IB failure

about not getting any information on the back ground of 27th incident of Godhra and added that this was an IB failure. As per the version of Shri Sreekumar, Shri Murmu told him not to comment on action taken by the Govt. on his situation assessment reports and that he had to be very careful in giving answer. As regards the follow up action by the Govt. on his intelligence reports, Shri Sreekumar was questioned by Shri Murmu that they would ask different questions, as to whether any action had been taken by the Govt. or the police and whether he had any idea about which Shri Sreekumar replied that he had no idea. Thereupon, Shri Murmu is stated to have advised Shri Sreekumar to say that his job was to report and there was no question as to what happened afterwards and that they were not supposed to inform about the action taken. Shri Murmu also advised Shri Sreekumar to say that his duty was to alert and the Govt. was to take appropriate action on verification of facts and figures. Shri Pandya also advised that Shri Sreekumar should say that he had no measurement, as to how much of the information was correct or not. Shri Pandya further told Shri Sreekumar that he was to answer very cleverly about the question that after giving information, what action was taken by the Govt. on that. As per Shri Sreekumar, Shri Murmu told him that he would be asked....IB had failed....IB had further failed.....IB had reported.... The report had warned the Govt.... what happened to the IB report?.... they would try to get from his mouth that there was pressure. As per Shri Sreekumar, Shri Murmu told him that he should tell the Commission that no more better steps could be taken. Shri Arvind Pandya, Advocate asked Shri Sreekumar that did he have a source at Godhra to which Shri Sreekumar replied that he could not comment upon this as source matter is top secret and he could refuse to comment. Shri Pandya also questioned Shri Sreekumar about the conspiracy matter to which Shri Sreekumar replied that primarily, he did not know about that and he did not feel it so now. Shri Pandya again told Shri Sreekumar, that if he did not give any clue to them, they would not ask otherwise they would call Mr.

Raiger. Shri Murmu intervened and told Shri Sreekumar that they wanted him to do two things in the whole.... Intelligence failure, but Mr. Pandya interfered that the Intelligence failure was not there, but it is utilisation of intelligence and utilisation of Govt. machinery, to which Shri Murmu said all this would come afterwards. Shri Murmu also said that it was not his duty to go deep into the veracity, whether there was failure or not, he was meant for processing the information, disseminating the same and then bringing it to the notice. Both, Shri Murmu and Shri Pandya asked Shri Sreekumar, as to whether Govt. called him about each and every message sent by him, to which Shri Sreekumar said that he was called only on 24th report. Thereupon, Shri Murmu said that he was called occasionally. (Thereafter, the subject matter of conversation is not very clear and there is total confusion, but Shri R.B. Sreekumar has given his own views, interpretation and understanding, which does not appear to be correct, inasmuch as he has interpreted 24th report as assessment report dated 24-04-2002). Thereafter, Shri Pandya told him that he (Sreekumar) was a State witness and that he was not permitted to cross examine him, to which Shri Sreekumar replied that he was neither a defence witness nor a prosecution witness. Shri Pandya further clarified to Shri Sreekumar that he (Sreekumar) was his witness and he was not permitted to cross examine his own witness, but if he created circumstances, he would give application for his (Sreekumar) cross examination. Shri Pandya also said that if he (Sreekumar) declared him hostile and cross examined him and then notice would be issued by the Govt. to him regarding integrity and everything. Shri Sreekumar has further stated that Shri Pandya informed him that they had been briefing every witness about the need for not to be confused by the compound question and if required, referred to the records and not to allow the counsel cross examining him to put words in their mouth and that they should not be in a hurry to answer the question to which Shri Sreekumar responded that he would stick to his affidavit. According to Shri Sreekumar, Shri Murmu indicated that they intended to call Shri

Ashok Narayan for briefing also and Shri Murmu had said that the work of briefing Shri Narayan should be done with sincerity. Shri Sreekumar has also stated that Shri Murmu had told him that if he gave some clue from which they would infer and then he should say he had nothing to do with, as to how the records had come and what all was there in that. Shri Sreekumar has further stated that Shri Arvind Pandya had said in his interview to Shri Ashish Khetan of Tehleka that he had threatened the Police officer Shri R.B. Sreekumar and that leaked out and it came on TV all the day.

Shri G.C. Murmu has stated that he had joined as Secretary (Law & Order) in Home Department and used to look after a small cell for complying with the directions and the requirements relating to the court cases, which was a part of his training abroad to facilitate the preparation of his dissertation. He has further stated that during the course of hearing some of the Govt. officials, who had filed affidavit, were summoned for their deposition/cross examination. According to Shri Murmu, some of the Govt. officials summoned used to meet the Advocates concerned for briefing and he used to be present along with the Govt. records for their reference. He has admitted to have attended a conference with Shri R.B. Sreekumar and Shri Arvind Pandya, Govt. Advocate to the Nanavati-Shah Commission on 25-08-2004 in GNFC guest house, Paldi, Ahmedabad City along with the records. As per Shri Murmu, Shri R.B. Sreekumar was briefed by Shri Pandya about the modalities for his deposition. He has further stated that since Shri Pandya was not good at English and Shri R.B. Sreekumar was not very good at Gujarati communication problems arose and he intervened sometime to translate from Gujarati to English and vice versa. He has denied to have tutored Shri Sreekumar to follow a particular line. He has further denied his role in this conference otherwise Shri Sreekumar must have complained against him to the higher authorities about the alleged tutoring. Shri Murmu has further stated that Shri Sreekumar never disclosed these facts before the Commission, when he appeared before it on 31-08-2004. Shri Murmu has also pointed out that

even in the second affidavit on 06-10-2004, he did not disclose that he had been pressurised/tutored to depose before the Commission in a particular manner. Shri Murmu has further stated that he came to know that Shri R.B. Sreekumar had clandestinely recorded the conversation held during the conference without his knowledge as well as without the knowledge of the Advocate, when Shri Sreekumar made a reference to the said conversation in his third affidavit filed before the Commission on 09-04-2005 and enclosed a transcript thereof. Shri Murmu has clarified that he had not been asked by anyone to brief Shri Sreekumar or any other witness appearing before the Commission. He has further stated that it was a general practice for the Govt. Advocates to brief them at their request so that they could appropriately depose/answer the questions in the cross examination. As per Shri Murmu, the conference had been arranged with the Advocate as Shri Sreekumar indicated his interest to meet the Advocate before his cross examination by the Commission. Shri Murmu has alleged that the authenticity of the CD had not been established and there was every chance of Shri Sreekumar tampering with the same as it remained in his (Shri Sreekumar) possession for a very long time. He has disputed the genuineness of the CD and has stated that the alleged transcript made out of this CD had also not been authenticated and therefore, he was not in a position to comment upon the same.

Shri Arvind H.Pandya has stated that he had been appointed as one of the defending Spl. Counsel for Gujarat State in June, 2002 to defend the Govt. before Nanavati-Shah Commission of Inquiry and that he resigned in Oct. 2008. Shri Pandya has further stated that the Govt. had appointed him as a Co-ordinator to the Govt. of Gujarat for effective administration and his duties were to procure the documents as directed by the Commission from different departments of Gujarat Govt. and submit the same before the Commission. According to Shri Pandya, during the discharge of his duties, he came across several police and administrative officials summoned by the Commission for their evidence, who

wanted to consult him with a view to understand the proceedings before the Commission. He has admitted having held meetings with them. He has further stated that during proceedings Shri R.B. Sreekumar, who had been summoned by the Commission for cross examination, had expressed his desire to meet him and came to office situated in GSFC guest house, Rangwala building, Navarangpura, Ahmedabad City on 25-08-2004 without any prior appointment, as he was to discuss the various affidavits of the Govt. officers, with Shri Murmu, Home Secretary. He has stated that he went through the affidavit filed by Shri Sreekumar before the Commission and advised him to depose. According to Shri Pandya, Shri Sreekumar wanted to be guided about the likely cross examination before the Commission and as such he briefed him (Sreekumar) about the strategy adopted by Shri Mukul Sinha, an Advocate for Jan Sangharsh Manch appearing before the Commission for cross examination. He has denied to have threatened Shri R.B. Sreekumar, but told him to depose strictly according to his affidavit or otherwise he would report the matter to the State and that might result in a departmental action against him. He has further stated that Shri R.B. Sreekumar recorded the conversation clandestinely without their knowledge and released the same to press and electronic media. As per the version of Shri Pandya, no meeting took place with Shri Sreekumar on 24-08-2004, as claimed by him. Shri Pandya has further stated that at the time of his deposition before the Commission on 31-08-2004, Shri Sreekumar failed to inform the Commission about any threat or tutoring given by him. Shri Pandya has also stated that Shri Sreekumar had supported his affidavit before the Commission and as such he did not put even a single question to him, as his purpose had been served. Shri Pandya has pointed out that Shri Sreekumar did not report the matter to the Commission in his second affidavit filed on 06-10-2004. According to Shri Pandya, Shri Sreekumar maliciously levelled these allegations against him in his third affidavit filed before the Commission on 09-04-2005, after he had been superseded in promotion, which was an

afterthought. Shri Pandya has also stated that the Commission did not give any weightage to the affidavits filed by Shri Sreekumar subsequently and Shri Sreekumar had not been called by the Commission for further deposition. On being shown the transcript of the tape recorded conversation, Shri Pandya has stated that the alleged tape remained in the possession and custody of Shri Sreekumar only and not produced before any of the authorities and therefore, the same had been tampered with and conversations manipulated to suit his design. Shri Pandya has shown his inability to comment upon the said tape recorded conversation. He has also not commented upon his conversation with Shri Ashish Khetan of Tehleka on 08-06-2007, as he has lodged a criminal complaint against Aaj-Tak channel, which was registered as CR No. 368/07 dated 26-10-2007 and Shri Dhimant Purohit (accused) of Aaj-Tak channel had filed a quashing petition in Gujarat High Court, which is still pending.

Shri K.C. Kapoor, formerly ACS (Home) has stated that the affidavits filed by Shri R.B. Sreekumar on 06-10-2004, 09-04-2005 & 27-10-2005 did not have the Govt. approval and the same had been filed by Shri Sreekumar of his own. He has further stated the transcript of the tape recorded conversation of Shri R.B. Sreekumar with Shri Dinesh Kapadia was placed before him. He has stated to have called Shri Dinesh Kapadia and asked him about the same to which latter responded that he had family relations with Shri R.B. Sreekumar and used to visit each other. According to Shri Kapoor, Shri Dinesh Kapadia explained that he never meant to pressurise Shri Sreekumar in any manner nor was he holding any brief from the Govt. in this regard. Shri Kapoor has further stated that Shri Kapadia had informed him that he had said certain good things during the conversation, but to his surprise the same had been erased/tampered with. Shri Kapoor has also stated that Shri Kapadia was of the considered view that the tape had been considerably tampered with by Shri Sreekumar as the tape remained in his custody and that he never meant to pressurise or persuade Shri Sreekumar to make any tailored

statement before the Commission. Shri Kapoor has further stated that Shri Sreekumar has alleged in one of his affidavits that Shri G.C. Murmu along with Shri Arvind Pandya to the Nanavati-Shah Commission of Inquiry had held a briefing session before his deposition to tutor him about the items to be presented in his cross examination. According to Shri Kapoor, Shri R.B. Sreekumar had not taken any permission to tape record the said conversation and had kept the tape with him unauthorisedly. Shri Kapoor has stated that after the matter appeared in the local news paper, he came across a transcript made out of unauthenticated tape, allegedly made by Shri Shreekumar of the conversation and spoke to Shri G.C. Murmu about the same. As per Shri Kapoor, he learnt that it was a normal briefing session, which is held by all the advocates before the appearance of any of the senior Govt. official in the Court/Commission. Shri Kapoor has also stated that as per Shri Sreekumar himself, he was specifically asked to be careful about the questions put to him by Shri Mukul Sinha. Further, according to Shri Kapoor, Shri Sreekumar had not been threatened in any manner, but was asked to stick to his affidavit, so that he might not be declared as a hostile witness, which might lead to some action against him as per the conduct rules. Shri Kapoor has also stated that Shri Murmu informed him that it was a normal briefing session and that no attempts as alleged by Shri Sreekumar in his affidavit were made by Shri Murmu and Shri Pandya to pressurise or guide Shri Sreekumar to depose in a particular manner. Further, Shri Kapoor has stated that as per Shri Sreekumar himself, he ignored the briefing made by Shri Murmu and Shri Pandya goes to show that he had not been pressurised in any manner. Shri Kapoor has denied that the Home Department officials had been tutoring all the Govt. functionaries, summoned for cross examination by the Commission and the truth was suppressed and false depositions made by many Govt. servants as alleged by Shri Sreekumar in his affidavit. Shri Kapoor has finally stated that the conclusions drawn by Shri Sreekumar are personal and that he is not in a position to [illegible] upon the same.

Coming to the evidence available in this allegation, it may be mentioned that within a week of Shri R.B. Sreekumar taking over as Addl. DG (Int.) on 09-04-2002, he started creating evidence against the senior officers, as well as the Ministers/CM in the Govt., inasmuch as he opened up a register on 18-04-2002, which was antedated by him to 16-04-2002. He started making entries in the same, as per his own views and perception. However, in his first affidavit, he projected that everything was normal. After, he was transferred from the post of Addl. DG (Int.) on 18-09-2002 and posted as Addl. DG (Police Reforms), he became apprehensive that he might be superseded in promotion. On 15-07-2004, when he received summons from the Nanavati-Shah Commission of Inquiry for his cross examination, he immediately wrote a letter to DGP for specific guidelines about revealing the contents of his affidavit. Shri A.K. Bhargava wrote to Shri Sreekumar on 20-07-2004, asking him to personally contact Shri Arvind Pandya, Advocate of Gujarat Govt. of Nanavati-Shah Commission of Inquiry and get the matter clarified about his affidavit. Accordingly, Shri Sreekumar sent a letter dated 26-07-2004 to Shri Arvind Pandya to provide him specific guidelines about revealing the contents of his affidavit, which are marked secret/confidential as the same was prepared out of secret documents and papers of State IB. It may thus be seen that a request came from Shri R.B. Sreekumar and pursuant to that Shri A.K. Bhargava had asked him to contact Shri Arvind Pandya, Govt. Advocate to get necessary clarification.

In between, Shri Dinesh Kapadia, an Under Secretary in the Home Department, who was very friendly with Shri R.B. Sreekumar, met him on 21-08-2004, in his chamber and during discussions, the subject of the affidavit filed by Shri Sreekumar before Nanavati-Shah Commission came up. At this time, Shri Sreekumar took out a copy of affidavit from his cupboard and showed it to Shri Kapadia and claimed that he was a born rebel. At that time, Shri Kapadia made a personal observation that no useful purpose will be served by telling all these things to the

Commission, as all Commissions are 'paper tigers'. Shri Kapadia also observed that the Commission was not the proper forum to tell everything and that such an action could lead to a misunderstanding. Shri Kapadia has stated to have expressed a personal view that Shri Sreekumar was partly biased in his assessment of situation and should avoid speaking too much before the Commission. Shri Kapadia has stated that these were his personal views and he had neither been sponsored by anyone nor was he holding any brief for the Govt. Shri Sreekumar clandestinely recorded the conversation, a transcript of which was enclosed along with his third affidavit filed before Nanavati-Shah Commission of Inquiry on 09-04-2005. Later, Shri Sreekumar realised his mistake and called Shri Kapadia to his chamber on the day of his superannuation on 28-02-2007, tendered an unconditional apology for the whole episode which had put Shri Kapadia in an embarrassing situation. At that time, Shri Sreekumar regretted and explained that he had been advised by his lawyer to do so, as the same could have strengthened his case pending before the CAT. This would go to show the motive on the part of Shri R.B. Sreekumar to record the conversation in a clandestine manner.

Shri Sreekumar has stated that he was contacted by Shri G.C. Murmu, the then Secretary (Law & Order) and that the latter had informed him about the meeting fixed with Shri Arvind Pandya, Advocate in a private guest house at Paldi, Ahmedabad City. On the other hand, Shri Arvind Pandya, Advocate had claimed that Shri R.B. Sreekumar, who had been summoned by the Commission for the cross examination expressed his desire to meet him and came to the office situated in GSFC guest house, Rangwala building, Navarangpura, Ahmedabad City on 25-08-2005, without any prior appointment/information, as he was to discuss the various affidavits of the Govt. officers with Shri G.C. Murmu, Home Secretary. The conversation of the said meeting was again recorded by Shri Sreekumar in a clandestine manner. It may be mentioned here that initially both, Shri Murmu and Shri

Pandya briefed Shri Sreekumar about the modalities for his examination and advised him about the do's and don'ts. Rest of the recorded conversation is totally absurd, confusing and does not make any sense. However, Shri R.B. Sreekumar has taken his own views, drawn his own conclusions, filled in the gaps on assumptions and presumptions and has interpreted the things to support his version that he was pressurised, threatened, given illegal directions, intimidated to avoid the revealing the truth to harm the Govt. interests and to conceal the facts from the Commission. Shri Sreekumar in his statement has given his own comments, observations, conclusions and has also appreciated his statement in his own manner, which shows that he is not a genuine witness and he wants to influence the Inquiry officer to believe him. Surprisingly, Shri Sreekumar did not reveal these facts before the Nanavati-Shah Commission of Inquiry, when he appeared on 31-07-2004, for his cross examination. Obviously, Shri R.B. Sreekumar had kept it secret to be utilised as and when the need arose. He did not reveal these facts even in his second affidavit filed on 06-10-2004. Shri R.B. Sreekumar was superseded in his promotion to the rank of DG on 23-02-2005, when his junior Shri K.R. Kaushik, an IPS officer of 1972 batch was promoted. It was only on 09-04-2005, that Shri R.B. Sreekumar filed his third affidavit before Nanavati-Shah Commission of Inquiry suo-moto, when he enclosed the transcript of the recordings of the conversations with Shri Dinesh Kapadia as well as Shri G.C. Murmu and Shri Arvind Pandya. All these facts would go to show that Shri R.B. Sreekumar had anticipated these events and with a view to strengthen his stand, he had recorded these conversations clandestinely and used the same when he was superseded in promotion. This would prove that actions on the part of Shri Sreekumar were motivated with a view to let down the Govt. after his super session in promotion. In all the three affidavits filed on 06-10-2004, 09-04-2005 & 27-10-2005 before the Commission, Shri R.B. Sreekumar had made a request to be summoned before the Commission and remedial measures

ordered as early as possible. However, the Commission did not accede to his request.

In view of the aforesaid facts and discussion, it is clearly established that the version of Shri R.B. Sreekumar was motivated and can not be relied upon. The allegation is, therefore, not established.

➢ ALLEGATION NO. XX:

Shri G.C. Murmu's exercise was for ensuring that officials will not file affidavits relating to the second terms of reference to the Nanavati Commission about the role of CM and other Ministers in the riots as narrated in Para 52 of the complaint dated 08.06.2006 wherein gross dereliction of duty has been alleged in not filing Affidavits relating to second terms of reference to the Commission on the part of 16 specifically named officials including top ranking IAS/IPS officers.

Pursuant to the incident of setting on fire of the Sabarmati Express train near Godhra Railway Station on 27-02-2002, 58 persons were burnt alive and more than 40 persons injured and in the subsequent violence in various parts of the State of Gujarat many persons, lost their lives and several others were injured. With a view that an inquiry should be held into this matter of definite public importance, the Govt. of Gujarat in exercise of the powers conferred u/s 3 of Commission of Inquiry Act, 1952, appointed a Commission of Inquiry consisting of Mr. Justice K.G. Shah, Retired Judge of the High Court of Gujarat vide Gazette Notification to inquire into and report in respect of the aforesaid matter and submit a report to the State Govt. within three months. The Govt. of Gujarat vide its Notification dated 21-05-2002 reconstituted the said Commission vide which Mr. Justice G.T. Nanavati, Retired Judge of the Supreme Court of India was appointed as Chairman of the said Commission and Mr. Justice K.G. Shah, Retired Judge High Court of Gujarat as Member. Again

on 20-07-2004, the Govt. of Gujarat vide its Notification amended the terms and condition of the Commission to include role and conduct of the then Chief Minister and/or any other Minister in his council of Ministers, Police Officers, other individuals and organisation in both the events and also role and conduct of the then Chief Minister and/or any other Ministers in his Council of Ministers Police Officers (i) in dealing with any political or non-political organisation which might be found to have been involved in any of the events referred to herein above, (ii) in the matter of providing protection relief and rehabilitation to the victims of communal riots (iii) in the matter of recommendations and directions given by National Human Rights Commission from time to time.

Enquiries further revealed that after the amendment of the terms and conditions of Nanavati-Shah Commission of Inquiry on 20-07-2004, Shri A.K. Bhargava, the then DGP sent two fax messages dated 16-09-2004 and 21-09-2004, vide which written instructions were issued to all the police officers, who had filed the first affidavit to file affidavits on second terms of reference positively. Further, he had also instructed the range heads who had not filed the first affidavit to file a joint affidavit. Shri A.K. Bhargava has stated before the SIT that as regards the allegation levelled by Shri R.B. Sreekumar for gross dereliction of duty on his part in not filing an affidavit relating to the amended terms of reference to the Commission, he has clarified that since he had not filed the first affidavit, there was no point in filing the second affidavit particularly when he did not have any personal knowledge about the event. It may thus be seen that second affidavit was required to be filed only by the officers, who had any personal knowledge about the event, which fell under the amended terms of the Commission. In view of this the contention of Shri R.B. Sreekumar that the senior officers had committed gross misconduct by not filing the second affidavit relating to the amended terms of reference does not hold good.

Shri K. Chakravarthi, the then DGP has stated that he retired on 31-01-2004, and was not informed by anyone to file second affidavit nor he was asked by the Commission to file second affidavit during the course of his deposition before the Commission on 16/17-08-2004.

Shri P.K. Mishra, the then Principal Secretary to CM has stated that he did not have any personal knowledge about the various incidents that took place after the Godhra train burning incident and as such he was not required to file any Affidavit before the Nanavati Commission nor he was called by the Commission for any deposition/cross-examination. According to Shri Mishra, the Affidavits were filed by the concerned police officers as well as the officers of Home Department, who were directly concerned with the issue.

Shri K.R. Kaushik, the then CP, Ahmedabad City has stated that he did not file any first/second affidavit before the Nanavati Commission of Inquiry, as he had no personal knowledge about the Godhra incident and as such the question of filing an affidavit did not arise. Shri Kaushik further stated that as regards the filing of an affidavit as CP, Ahmedabad City, the need for the same did not arise, as there was hardly any incident of riots after he took over as CP, Ahmedabad City. He has further stated that he had not been called by the Nanavati Commission of Inquiry for any deposition, as he had no role to play whatsoever in the investigation of Godhra incident or the riots that subsequently followed.

Shri G.C. Raiger has stated that the affidavit for his period was filed by Shri R.B. Sreekumar and as such he did not file even the first affidavit.

Shri Sanjiv Bhatt, the then DC (Int.) did not file either the first affidavit or the second affidavit.

Shri Kuldeep Sharma, the then IGP, Ahmedabad Rural Range has stated that since the Range IGP is a supervisory link

between the SP and the DGP and since the SsP in charge of the districts were to file the affidavits in addition to affidavits being filed by the police station in charge and the SDPO, it was not considered necessary to file an affidavit by the Range IGP. There was nothing sinister about it. He has further stated that if the Commission had considered it important, as in the case of other officers, he could have been called upon to file an affidavit as well.

Shri Deepak Swaroop, the then IGP, Vadodara Range did not file any affidavit before the Commission.

Shri M.K. Tandon, the then Jt. CP, Sector-II, Ahmedabad City had filed the first affidavit before the Commission and had also appeared before the Commission for his deposition/cross examination. However, he did not file second affidavit nor was asked by the Commission to do so.

Shri Amitabh Pathak, the then IGP, Gandhinagar Range has stated that in response to the Government instructions, affidavits were filed by the respective Superintendents of Police before the Commission as they were primarily responsible for maintenance of law and order in the respective districts. He has further stated that since the Range IGP is supervisory link between the SsP and the DGP, it was therefore considered not necessary to file an Affidavit by the Range IGP. However, in case the Commission had considered it necessary as in the case of other officers, he could have been asked to file an Affidavit, but no such communication had been received from the Inquiry Commission. In view of this he had not filed any affidavit, as he didn't have any personal knowledge about any of the events.

Shri Shivanand Jha, the then Addl. CP, Sector-I, Ahmedabad City has stated that he did not file any affidavit in response to the amended terms of the Commission as no such material was available with him.

Shri D.D. Tuteja, the then Commissioner of Police, Baroda City has stated that he had filed an affidavit before the Commission. However, he retired from service on 31-05-2003, and as such the instructions to file second affidavit did not reach him.

The SsP and District Magistrates of Mehsana, Banaskantha, Sabarkantha, Patan, Gandhinagar, Ahmedabad Rural, Anand, Kheda. Vadodara Rural, Godhra and Dahod did not file the second affidavits.

The overall picture which emerged is that the officials were required to file the affidavits with reference to the terms of the Commission only in case they had personal knowledge about any matter relating to the revised terms & conditions of the Commission.Shri R.B. Shreekumar has stated that DGP had directed all concerned to file affidavit for which the allegation that Shri Murmu was allegedly instructed to prevent filing of such affidavits is false. Therefore, the allegation is misplaced and not established.

➢ **ALLEGATION NO. XXI:**

No action was initiated against senior police officers by the Home Department for their grave dereliction of duty in supervision of investigation of serious offences as noted in fourth Affidavit (Para 94) of R.B. Sreekumar.

The allegation is vague and too general in nature and nothing specific against any individual police officer as well as the details of the faulty investigation in any case and the overt-act on the part of police officer concerned has been mentioned. In view of this it has not been possible to probe this allegation.

➢ **ALLEGATION NO. XXII:**

No departmental action was taken against Shri Jadeja, the then Superintendent of Police, Dahod District for his misconduct despite recommendation by CBI, who

investigated the Bilkis Bano case as per the direction of Hon'ble Supreme Court.

During enquires, Govt. of Gujarat has informed that CBI had not recommended any departmental action against Shri A.K. Jadeja, the then SP, Dahod District and as such the question of taking any departmental action against Shri Jadeja did not arise. The allegation is, therefore, not established.

➢ **ALLEGATION NO. XXIII:**

The CD regarding telephone calls by BJP leaders and police officers during riots was not probed into by the Investigating Officers of the Naroda Patia and Gulberg Society cases. The CD was produced by Rahul Sharma, SP, CBI before the Nanavati Commission.

Enquiries revealed that Shri Rahul Sharma was posted as DCP, Control Room, Ahmedabad City on 08.04.2002. On 07.05.2002, Shri Rahul Sharma had been instructed by the then Commissioner of Police, Ahmedabad City, Shri P.C. Pande to report to the Crime Branch, Ahmedabad City and assist the then Additional CP, Crime Branch, Shri A.K. Surolia in the investigation of serious riot-related offences. Shri Rahul Sharma was also informed by Shri P.C. Pande that there would be no formal written order in this regard. Accordingly, Shri Sharma reported to Shri Surolia on the same afternoon. As a matter of prudence, he decided to collect scientific evidence in support of the investigation that was undergoing. Shri Rahul Sharma has stated that he had information about the use of mobile phones in a big way in the alleged organising of communal riots throughout the State including Ahmedabad City. Accordingly, he drafted a letter calling for data from the two mobile phone service providers 'Cellforce' (now Vodafone) and 'AT&T' (now Idea). The letters were issued under the signature of the then ACP, Crime Branch, Shri S.S. Chudasama, who was also investigating the two serious cases of massacres at Naroda Patiya and Gulberg Society. According to Shri Rahul Sharma, the information asked for, was the telephone

directory of the two mobile phone companies, calling time, called/calling number, location of the mobile phone when they were calling/receiving the calls, etc. for the period from 25.02.2002 to 04.03.2002 in respect of all mobile phones operating from Ahmedabad city area. Shri Rahul Sharma has further stated that the idea behind the collection of this data was, amongst others, to establish the location of the alleged perpetrators of crime and their accomplices at the time of commission of the offence. Further, it was also required to prove the contact established between the different accused persons as also with 'erring' policemen, bureaucrats and politicians.

In response to the letter sent by Shri Chudasama, data was sent in the correct format by 'AT&T' within a week on a CDR. Shri Rahul Sharma has further stated that he had personally gone to collect the said information from AT&T from their office in Suman Towers in Gandhinagar. The data provided by AT&T was in the "TEXT" format and had all the relevant information that had been asked for. Shri Rahul Sharma copied out the data on his computer kept at his home and the CD was returned to Shri Chudasma. This copying was required to be done, if the data from the two mobile phone companies were to be analysed together. Shri Rahul Sharma has further stated that the data from the 'Celforce' was sent quite late and by that time probably Shri A.K. Surolia had been sent on deputation to BSF and Shri P.P. Pandey taken over as the Joint CP, Crime Branch. As per the recollection of Shri Rahul Sharma, the information from the AT&T had come, while Shri Surolia was in-charge of the Crime Branch, but the information from 'Celforce' had not come during Shri Surolia's tenure. According to Shri Rahul Sharma, the information from the 'Celforce' came during Shri Pandey's tenure as the Joint CP, Crime Branch, Ahmedabad City Police, but the data was sent as an MS Access database. Since, Shri Rahul Sharma had no knowledge of MS Access; he took the assistance of PSI Shri K.J. Chandana, who was in the computer section of Ahmedabad Police Commissionerate. Shri Rahul Sharma has further stated that Shri

Chandana used to open the files before him in the computer kept in his office. Initially, the data sent was not as had been requested for and the correct data could be obtained only after several attempts. On all these occasions, it was Shri Chandana who usually went to the office of the 'Celforce' to get the correct data.

As per the version of Shri Rahul Sharma, the final CDR containing the correct and required data was not received through Shri Chandana, but was forwarded to him by Shri P.P. Pandey through a DO Letter written in Gujarati. In the DO letter, he had mentioned that the CDs had been prepared under his (Rahul Sharma's) instructions and that he alone should analyse the data. Shri Rahul Sharma has further stated that 'Celforce' had also furnished data in respect of mobile phones operating from Godhra though the same had not been called for. According to Shri Rahul Sharma, after a few days of the receipt of this letter, he was transferred out and posted as the Commandant, SRPF, Group XI, Vav, District Surat. Shri Rahul Sharma does not remember, whether the CDs sent by 'Celforce' were two in number or one in number, but given the volume of data received from Celforce, he believes that there should have been two CDs. Shri Rahul Sharma has further stated that he had no knowledge of MS Access at that particular point of time, due to which he could not analyse or interpret the contents of the CDs. However, he has admitted to have copied the contents of the CD(s) sent by 'Celforce' onto the hard disk of his personal computer kept at home.

Shri Rahul Sharma has further stated that after he received his transfer orders in the first week of July, 2002, he instructed Shri Chandana, PSI to deliver the original CD(s) personally to Shri P.P. Pandey. As per Shri Rahul Sharma, Shri Chandana, PSI visited the Jt. CP's office a couple of times, but did not find Shri Pandey and, therefore, he came back with the CD(s). During this period the CD(s) remained in the possession of Shri Chandana. Shri Rahul Sharma has also stated that on probably the second last [illegible] of his [illegible]ure as the DCP, Control Room, he had called a

'Rider' from Control Room, took the CD(s) from Shri Chandana and directed the 'Rider' to hand over the CD(s) to Shri P.P. Pandey. Further, according to Shri Rahul Sharma, the 'Rider' handed over the CD(s) to Shri Pandey and reported this fact to him. Shri Rahul Sharma is not in a position to identify the 'Rider' after so many years. He has also stated that at that particular time, his PA was on leave on account of his son's marriage and, therefore, he could not send the CD(s) through a formal letter.

Shri Rahul Sharma has reiterated that he never analysed the information contained in the CDs while posted as DCP, Control Room and learnt basic MS Access only in 2004 after he joined the CBI on deputation. He has also stated that it was a practice in Gujarat Police to keep a copy of Case Diaries and other important documents of cases that had been investigated/ supervised by an officer. Consistent with this practice, he wanted to keep a copy of the CD(s) data that had been copied onto his home computer's hard disk. He also wanted to have the data on one CD for compactness. He had, therefore, consulted Shri Chandana in this regard and who in turn had advised him to 'zip' the files, so that they would be compressed. He did accordingly and data from the CDs sent by 'AT&T' and 'Celforce' was copied on a single CD, which he retained. He burnt the information on the CD Writer installed onto his computer himself.

Shri Rahul Sharma has also stated that he submitted copies of the same CD(s) containing the zipped data to the Nanavati-Shah Commission of Inquiry (two copies) on 30-10-2004, at the time of his deposition/cross examination and to the Banerjee Committee (one copy) on 22-11-2004 at the time of his examination. The original CD first prepared by him was handed over to the SIT constituted by the Hon'ble Supreme Court of India. Immediately after these CD(s) were handed over to Nanavati-Shah Commission of Inquiry and also to the Banerjee Committee, it was widely reported in the print as well as electronic media that Shri

Rahul Sharma has produced copy of the CD(s) before the Commission as well as Committee.

Shri Tarun Barot, the then Police Inspector, Crime Branch, Ahmedabad City and now ACP, Special Operation Group, Ahmedabad has stated that he was entrusted with the investigation of Naroda P.S. CR No. I 98/02 relating to the death of 11 Muslims killed in 2002 riots and that he had investigated this case from 19-05-2002 to 30-05-2002 and subsequently with effect from 30-11-2002 to 10-04-2008. Shri Barot has further stated that during the course of investigation, he had made an attempt to collect the call detail records of mobile phones of suspected/accused persons, but the Cell companies informed that the data was not available. However, he did not approach Shri Rahul Sharma to get the call details as he did not know that the latter was in the possession of the call details of all the numbers operating from Ahmedabad City during the riots period and no one had told him about it. According to Shri Barot, he did not know whether Shri Rahul Sharma, SP had handed over a copy of the CDs to Nanavati-Shah Commission of Inquiry or Banerjee Committee appointed by the Railways to enquire into the Godhra incident. Shri Barot has also stated that a news item had appeared in an English daily regarding the mobile phone details of Maya Kodnani and Jaydeep Patel and on the basis of the said news item, both of them were summoned and interrogated about their location on 28-02-2002 and thereafter. Both, Mayaben Kodnani and Jaydeep Patel informed that they were present at Sola Civil Hospital. Shri Mayaben Kodnani confirmed that her mobile phone remained in her possession, whereas Jaydeep Patel claimed that his mobile was left in his car, which was taken away by his driver. Shri Barot has also stated that efforts were made to get their call details from the mobile service providers, but the same were not provided and as such the call details could not be obtained, analysed and cross checked. The plea put forward by Shri Barot is not convincing inasmuch as the news about the production of the CDs containing call detail records of mobile phones at Ahmedabad

City by Shri Rahul Sharma before the Commission had appeared in almost all the newspapers and, therefore, it is difficult to believe that Shri Barot did not come to know about it.

Shri G.L. Singhal, SP, ATS, who remained the IO of Gulberg Society case and Naroda Patiya case, has stated that he did not investigate into the call detail records of the mobile phones as well as landline details of the accused persons or any other person connected with these cases. He has admitted that he came to know about the production of the CDs containing the call details of the various calls made/received from the mobile phones Ahmedabad City by Shri Rahul Sharma before the Nanavati-Shah Commission of Inquiry and Banerjee Committee, but did not approach him to get the copies of the CDs containing the CDRs of mobile phones. He has further admitted that he did not approach the cell phone service providers to get the call detail records of the cell phones operating from Ahmedabad City from 27-02-2002 onwards. He has stated to have interrogated Dr. Mayaben Kodnani, MLA and Jaydeep Patel, a VHP activist in Naroda Patiya case about their locations on 28-02-2002, but they had denied their presence on the spot at the time of incident. He has also stated that he could not confront them with their call details, as the same were not available with him.

This appears to be an intentional lapse on the part of Shri Tarun Barot, the then PI and now ACP, SOG, Ahmedabad and Shri G.L. Singhal, the then ACP, Crime Branch and now SP, ATS, Ahmedabad and the same deserves to be dealt with major penalty departmental proceedings against them. However, no criminal offence is made out against them.

➢ **ALLEGATION NO. XXIV:**

Conducive situation was not created for rehabilitation of riot victims, though a contrary claim was made by the State Administration in its report to NHRC.

During enquiries Shri G.A. Oza, Deputy Secretary & Director of Relief, Govt. of Gujarat, who looked after the rescue work in the State has stated before the SIT that in February, 2002, consequent to the Godhra carnage, the communal riots erupted in the State of Gujarat. He has further stated that after the riots, the Govt. of Gujarat took various effective measures of relief and rehabilitation on humanitarian approach without any failure and discrimination and that it was for the first time in the history of communal riots that the State Govt. had launched a relief and rehabilitation package with the support of Central Govt. According to Shri Oza, the State Govt. provided assistance and also gave support to the persons affected by riots under the following provisions of package:-

I. Ex-gratia payments:

(1) Payment in case of death:

The State Govt. had paid Ex-gratia amount of Rs. 1.5 lakh per case in which 1 lakh was paid from the Prime Minister's Relief Fund and Rs. 50,000/- from State Govt.'s fund (including Rs. 10,000/- from CM relief fund). A payment of Rs. 17.54 crores had been made in 1169 cases, which included 35 cases of unidentified dead bodies, and 228 claims of persons reported missing. 49 cases had been rejected for want of legal heirs and other legal reasons.

In order to provide immediate ex-gratia payment even in case of missing persons or where dead bodies were difficult to be identified, the State Govt constituted a District level committee headed by the District Collector. The composition of this committee was as under:

i. The District Collector : Chairman
ii. The District Development Officer : Member
iii. The Distt. Supdt. of Police/Commissioner of Police: Member
iv. The Civil Surgeon : Member
v. The Resident Deputy Collector : Member Secretary

The State Govt. liberalized the provisions and empowered the Committee to decide upon the cases even on the basis of

circumstantial evidence. The Govt. further liberalised the policy and waived the provision of indemnity bond and solvency certificate of claimants. Instead, on the basis of circumstantial evidence and indemnity bond of Rs.100/- on stamp paper, the committee had been empowered to decide such cases.

(2) Assistance to the injured :

The State Govt. had liberalised the earlier norms of assistance and simplified the procedure for assistance in case of injuries. On the basis of these revised norms payment had been made as follows:-

a. Upto 10% disability: Rs. 5,000/-
b. More than 10% and upto 30% disability: Rs.15,000/-
c. More than 30% and upto 40% disability Rs. 25,000/-
d. Disability of more than 40% were entitled to immediate disbursement of Rs. 10,000/- and an additional Rs. 40,000/- after permanent incapacitation was duly certified.
e. The State Govt. had paid an amount of Rs. 2.21 crores in 2548 cases.

II. Cash doles and assistance for House-hold kits :

- Cash doles:

The norms dating back to 1985 which were in existence for victims of communal riots had been liberalized by the Govt. and cash doles @ Rs. 15/- per day per persons, for 5 persons per family for 15 days had been paid to the affected persons. An amount of Rs. 0.63 crores had been paid as a cash doles to 7718 riot affected families.

- Household Kits:

Earlier, Household kits assistance and cash doles were paid as single amount up to Rs. 650/-. The State Govt. had separated this assistance and household assistance upto Rs. 2500/- had been paid to the riot affected families. An expenditure of Rs. 10.28

crores was incurred for the payment of household kits to 42,786 families.

- Supply of Food grain and other assistance to the inmates of relief camps:

✓ The State Govt. had provided free food grain assistance to all the inmates of relief camps run by the local NGOs, Voluntary Agencies and community leaders. Not only that but 1,71,465 sq.ft. of shade and shelters were provided to the camps. For the augmentation of existing facilities in the relief camps, the State Govt. has incurred an expenditure of Rs. 1 crore.

The assistance per capita per day was given as under:

a. Wheat flour - 400 gms
b. Rice - 100 gms
c. Edible Oil - 50 gms
d. Dal pulse - 50 gms
e. Milk powder - 50 gms

Expenditure on above food grain items provided free of cost to the inmates of 121 relief camps amounted to Rs. 9.65 crores (cost except wheat and rice). Besides ration, cash assistance was provided to the relief camp organizers to meet with the contingency expenditure for inmates @ Rs.7/- per day per head. An expenditure of Rs. 5.46 crores had been incurred for this purpose.

- Water Supply:

Adequate and chlorinated water supply was provided to the inmates. For this purpose; 24 tankers, 81 syntax tanks in Ahmedabad City and 12 tankers in other District were placed for providing water supply.

c. Sanitation:

Apart from existing toilet facilities, 270 new toilets were erected, 6 mobile vans each having 10 toilets were arranged round the clock. 201 new bathrooms were erected.

- Medical and Psychological treatment in the camps:

  a. 205 Medical officers and 273 Paramedical staff provided heath care services in the relief camps.

  b. 450696 cases treated, in other words each camp patient was examined on an average 3-4 times by doctors.

  c. As a result the prevalence of various illnesses, which could have been very high, had been kept in check.

- Preventive Action:

  2.25 million chlorine tablets used for chlorination of drinking water.

- Checking of food articles by PFA staff:

  Malathane spray for control of mosquitoes

- Special attention to mother and children:

  State MCH officer assigned overall responsibility

- Mothers- Antenatal care:

  a. 4333 expectant mothers registered under the ante natal care program, 127 of these who were identified as high risk, were examined by expert gynaecologists.

  b. 2001 expectant mothers provided TT protection

  c. 647 dai delivery kits had been distributed

  d. 126 safe deliveries out of which 36 were handled in camps

  e. 580445 iron,folic acid tablets distributed to anaemic mothers

- Children:

  a. 2.76 lacs iron folic acid tablets distributed to children

  b. 16847 children given polio vaccine

  c. 12407 children protected with measles vaccine

  d. 3851 children given DTP protection

  e. 2593 children covered for deworming

  f. 56640 ORS packets distributed

  g. 30 post graduate lady doctors and 33 ANMs providing health services in the relief camps.

- Tertiary care activities:

  a. Teams of 30 Gynecologists, Pediatricians, Mental health experts sent by rotation to different camps had provided expert gynecology services to 1330 women, pediatric services to 4488 children, medical services to 3408 patients, ophthalmology services to 671 patients and dermatological care to 798 patients.

  b. 804 patients referred to tertiary care facilities for in-patient care.

- Activities for control of blindness:

  a. 11624 patients examined

  b. 5050 pairs of spectacles distributed

  c. 213 IOL operations performed

- Medical relief activities by Central Health Team (DGHS), GOI:

  a. Obs. & Gynae - 324

  b. Paediatrics - 1926

  c. Medicine - 3408

  d. Psychiatry - 1

  e. Ophthalmology - 671

  f. Dermatology - 798

  g. Dental - 1

- Mental health:

  a. Therapeutic intervention in camps were given to 1267 persons

  b. Group counselling given to 1018 persons with specific mental health problems who required specific drug treatment or individual psycho therapeutic intervention.

  c. Two teams were attending the camps on Monday and Friday of the week in specific relief camps allotted to them.

  d. Training was given to 170 participants for Psycho-social work

e. An expenditure of Rs. 3 crores had been incurred for health and hygiene.

- Ration to the inmates leaving relief camps:

With a view to have ration after reaching home, the State Govt. had provided ration to the inmates while leaving relief camps. The inmates were provided with a ration of two months at the same scale provided in the relief camps. 1,60,753 inmates were provided ration while leaving the relief camps and the State Govt. had incurred an expenditure of Rs.3.56 crores for this purpose.

121 relief camps were organized by NGOs or various institutions, which were closed by 30-06-2002 except 10 camps of Ahmedabad District. 10 camps of Ahmedabad District were also closed on or before 31-12-2002. No relief camps were running after 31-12-2002.

- Foods grains to BPL families in riot affected areas:

In order to provide immediate help to the Below Poverty Line families in riot-affected areas, free food grain i.e. wheat and rice was distributed. Free food grain had been given to riot affected BPL families who were deprived of daily employment on account of communal disturbances. The Govt. had distributed 1,77,519 Tones of food grain. The Govt. of India provided 1,22,441 Tones of food grain amounting to Rs.62.60 crores. The total expenditure of Rs.100.45 crores had been incurred for food grain assistance to the riot affected persons.

- Committee to Monitor Relief Camps:

Consequent upon the statement made by the then Hon'ble Prime Minister in the House of the Parliament of 16th March 2002, all party committee was set up under the Chairmanship of the then H.E., the Governor of Gujarat. The committee monitored the functioning of the Relief Camps in the state and reviewed the action taken by different departments of the Government for relief

and rehabilitation of riot affected families. The committee was consisting of following 13 members including the Chief Minister:-

1) Shri Narendra Modi, CM
2) Shri Naresh Raval, Leader of the opposition party in Assembly
3) Shri Keshubhai Patel, Ex-CM
4) Shri Rajendrasinh Rana, President State BJP
5) Shri Amarsinh Chaudhary, President State Congress Party
6) Shri Suresh Chandra Mehta, Minister Industries
7) Shri Ashok Bhatt, Minister Health and Family Welfare
8) Shri Siddharth Patel,MLA
9) Shri Usmangani Devdivala, MLA
10) Shri Kalyan Shah, President Gujarat Chamber of Commerce
11) Shrimati Ila Bhatt, Chairperson, SEWA
12) Shri Ishwarbhai Patel, Gandhi Ashram, Ahmedabad
13) Shri Amthabhai Desai, Mazoor Mahajan Sangh

Beside the above members, the Chief Secretary and the Principal Secretary, Revenue, were permanent invitee members of the Committee. The committee met four times and reviewed the relief and rehabilitation measures taken by the Government.

- In charge Secretaries and other senior officials for relief camps:

The Collector and the Municipal Commissioner closely monitored relief camps in Ahmedabad. Other senior officials like, the Commissioner (Health), the Secretary (Social Justice & Empowerment Department) etc. were visiting the camps frequently. In other districts, camps were monitored by Collector and other District Officials apart from those secretaries in charge of the districts visited the camps. As a part of effective mechanism, the Govt. put Secretaries with special responsibilities for overseeing and supervision of relief camps and other rehabilitation measures in the districts which were as under:-

Sr.District	Name and designation of I/C Secretary
1) Anand	Shri P.K. Laheri, PS Rural Development Deptt.
2) Dahod	Shri Arun K. Sutaria, Settlement Commissioner
3) Kheda	Shri R.S Saxena, MD, Guj. Handloom Corporation
4) Mahesana	Shri N.R. Varsan,i Secretary, Cooperation Dept.
5) Panchmahals	Shri H.K. Dash Secretary, Food & Civil Supplies
6) Sabarkantha	Shri I.P. Gautam, Director Finance SSNL
7) Vadodara	Shri G.R. Virdi PS, Tribal Dev. Deptt.
8) Ahmedabad (city)	

i) Shri D. K. Rao, M.D. Gujarat Export Corporation,
ii) Shri Amarjit Singh, Health Commissioner,
iii) Shri M. Shahu, Addl. CEO, GSDMA,
iv) Shri Pankaj Kumar, Addl. CEO, GSDMA & COR (for earthquake)
v) Shri Varesh Sinha, Principal Secretary Education Deptt.
vi) Shri Arvind Aggarwal, Commissioner Agriculture

The State Govt. provided further support of administrative officers for the supervision of relief camps in Ahmedabad. For this purpose six more senior officers were attached to the above named Secretaries group wise appointed by the state Govt. earlier. The officers entrusted with the responsibilities were as under:-

1) Shri D. A. Satya, MD, GRHB
2) Shri M. N. Khalyani, Chief Personnel Officer, Health Services.
3) Shri Idrish Vhora, M.D., Minorities Finance Corporation.
4) Shri Anish Mankad, Commissioner, Youth Services
5) Shri A. N. Shaikh,General Manager, G.M.D.C.

State Government had appointed Shri S.M.F. Bukhari (Rtd. IAS) as Chief co-ordinator for the Relief Camps.

- Special Education Facilities to the students in the relief camps:

In Relief camps, Textbooks were distributed to all the students of S.S.C./ H.S.C. Moreover, Kits comprising of pen, pencil, notebook, textbook, reference books and arrangements for tuitions at free of cost were provided. The students in the relief camps were provided 827 sets of text books, 520 note books, 745 sets of compass box containing pencils, rubbers etc., 800 pen sets and 224 assignment books. Tuitions to 223 students of S.S.C. & 155 students of H.S.C. were imparted through 61 teachers for 14 days.

- Secondary and Higher Secondary Board Exams:

The Board exam of 10th and 12th in the State of Gujarat was scheduled to start from 11th March 2002. Due to post Godhra riots, it was postponed to 18th of March. In the first stage, 5,47,303 students of Std. 10th took the exams in 451 Centers and 2,81,856

students of Std.12 took the exams in 187 centers, thereby foiling the malicious intentions of the miscreants. Similarly, in the second stage, students from all the communities in Ahmedabad and Baroda as well as other disturbed towns of Himmatnagar, Modasa, Bharuch, Viramgam, Jambusar and Prantij stepped out from their homes for the examinations with full preparation. A total of 2,38,573 students, including 1,07,193 students of Std.10 and 92,394 students of Std.12th in Ahmedabad and Baroda and 38,000 students in six cities took the exams. Special arrangements were made for the students taking examination from relief camps.

- Housing Assistance:

The state Govt. had paid housing assistance to the riot affected families up to Rs.50, 000/-. Technical survey was carried out and accordingly, 18,037 families were given assistance of Rs.12.28 crores in urban areas. Similarly, in rural areas 11,204 families were provided with a housing assistance of Rs.17.82 crores. In all 29,241 families were given housing assistance of Rs.30.10 crores.

- Financial assistance for rebuilding earning assets:

Financial assistance for rebuilding earning assets was given to those who suffered loss of their livelihood assets. The earning assets assistance was provided up to Rs.10000/-. In urban areas, an expenditure of Rs.4.40 crores had been incurred to provide earning assets to 10,564 families whereas in rural areas 6631 families had been given assistance of a total amount of Rs.4.73 crores. Thus, 17195 families in rural as well as urban areas provided with earning assets assistance of Rs.9.13 crores.

- Rehabilitation of Small Business:

a) In order to cover those people in whose case restoration of earning assets required more than Rs.10, 000 and up to Rs.50, 000 the package of rebuilding of small businesses was implemented. Under this package, Social Justice &

Empowerment Department provided assistance to small business under the scheme whereby subsidy was given @ Rs.10,000 or 20% which ever was less.

b) Under this package 2141 affected persons were given assistance for small business in urban areas. An expenditure of Rs.1.34 crores had been incurred in urban areas. In rural areas, 707 beneficiaries have been given an assistance of Rs.0.46 crores. Hence, the state Govt. incurred an expenditure of Rs.1.80 crores to assist 2848 beneficiaries in urban as well as rural areas.

c) The nationalized banks and financial institutions provided loan of Rs.9.26 crores to 2844 beneficiaries for small industrial projects.

d) Moreover, the Gujarat Minorities Finance and Development Corporation under the scheme of direct finance at lower rate of interest provided finance of Rs. 3.96 crores to 1510 riot affected persons.

- Assistance to Industries/shops & Hotels:

The state Govt. also formulated a package to revise industrial units, large shops, big show rooms and hotels etc. where restoration was more than Rs.50,000/-. Under this package 20% of the subsidy was provided subject to a ceiling of Rs.50,000/- per unit. Under this package, 2083 units had been given assistance of Rs.5.09 crores in urban areas whereas 545 units had been provided assistance of Rs.1.16 crore in rural areas. 87 cases of subsidy are pending because of non-receipt of claims from the banks.

The nationalized banks and financial institutions provided loan of Rs.38.24 crores to 2448 beneficiaries for industries, shops and hotels.

- Interest subsidy on loans to affected units:

As loans were provided by the nationalized banks and financial institutions in order to help beneficiaries, the State Government provided a scheme of 4% interest subsidy for three years with a maximum limit of loan of Rs.1 lakh per year.

The State Government incurred an expenditure of Rs.60 lacs for providing 4% interest subsidy to 2219 units.

- Insurance paid to the affected:

The Insurance Companies had settled 5868 Non life insurance claims to the tune of Rs.118.76 crores of riot affected persons. Also, 85 life insurance cases had been settled by LIC.

- Rehabilitation of orphaned children and widows:

The State Government adopted a three-pronged strategy to support the affected women and children as under: -

- ICDS services to riot affected children, pregnant and lactating mothers:

The State Government provided following services:

- Supplementary nutrition:

a. Distributed : 1,17,428 kg. Ready to Eat food
b. Consumption : 1,09,890 kg. Ready to Eat food
c. No. of units of nutrition : 11,69,798

Other services provided were growth-monitoring, immunization in coordination with Health department. Pre-school education and nutrition and health education were also provided.

- Widow's Pension:

The State Government undertook a survey of orphans, widows, disabled persons and destitute persons living in the camps. Under this scheme 435 riot affected widow beneficiaries were covered under the State Governments pension scheme.

- Trauma Counseling:

The State Government gave trauma counseling to groups as well as individuals. Under this programme, 17285 persons had received counseling.

- SHANTA Project:

A project called 'Shanta' was implemented by an NGO viz., SEWA (Self employed women's' association) for skill up gradation, training and livelihood. 271 widows were covered under the programme and an expenditure of Rs.0.47 crores was incurred. Further, under the "Shanta Hamare Bachche" (Shanta- our children) another programme for rehabilitation of single parents and orphaned children, 606 children were covered and an expenditure of Rs.0.55 crore was incurred. Also, under the NORAD (Government of Norway assistance programme) programme of skill up gradation 267 women were given financial assistance of Rs.0.06 crores.

- NORAD (Swavlamban) and SWADHAR Schemes by State Government:

Under the Govt. of India scheme of women's livelihood and restoration, 5858 women beneficiaries were given an assistance of Rs.2.01 crores. Further, three Swadhar homes were established which provided shelter to 196 women and 148 children and an expenditure of Rs.0.45 crores was incurred in this regard. The Government of India under the then Prime Minister's directive formulated comprehensive relief and rehabilitation programme and gainst the receipt of Rs.155.61 crores from the Government of India, the Government of Gujarat had incurred an expenditure of Rs.205 crores. The task of implementing the relief package was carried out with full involvement of entire government machinery.

Shri Oza has further stated that one Shri Mufti Shabbir Ahemad Sidiqqi had filed a Special Civil Application no. 3773 of 200[illegible] Gujarat High Court and has handed over a copy of the

orders dated 19-04-2002 & 22-04-2002, passed by Mr. Justice P.B. Mazmudar. Shri Oza has further mentioned that Shri R.C. Kodekar, Addl. Govt. Pleader along with Shri Tirmizi, Advocate had inspected six relief camps in the Ahmedabad City area and submitted an inspection report to the High Court, which was taken on record. The Hon'ble High Court further observed that it was suffice to say that great pain had been taken by the administration in maintaining the relief camps. Again on 22-04-2002, after hearing the said petition the Hon'ble High Court observed that so far the medical facility is concerned proper care had been taken by the State Administration as numbers of doctors were regularly visiting the camps, appropriate medicines were also given and there was hardly chance for grievance so far as this aspect was concerned. The High Court also observed that about the grievance of the petitioner regarding the delay in making the payments of Rs. 5/- per day is concerned, learned AAG had fairly stated that the State would see that the aforesaid amount was paid at a regular interval and as per as possible every week on the first day of the week, such payment would be made. The Hon'ble High Court had also observed that the learned AAG had readily agreed to provide all the facilities mentioned in the order.

Shri Oza has further stated that Citizens for Justice & Peace also filed a PIL in the form of Special Civil Application No. 5311 of 2002. This petition was heard on 03-02-2003 and the Hon'ble High Court observed that the instant petition had become infructous inasmuch as it had already served its purpose and was dismissed accordingly. Shri Oza handed over the copies of the orders dated 03-05-2002 & 04-07-2002 in Spl. Civil Appl. No. 3773 of 2002 and copies of orders dated 24-06-2002 & 03-02-2003 in Spl. Civil Application No. 5311 of 2002. According to Shri Oza, Citizens for Justice & Peace and another had filed a Spl. Civil Application No. 3217 of 2003 in Gujarat High Court on the ground that sufficient financial assistance for housing had not been given by the Govt. to the riot affected victims.

Shri K. Chakravarthi, the then DGP, Gujarat State has stated that as regards the loss of faith of the minority community in criminal justice system, adequate steps were taken by him to instruct the concerned police officers to be fair to ensure proper registration of FIRs, to name all the concerned accused persons, arrest them and to proceed ahead with the investigation, as per law. Shri Chakravarthi has also stated that Senior Officers were also instructed from time to time to closely supervise these cases to avoid any allegations of this kind. As regards the migration of the affected persons from the riot hit areas, Shri Chakravarthi has stated that specific instructions had been given by him to all the police officers to provide suitable protection to those who chose to return to their original residence/business.

Shri Ashok Narayan, the then ACS (Home) has stated before the SIT that he had requested the DGP to take action at his level as far as possible regarding the rehabilitation of the riot affected victims. He has further stated that the subject matter in general was discussed with the Chief Minister a number of times and the latter agreed to do whatever was possible at his level.

Shri Narendra Modi, Chief Minister has stated before the SIT that relief camps were opened in the affected areas and the same were served by the NGOs and local social leaders. According to Shri Modi, the Govt. contributed funds and the relief operations were supervised by the Committee formed under the Chairmanship of His Excellency Governor of the State, Congress President, Leader of the opposition, Ex-Chief Minister, Smt. Ilaben Bhatt, SEWA (NGO) and others. Shri Modi has further stated that necessary food, drinking water, medicines and cash doles etc. were arranged in the camps in addition to the arrangements made for children education in these camps. According to Shri Modi, all the festivals including Moharrum were held in March-April, 2002 and around 6000 Haj pilgrims, who had arrived in the State were welcomed at their respective places and in view of this, faith of Muslim's was revived in the administration, police and judiciary.

In view of the aforesaid measures and steps taken by the Government, it can not be said that the Govt. did not take adequate steps for the rehabilitation of the riot victims. Further, no evidence has come on records during the enquiries that the riot victims were pressurised to compromise with the perpetrators of violence, a condition precedent for their safe return and rehabilitation.

➢ ALLEGATION NO. XXV:

Police inaction facilitated riots as part of conspiracy, as detailed in Paras 13, 14, 61 and 62 of the complaint dated 08.06.2006. In Para 13 of the complaint, some of the 'glaring examples of State sponsored events' are given. In para 61 of the complaint, it is alleged that over two dozen survivors of the Naroda Patiya massacre case have confirmed that they made over a hundred distress calls to Shri P.C. Pande, then Commissioner of Police but that his mobile was permanently switched off. There was a similar callous response from most of the DCPs and Addl.CPs (of Ahmedabad City) as also by the Commissioner of Police, Baroda, Shri Tuteja. In para 60 of the complaint, telephone calls made from Gulberg Society to Shri P. C. Pande and the DGP are alleged, but no police action despite presence of three mobile vans near the spot. It is also alleged in Para 61 of the complaint that police was aiding mobs, who were attacking Muslims and that on 28th February, of the 40 persons shot dead by police in Ahmedabad City, 36 were Muslims. In Para 62 of the complaint, it is alleged that police acted as mute spectators to acts of lawlessness, offences were not investigated properly, real culprits were not arrested and no timely preventive action was taken etc.

This allegation is basically against Shri P.C. Pande, Shri M.K. Tandon, Shri Shivanand Jha, Shri Pravin B. Gondia and Shri D.D. Tuteja.

During enquiries, it has come to light that on receipt of the news of the burning of a railway coach of Sabarmati Express near Godhra Railway Station, Shri P.C. Pande had ordered intensive police patrolling in all the traditionally sensitive areas and the auto rickshaws, shops and establishments belonging to the minority community around the Railway Station were got removed to minimize the chances of confrontation with the kar-sevaks and arrangements were made by the Revenue Dept. for buses for the safe transportation of kar-sevaks to their respective places. Later in the evening on 27-02-2002, information was received that VHP had given a call for Gujarat bandh on 28-02-2002. Looking into the past history of bandhs held in Gujarat Shri Pande anticipated that there could be violence, stone pelting, arson and stabbing and in view of this, appropriate steps were taken to mobilise and to deploy the available man power across the City particularly in traditionally sensitive areas. In addition, Shri Pande issued stand-to orders for the police force, requisitioned additional six companies from SRP, suspended all routine duties and hired 95 vehicles to improve the mobility of the force. Shri Pande examined the question of imposition of curfew pre-emptively, but the idea was dropped due to the shortage of police force to enforce the same and also to avoid unnecessary tension.

On 28-02-2002, sufficient bandobast was made in the whole city, where communal riots had taken place during the past. Some of the staff from other police station especially from Meghaninagar P.S. was also deputed to Dariyapur P.S., being a traditionally sensitive police station. On 27-02-2002, Shri P.C. Pande remained in the office till past midnight i.e. around 0100 hrs on 28-02-2002, along with Shri Shivanand Jha and Shri M.K. Tandon as per their call details records of mobile phones available, when the law & order situation and arrangements to be made on 28-02-2002, were discussed. On 28-02-2002, Shri Pande came to office around 0800 hrs. Shri Shivanand Jha was also in the office at about 0840 hrs so and Shri M.K. Tandon attended office at about 0835 hrs as per the call detail records of their mobile phones. Shri Pande

received information after sometime that dead bodies of victims of Godhra incident had been brought to Sola Civil Hospital and as such he visited Sola Civil Hospital at about 1000 hrs. Shri Pande did not find the situation alarming and as such he returned to his office around 1100 hrs. Shri Shivanand Jha remained in the office till about 1049 hrs and thereafter, went to the area under his jurisdiction. Shri M.K. Tandon also remained in the office till about 1030 hrs and then left for Dariyapur. On the way, he received a message from Shri M.T. Rana, ACP, G division requesting to send more vehicles to Naroda Patiya and sensing some trouble, he proceeded to Naroda Patiya. However, on his way, he found some smoke coming from a nearby shop in Kalapinagar area of Meghaninagar P.S. Shri Tandon went to the spot, but the miscreants ran away after they saw the police vehicles. Shri Tandon enquired about the location of PI, Meghaninagar P.S. and was informed that he had gone to Gulberg Society and as such he immediately reached Gulberg Society nearby at about 1135 hrs and found a small crowd pelting stones. Shri Tandon dispersed the crowd with the help of his striking force and also ordered for firing of teargas shells. The small crowd vanished into the streets. As the persons from minority community were living in the Gulberg Society, he asked PI Erda to pay more attention to it and also to remain there till reinforcements arrived. Shri Tandon also gave instructions to the Control Room to send some additional manpower to Gulberg Society and then left for Naroda Patiya.

Shri Pande has stated that he had instructed Shri M.K. Tandon on 28-02-2002, to go to Meghaninagar as some calls of crowd gathering and stone pelting had been received in the Control Room from Meghaninagar P.S. area. It may be mentioned here that there had been a big controversy inasmuch as the complainant had claimed that Shri P.C. Pande visited Gulberg Society around 1130 hrs or so, but this fact has been totally denied by Shri P.C. Pande. Shri M.K. Tandon has supported the version of Shri Pande that the latter did not visit the Gulberg Society in the forenoon of 28-02-2002 and that it was he only who

visited Gulberg Society. However, Shri Tandon has denied to have met Late Ahesan Jafri, Ex-MP. Shri P.C. Pande has denied to have known Late Ahesan Jafri, Ex-MP till 28-02-2002 evening and also claimed that he did not have the knowledge that the latter was residing in Gulberg Society. The versions of Shri P.C. Pande and Shri M.K. Tandon have also been supported by Shri K.G. Erda, Sr. PI, Meghaninagar present on the spot in his statement made before SIT, in which he has stated that Shri Tandon had reached Gulberg Society at about 1130 hrs. This fact is also corroborated by the call detail records of Shri P.C. Pande, whose location was at Shahibaug tower from 1112 hrs onwards and that of Shri M.K. Tandon, whose location was at Meghaninagar tower at 1134 hrs. In addition Shri Ambalal S. Nadia, R/o, Asarva, Ahmedabad City, who had been cited as a witness by the complainant in support of the fact about the visit of Shri P.C. Pande to Gulberg Society has stated that he met Late Ahesan Jafri, Ex-MP at about 1000 hrs in Gulberg Society and left at about 1030 hrs and by that time the Commissioner of Police had not come to the Gulberg Society. Shri Kanubhai M. Solanki another witness from Asarva cited by the complainant has stated that Shri Tandon, Commissioner had come to Gulberg Society at about 1200 hrs. The witness however, did not recognise Shri Tandon, but came to know from the people standing over there that the man in police uniform was Shri Tandon, Commissioner. Shri Solanki has further stated that Late Ahesan Jafri, Ex-MP had talked to Shri Tandon and that he had overheard Shri Tandon saying that he had informed PI Erda about it. This fact is disputed by Shri Tandon as well as Shri Erda inasmuch as both of them have claimed that Shri Tandon did not meet or talk to Late Ahesan Jafri, Ex-MP. It would not be out of place to mention here that Concerned Citizens Tribunal- Gujarat 2002, of which Smt. Teesta Setalvad is the Secretary in their book titled as "Crime Against Humanity" Volume-I (page-27) had mentioned as follows:

> "At about 10.30 a.m., police commissioner Pandey, with Ambalal Nadia, the Congress Mahamantri, Ward No. 19, and Kannulal Solanki from Ward No. 20, visited Jafri and