

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION (CRIMINAL) DIARY NO. 34207 OF 2018**

IN THE MATTER OF:

Zakia Ahsan Jafri & Anr.

...PETITIONERS

VERSUS

State of Gujarat & Anr.

...RESPONDENTS

VOLUME VI

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ADVOCATE-ON-RECORD FOR THE PETITIONERS: MS. APARNA BHAT

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**ISSUES NOT DEALT WITH BY THE MAGISTRATE AND THE GUJARAT
HIGH COURT (CONTD.)**

A. Evidence from the Documentary Evidence in the Original Complaint as also the Protest Petition reveal the conspiracy to neutralise the functioning of administrators and police officers as part of a wider conspiracy to allow and intensify the outbreak of violence in the state of Gujarat in 2002.

1. The Original Complaint dated 8.6.2006, that ran into 119 pages also annexed to it the report of the Concerned Citizens Tribunal (CCT, Crimes Against Humanity, Gujarat 2002) headed by Justices VR Krishna Iyer, PB Sawant and others, Affidavits and Annexures of then serving (in 2002) officers of the Gujarat Government filed before the Nanavaty-Shah Commission. It built up a strong case for investigation into a systemic and widespread conspiracy of subversion and inaction by law enforcement, bureaucracy and elected officials to ensure the systemic outbreak and spread of targeted violence to far-flung districts

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of the state. *(Original Complaint Pages 6-73 of Volume III of the SC SLP Record)*.

2. The major allegations in the complaint relate to 1) Conspiracy and abetment to mass crimes; 2) Subversion of the Criminal Justice System (CJS), particularly, by State Police, the bureaucracy and the Prosecution Department for denying justice to the riot victim survivors, through numerous acts of commission and omission; 3) Subverting Constitutional and Statutory Bodies like this Hon'ble Court, the Central Election Commission (CEC), National Human Rights Commission (NHRC) and others; 4) Tutoring and intimidating of witnesses to avoid giving proper evidence in the courts and to the Justice Nanavati Commission, about facts and information adversely affecting accused persons. *[Original Complaint Paras (3), (4), (5), (8) and (9) (13), (14) at Pages 12-15 of Volume III of the SC SLP Record)*. Punishment of IPS officers is listed in detail at *Para (67) at Pages 38 to 41, Volume III of the SC SLP Record* and Rewards have been listed in detail at *Para (68), Pages 41 to 44, Volume III of the SC SLP Record. Para 87 at Pages 58-60, Volume III of the SC SLP Record.]*

3. The Complaint in fact lays down these ingredients of the Wider Conspiracy from the Affidavits of police officers before the officially appointed Nanavaty Shah Commission and their cross examination too. The Complaint also draws upon the evidence and findings of the Concerned Citizens Tribunal-Crimes Against Humanity, Gujarat 2002 headed by Justices VR Krishna Iyer and PB Sawant, retired Judges of this Hon'ble Court and Justice Hosbet Suresh, retired Judge of the Bombay High Court.

4. What emerges from this is a clear pattern of:

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- Rewarding compliant Senior Policemen and Bureaucrats (Co-Accused)
- Punishment of the Officers who stood by the law and Constitution and performed their duties;

Rewards for not acting promptly, by performing implicit or complicit actions that acted to worsen the situation including non-cooperation with justice delivery mechanisms have been tracked by the Petitioners thereafter in the Protest Petition.

5. Punishments, in contrast, meant transfers of officials who did not bow to extraneous political pressure and in fact followed the Statutory Measures and Standard Operating Procedures (SOPs) laid down in
 - The provisions of the Gujarat Police Manual that runs into several volumes (*Pages 23-73 of Volume I of the Convenience Compilation that deals with Maintenance of Order (Chapter II) and Preventive Action (Chapter III); Annexed here is Chapter X on Special Organisations which lay down the Role of the State Intelligence etc.*) **(PAGE NO. 1-2)**
 - The Booklet on Communal Riots, 1997 researched and circulated under the aegis of then DGP, KV Joseph. **(PAGE NO. 3-39)**

The Protest Petition dated 15.04.2013

6. Thereafter, the Protest Petition has galvanised material from the 161 Statements recorded by the SIT which include Affidavits and Annexures of then serving (2002) officers of the Gujarat Govt. These reveal a policy of Rewards and Punishment commensurate to inaction and action during the pre-planned and targeted violence and punishment for those in uniform who followed their statutory duties under law and the Constitution and acted to save lives, mitigate the outbreak and spread

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of violence etc. The SIT Investigation records also have other documents including Transfer Orders issued in the midst of the Violence (14.03.2002) that illustrate that there was in fact such a Reward and Punishment Policy at work even while violence raged in the state. (*Para 362, Page 349, Volume IV, Protest Petition of the SC SLP Record; Para 1053-1057, Pages 673-675, Protest Petition, Volume V of the SC SLP Record*) Interestingly, this was also recorded by the SIT in the report filed Mr.A.K.Malhotra (*SLP Volume 11 @ Pg. 142-369*) but completely overlooked in the final closure report filed by the SIT.

7. Detailed Tables in this Regard of Rewards and Punishment are Annexed hereto (**PAGE NO. 40-52 & 53-59**). These were also placed before the Ld Magistrate and the Gujarat High Court.

8. Through a Transfer Order dated 14.3.2002 in the midst of the violence, the State Home department transfers 12 Officers. The Officers who were Transferred: (i) S.K. Saikia, IPS (1977) transferred away from Ahmedabad to Anti Crime Bureau; (ii) MO Khimani, IPS (1980) away from Ahmedabad to Division of HR and Social Justice; (iii) PC Thakur, IPS (1979) away from Division HR and Social Justice to Vadodara; (v) Geeta Johri (1982) away from Vadodara to another post in Vadodara; (v) SP Chituri (1982) from Police Housing Corporation to important post in Rajkot; (vi) VV Rabari (1982) away from Gandhinagar to special cadre post at state level; (vii) FM Guard (1982) away from Vadodara, Traffic to Exec Director Police Housing Corporation, Gandhinagar; Chitaranjan Sinh (1976) away from Rajkot city to Gandhinagar posting; (viii) Al Saiyed (1978) away from Police Academy Crime to top Gandhinagar post; MD Meena (1976), away from Gandhinagar to Guj Police Academy; (ix) Satish Sharma (1986) away from Terror Operations, Gandhinagar to high posting Surat; Satish Verma (1986) away from Jamnagar to Rajkot Range new post; (x) Keshav Kumar

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(1986) away from Vadodara rural to Rifle Guard post (xi) E Radhakrishnan (1986) away from Gandhinagar into Intelligence Bureau and (xii) Vinod Mall (1986) away from SP Surendranagar to Ahmedabad positing. The Petitioners crave leave to produce a translation of this document as and when the need arises.

9. Despite the allegations of punitive transfers against conscientious police officers and public servants being made consistently by the Victim-Complainant and Petitioners since 2006, the SIT is casual in dealing with this allegation and records statements of only three of these officers. These are annexed here (**PAGE NO. 60-62, 63-64, 65-66**). The three officers whose statements were so recorded are VV Rabari, Satishchandra Verma and Vinod Mall. A perusal of these statements will reveal the lacklustre SIT Investigation. Shri VV Rabari is not questioned on his transfer. Shri Satishchandra Verma mentions in his statement dtd 10.2.2010 of the illegal nature of the police firing that killed two members of the minority community at Radhanpur, Patan under his jurisdiction and the fact that he had issued a formal order for the arrest of Shri Shankar Chaudhary, a sitting MLA. The fact that he was transferred soon after is evidence of political interference. Yet the SIT does not investigate the same. The Petitioners are enclosing here a Table submitted by the Gujarat Government indicating departmental action against some officers (**PAGE NO. 67-90**). A perusal of this however reveals that none of the senior officer in positions of responsibility for the jurisdictional violence that broke out in at least 11 (if not 14) of the state's districts have been subject to any disciplinary action.
10. Apart from the abovementioned 12 officers who faced immediate punitive action according to allegations outlined in the Original Complaint dtd 8.6.2006 and the Protest Petition dtd 15.04.2013, two

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Whistleblowers have been singled out for vindictive treatment by the political leadership and administration.

11. IPS officer (now retired), Rahul Sharma, then SP, Bhavnagar who had received appreciation from media and members of the public for leading from the front during the systemic outbreak of Violence in Bhavnagar city, including saving the lives of young children in a Madrassa that was set on fire, was also transferred and brought to the Ahmedabad Control Room on 26.03.2002. It is submitted that his actions to quell rioting mobs in Bhavnagar helped bring a volatile situation under control on March 1, 2002. R.B. Sreekumar, former ADGP-Intelligence, and who retired as DGP, Gujarat was transferred out of his post on 17.9.2002. R.B. Sreekumar had, apart from submitting independent assessments on the prevailing law and order situation as head of the State Intelligence (IB) between April-August 2002 had filed affidavits before the Commission and deposed events as it took place.

Rahul Sharma and R. B. Shreekumar are two IPS Officers who have filed affidavits/given statement before the Nanavati Commission and SIT revealing how the State's Political and Bureaucratic establishment actively and through dereliction of duty helped to perpetuate riot post 27-02-2002.

(Pages 176-182 is the SIB report of 24.4.2002, Convenience Volume III; Pages 183-185 is the SIB report dtd 15.06.2002, Convenience Volume III; Pages 187-190 is the SIB Report dtd 30.8.2002 by E. Radhakrishnan, Convenience Volume III; Pages 191-193 is the SIB Report dtd 28.8.2002, Convenience Volume III; Pages 194-197, May 2002, Actionable Points submitted to Special Advisor apptd by Central Govt, IPS Officer, KPS Gill, Convenience Volume III)

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The Case of Rahul Sharma, IPS

12. IPS Rahul Sharma (SP Bhavnagar, DCB Crime Branch etc (IPS, 1992), who had faced some punitive action since 2002 was finally issued notice by the Gujarat Government in January 2011 after he deposed before the Amicus Curiae, Shri Raju Ramachandran appointed by this Hon'ble Court. He was charge-sheeted thereafter. After lengthy court proceedings in which the Central Administrative Tribunal (CAT) quashed the charge sheet, he sought voluntary retirement from service. Apart from the implications this has for the wider Investigation into the Conspiracy and Abetment charges made in the Original Complaint of the Petitioner dtd 8.6.2006 and the Protest Petition dtd 15.04.2013, such targeted action against serving IPS officers is a clear case of executive overreach and has severe and stark implications for the Rule of Law as laid down under the Indian Constitution.

Para 377-386 at Page 353-355 of the Protest Petition at Volume IV of the SC SLP Record; Paras 766-791, Pages 535-547, Volume IV of the Protest Petition in the SC SLP Record; See specifically Para 775 at Page 539; Para 777 at Page 541, Para 780 at Page 543; Paras 786, 787, 788, 790 at Pages 546-547 of Volume IV of the SLP Record.

13. In fact, this IPS officer, states first in his cross examination before the Nanavaty-Shah Commission (October 2004) how there was political interference in controlling the violence especially from then MOS Home Gordhan Zadapiya, also a member of the Vishwa Hindu Parishad (VHP) and how it was his assessment that much of the violence was pre-planned. *(Para (16) of the Original Complaint of Zakia Jafri at Page 16 of Volume III of the SC SLP Record; Para 27 (vi) of the Protest Petition at Pages 212, Volume III of the SC SLP Record. Subsequent Paras 27 (vii) to (xxv) also deal with admissions of*

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culpability by Officers before the Nanavaty-Shah Commission (Pages 212-215, Volume III of the SC SLP Record); Paras 1053, Pages 673-674, Protest Petition Volume V, SC SLP Record). Rahul Sharma's affidavit dated 02.07.2002 before the Nanavaty Shah Commission and some extracts of the annexures are annexed here (**PAGE NO. 91-103**). Petitioners crave leave to produce a copy of other extracts of the Annexures and his Deposition before the Nanavaty-Shah Commission at the time of hearing of the Petition. This assessment by a serving officer is backed by his statement before the SIT.

EVIDIENCE OF RAHUL SHARMA

14. Rahul Sharma, IPS records his statement before the SIT on 02.07.2009. In this statement he speaks of the orchestrated attacks in Bhavnagar city where he was SP in 2002, the attacks on Mosques and Madrassas, political interference in his functioning and makes several other pertinent assessments on the situation prevailing at the time. This statement is annexed here (**PAGE NO. 104-112**). In this statement when Rahul Sharma recounts to the SIT that he was in constant conversation with his DGP K Chakravarthy about the intense outbreaks of targeted violence, he says that DGP said to him (**PAGE NO. 105**): "he did not have any force. He also told me that the entire bureaucracy had been completely neutralised." It is pertinent, even shocking to note that this statement is being recorded by the SIT in pursuance to an Order of this Hon'ble Court, and yet the SIT does not see it fit to probe the issue of the entire machinery being neutralised, a statement of a senior officer, with any degree of thoroughness. It appears that even while the Inquiry was being conducted (and thereafter a report was submitted to this Hon'ble Court on 12.5.2010) such serious indicators of a widespread conspiracy were pre-judged and dismissed by the SIT. A thorough and independent investigative agency would have analysed and evaluated

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whether there was any ground level evidence of the police or administration being terrorized or neutralised as a result of the conspiracy but this does not happen.

16. Evidence available from Rahul Sharma's Statement before the SIT dated 02-07-2009 is not investigated further. The statement points to:

a. **Political Interference in Police Functioning:** Gordhan Zadaphia, then MOS Home, contacted Rahul Sharma on 16-03-2002 and said that the ratio of deaths as a result of police firing in the communal riots was not proper. The said statement referred to the more number of Hindu deaths compared to Muslim deaths in police firing (**PAGE NO. 106**).

b. Sandeshnewspaper published inflammatory reports castigating the populace for not avenging the Godhra carnage. He had sought permission to register a criminal case against the said newspaper under the provisions of Rule 53(10) of the Gujarat Police Manual Volume III.(Annexure-M1 Page No.4799/Page No.4503)(Article at Annexure-V Page No.6688)

In his statement to SIT, Rahul Sharma speaks of his attempts to get this hate speech prosecuted(**PAGE NO. 104**).

c. In his statement before the SIT, he also corroborates an earlier SIB Message mentioned in excerpted Messages Volume II of the Convenience Compilation, Page 6 (Message No. 218) wherein the inflammatory statement by the Sadhu Samaj is recorded (**PAGE NO. 104**).

Volume II of the Convenience Compilation also has at Pages 23-73, sections of the Gujarat Police Manual that lay down in detail provisions on Preventive Action and Maintenance of Law and Order which all sections of the

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Police and Administration are expected, under Law to follow at normal times and also during tense situations (Communal Unrest)

- d. Rahul Sharma, clearly frustrated at the situation, writes a letter to his senior, the senior most police officer in the state, K Chakravarthi, DGP in which he places on record details of a conversation he had with Chakravarthi, the day before, March 24, 2002(**PAGE NO. 113-116**). He details how pressures were being brought on the police by politicians and 'Hindu' leaders not to arrest Hindus, even gheraos of police station was planned. He was transferred immediately. This is a contemporaneous record of the prevailing situation and yet the SIT does not take it seriously in furthering an investigation into Conspiracy and Abetment.
- e. On 26-03-2002 Rahul Sharma was transferred to the post of DCP, Control Room, Ahmedabad City. Thus, while assisting Addl. CP, Crime Branch on riot related cases Rahul Sharma collected data from two mobile phone service providers (Celforce and AT&T). Copies of the said data was provided to the Nanavati Commission, Banerjee Committee and the SIT (Original CD).
- f. Thereafter Mr. Sharma is transferred to Ahmedabad where in the course of his time at the Crime Branch he on the instructions of his superior officer AK Surolia, had summoned the mobile phone records of 5 lakh phones of Ahmedabad. He had placed this CD on the records of the Nanavaty Commission when he testified in 2004. The attitude of the SIT during its Inquiry and Investigations towards this crucial CD is illustrative of its inherent reluctance to get to the bottom of this crucial evidence and authenticate it despite it being made available. (See

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Application for Further Investigation that illustrates step by step what the SIT ought to have to authenticate the CD in Convenience Compilation VII). The Naroda Patiya judgement dated 29.8.2012 at Chapter III dismisses the lacklustre SIT investigation with relation to the authentication of the CD. It appears clear to the Petitioners – that unlike the NHRC ordered and CBI conducted authentication of the Tehelka Sting Operation, the SIT's Investigation –also conducted by retired officers of the same agency (CBI) was not up to standards in terms of assisting the Prosecution case when the SIT itself was the Prosecution Agency. Refer to pages 792-799, Chapter III: Mobile Call Details in the Naroda Patiya Judgement dated 29.8.2012). This is Annexed here as **(PAGE NO. 117-124)**.

g. On 03-06-2002 Rahul Sharma was asked to go through a charge-sheet that was proposed to be filed in the Naroda Patiya case by his superiors. He strongly objected and disagreed with the contents of the charge-sheet. He states in his statement before the SIT “about the heated argument by me on the one side and SS Chudasama, ACP, DG Vanzara, DCP on the other during which crime branch Ahmedabad chief, PP Pandey kept quiet.” The argument was over attempts by sections of the police to falsify the attack on Naroda Patiya and say that the mob who attacked innocent members of the minority community was not violent. Sharma says he wrote a letter to then CP Ahmedabad KR Kaushik (he succeeded PC Pande after KPS Gill was brought in by the Central Govt in May 2002) on 04.06.2002 on the matter **(PAGE NO. 125-126)**. Only after this were formal orders issued directing Rahul Sharma's association with both the Gulberg and Naroda

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Patiya cases. He appears to have annoyed his 'superiors' not just by submitting the CD but also observing in a letter to the then Commissioner Kaushik at the time that the investigations into the Gulberg Massacre and Naroda Patiya killings were being subverted and that the FIRs and Charge sheets showed a discrepancy. This letter was produced by him during his deposition before Nanavaty Commission in 2004. The SIT ignores all these valuable bits of evidence and simply overlooks and ignores any indication of interference in fair investigations which itself was evidence of a widespread conspiracy. The SIT had complete access to all the Nanavaty Shah Commission affidavits and depositions which were placed before it on record. Rahul Sharma states these facts categorically in his statement before SIT as well (**PAGE NO. 111**).

- h. Rahul Sharma's travails do not end there. Rahul Sharma was again transferred to the post of Commandant, SRPF, Group XI, Vav, District Surat on 5.7.2002. It was on 2.7.2002 Rahul Sharma filed an affidavit before the Nanavaty-Shah Commission that details the extent of violence in the city of Bhavnagar. Extracted from the over 200 page annexures are recommendations for the prosecution of incendiary writing by regional language newspaper, *Sandesh*. This corroborates the other documents on the issue annexed here.
- i. The Petitioners also made available to the Ld Magistrate and the Gujarat High Court a copy of the entire Affidavit and Annexures of Rahul Sharma before the Nanavaty-Shah Commission (2002) and his Deposition therein (October 2004). The Petitioners crave leave to produce this

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Document as and when required during the hearing of this Petition.

It was in October 2004 during his deposition before the commission he produced extensive data in the form of mobile phone records that implicate both politicians and policemen in the rioting. During his deposition before the Nanavaty Shah Commission in 2004, he made available a CD in the Public Domain: this contained 5 lakh Mobile Phone Call Records of Politicians, Policemen and Accused. These were used rigorously first by Jan Sangharsh Manch and thereafter by Citizens for Justice and Peace to show the chain of Criminal Conspiracy that was unleashed. These phone call records have been left un-investigated by the SIT.

- j. Rahul Sharma also corroborates that the digital recorder requested by RB Sreekumar of him in 2004 for recording the conversation with some officers in connection with his deposition before the Nanavaty Shah Commission was in fact provided by him (**PAGE NO. 111-112**). Rahul Sharma's detailed Affidavit with Annexures before the Nanavaty-Shah Commission (that runs into close to 300 pages) reveals how a conscientious officer was fire-fighting the mobs, with limited forces on the ground.
- k. Between 2007-2009, Rahul Sharma was thereafter on deputation as SP, CBI.

17. In January 2011, after he met the Amicus Curaie appointed by thiHon'ble Court to assist the Court with respect to the Zakia Jafri Complaint dtd 8.06.2006, he was served a Notice and was finally

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Charge-sheeted amidst great controversy on August 13 2011. Rahul Sharma reportedly met the Amicus Curiae with evidence to show how the phone call records of an officer, Sanjiv Bhatt IPS supported the possibility that he was in Gandhinagar at the said time. Immediately a vindictive administration sent him a show cause notice and charge sheeted him.

18. On August 30, 2011, Rahul Sharma filed a Petition Praying for Quashing of Charge Sheet before Central Administration Tribunal (CAT) Ahmedabad in 2012. CAT first stayed and subsequently quashed the proceedings against Sharma. The interim order and final orders were passed on 3.04.2012, 27.08.2013 and 22.1.2016 respectively. The Petitioners crave leave to produce these orders as and when necessary.

19. In a significant and speaking order delivered by Dr KB Suresh and KN Shrivastava, the Central Administrative Tribunal (CAT) declared that the charge sheet against Rahul Sharma "is tainted by mischief, mala fides and malice and coloured by arbitrariness, illegality and designed to defeat proximate and pertinent matters blessed by constitutional compulsion and designed as an engine of oppression." The Petitioners crave leave to produce this judgement at the time of hearing of the petition. Rahul Sharma has sought Voluntary Retirement and been granted it. Departmental inquiries against him are however still pending. He is now a practicing lawyer in the Gujarat High Court.

20. The Learned Magistrate in his Order dtd 26.12.2013 completely ignores the detailed averments made on Rahul Sharma's Evidence.

EVIDENCE OF R. B. SREEKUMAR

21. R.B. Sreekumar was appointed to the IPS, Gujarat cadre in 1971.

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He was, at various times, Assistant Superintendent of Police, Deputy Inspector General, Deputy Director General DIG (Central Investigation Bureau), Joint Director (IG), and Additional Director General of Police. In 1999, he was awarded the President's medal for meritorious service.

20. RB Sreekumar was Additional Director General of Police (ADGP) Intelligence during 9.4.2002 – 18.9.2002. R.B. Sreekumar's affidavits, statements and documents produced by him including his conscience register play a central role in further supporting the argument that a widespread conspiracy was at work in the state.

R.B. Sreekumar, between July 2002 and October 2005, filed four crucial affidavits before the Nanavaty-Shah Commission that provided startling evidence of the prelude and build-up to the targeted and orchestrated violence all over the state. In February 2005 Sreekumar was superseded for promotion to the post of DGP, Gujarat, following a sealed cover procedure, a decision that he challenged before the Central Administrative Tribunal.

His evidence does the following:

- (a) exposes the illegal orders disseminated from the executive authorities that he records contemporaneously;
- (b) evidence of the state government and its highest officials misguiding a Constitutional authority like the Election Commission;
- (c) points towards a Rewards and Punishment policy followed by the state;
- (d) exposes a Failure to take appropriate action against senior officers and the print media that was printing incendiary and provocative writings;

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- (e) crucial Reports dated 24.4.2002, May 2002 (Actionable Points to KPS Gill), 15.06.2002, 20.8.2002 and 28.08.2002 are filed by him as head of the State Intelligence Bureau and these are ignored;
- (f) corroborates that Minister for Urban Development, Health and Family Welfare in the Gujarat Govt, I. K. Jadeja was present in the DGP's office on 01-03-2002 and 02-03-2002, Sreekumar had personally seen him using the DGP's official phone on of the days. (Further statement to the SIT dated 13.07.2009). Clearly the SIT does not find it necessary to probe this aspect of the conspiracy further.
- (g) RB Sreekumar in his statement(s) before the SIT on 11.07.2009, 13-14-15.07.2009, 16 & 19.07.2009, 1-2.08.2009 and 4.08.2009 refers to key aspects of these reports that he had brought to the notice of the government. Those sections are all available at *Pages 187, Volume III of the Convenience Compilation, Page 188 of the Volume III of the Convenience Compilation, Pages 191-197 at Page 197 of Volume III of the Convenience Compilation*. The statements of RB Sreekumar before the SIT are all annexed here as **(PAGE NO. 127-132, 133-136, 137-143, 144-150, 151-157, 158-164 AND 165-172)**
- (h) In the Third Affidavit filed by former Director General of Police RB Sreekumar before Nanavati-Shah Commission (2005), the officer details the possible cause of his vindictive treatment and victimisation being the fact that he, as a serving officer of the state government adhered to his legal mandate and gave accurate reports to the NHRC, Central Election Commission (CEC) and National

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Commission for the Minorities. (NCM). Annexed here is the third Affidavit of RB Sreekumar dated 09.04.2005 filed before the Nanavaty Commission (**PAGE NO. 173-213**). Along with the affidavit, copy of the Conscience Register (**PAGE NO. 214-240**), the transcript of the conversation between Sreekumar, Arvind Pandya and Murmu (**PAGE NO. 241-276**) and the transcript of the conversation taped by him with Dinesh Kapadia (**PAGE NO. 279-298**) are also annexed.

- (i) R.B. Sreekumar further details attempts to intimidate and browbeat him by officers in the state home department into not revealing complete facts before the Nanavaty-Shah Commission after his first affidavits are filed there and are re-iterated by RB Sreekumar in great detail in the portion of his statement before the SIT on 16 & 18.09.2009. Yet the SIT chooses to completely ignore this evidence especially the portion wherein RB Sreekumar states that in the Sting operation conducted by Tehelka, when asked (Arvind Pandya, government pleader) whether there was any case against him, answers saying, "One was Tehelka related..I had threatened the police officer, RB Sreekumar..." It is noteworthy that though Pandya's voice has been tested and the Tehlka Sting authenticated, the SIT chooses to completely ignore this telling evidence of attempted criminality and intimidation. The statement of Arvind Pandya dated 21.11.2009 is perfunctorily recorded as it appears that the SIT has no desire or implication to thoroughly investigate a serious charge of intimidation and tampering of tutoring with an official witness. This statement may be read here (**PAGE NO. 299-300**).

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(j) Mr Rahul Sharma, IPS has confirmed that he had provided the audio equipment for this recording to Mr R. B Sreekumar. Ashish Khetan, the reporter who conducted the Sting Operation for Tehelka Statement dated 27.08.2009 at *Pages 618-623 of Convenience Compilation IV* corroborates the fact that Arvind Pandya does make such a statement admitting to “threatening” a police officer, namely R.B. Sreekumar “to not speak against the government but it had leaked out and was on TV but eventually nothing happened to Shri Pandya.”

Pursuant to the Tehelka’s Operation Kalank, Arvind Pandya had lodged an FIR i.e., ICR Nos 368/2007. By an order dated 09.05.2012 the Gujarat High Court quashed the said FIR against Dhimant Purohit of Aajtak channel that had telecast the Sting Operation and passed a speaking Order on the issue. (*Pages 6-23 of Volume V of the Convenience Compilation*)

(k) G.C. Murmu, whose statement SIT records on 04.11.2009 puts down the entire incident to a language mis-communication and denies any coercion. (**PAGE NO. 301-303**). As in the case of all official or influential witnesses the SIT has accepted their denials even when the Whistleblower Officials who have corroborated the Conspiracy have material to show its existence. From the outset there appears to be a non-application and non-inclination on the part of the SIT to investigate the Wider Conspiracy at all.

(l) Dinesh P. Kapadia, then Under Secretary (Budget & Coordination, Home Department records a statement

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before the SIT on 05.11.2009 (**PAGE NO. 304**) wherein he does not deny that he had, in fact told Shri R.B. Sreekumar that no “useful purpose” would be served from filing such affidavit before the Commission of Inquiry and that he should have followed in then Commissioner of Police PC Pande’s footsteps. PC Pande had during his deposition claimed “loss of memory”. Petitioners crave leave to rely on the deposition during the course of the hearing.

21. On 27.02.2002 and during the subsequent carnage that engulfed the State of Gujarat R. B. Sreekumar was posted as Additional Director General of Police (Armed Units). On 06.03.2002 Justice K.G. Shah Commission (later the Nanavati–Shah Commission) was first appointed, with limited Terms of Reference.
 - a. On 09.04.2002 R. B. Sreekumar is transferred to the post of Additional Director General of Police (Intelligence), State Intelligence Bureau. On the said post he was required to report, *inter alia*, on matters of communal activities.
 - b. On 16.04.2002 R. B. Sreekumar addressed a clear letter No. D-I/Pamphlets/688/2002, to DGP with copy to ACS (Home) along with enclosures containing Inflammatory Pamphlets being freely distributed by the VHP and allied communal Organisations. This is available at *Page 115-116 of Convenience Volume IV*.
 - c. Between April and August 2002, R. B. Sreekumar sent four Intelligence Reports regarding communal tensions in the State. These are dated 24.4.2002, 15.6.2002, 20.8.2002 and 28.8.2002. (*Pages 176-182, 183-186, 187-190, 191-193, Convenience Volume III*). The SIT, instead of independently investigating the contents of these reports that point to political

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interference, mobs being allowed free reign and a systemic breakdown, seem to be pre-disposed to discredit R.B. Sreekumar from the outset(**PAGE NO. 165-166 & 167-171**). In fact the contents and intent of R.B. Sreekumar's Reports as head of the State IB (Additional DG-Intelligence) are accepted as true by then Director General of Police, Gujarat, DG Chakravarthi in his statement before the SIT dtd17.12.2009 (*Pages 172-187 of Convenience Compilation IV*) since he does not dispute the contents of any of the four SIB Reports with substantive suggestions sent in by R.B. Sreekumar. In fact he says that on every point sent to him he requested action from the state government through communications to the then ACS (Additional Chief Secretary) Home, Ashok Narayan. Neither does Narayan in his statements to SIT deny this.

- d. O. P. Mathur, the then Inspector General of Police, agreed to Sreekumar's request to maintain a register to record oral instructions as no minutes of the meetings were recorded. Powerful Politicians, bureaucrats and policemen senior to him gave him several illegal instructions that he records in the said Personal Register contemporaneously. This was made public in his third affidavit filed in 2005 before the Nanavati Commission. Om Prakash Mathur, by then retired, records his statement before the SIT on 04.11.2009(**PAGE NO. 305-306**). In this statement O. P Mathur admits to his (Mathur's) signature ddt 18-4-2002 on the said register(**PAGE NO. 305**).
- e. On 07-06-2002 P. K. Mishra asked Sreekumar to find out which cabinet minister had met the Private Inquiry Committee(Concerned Citizens Tribunal, Crimes Against Humanity, Gujarat 2002). He was asked to get Mr. Haren Pandya's call details, as he was suspected to have attended

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the said inquiry. The same was confirmed by Sreekumar's investigation. While P.K Mishra in his statement to SIT denies having issued such instructions to keep a tab on Minister of State for Revenue Minister, Haren Pandya's Phone Calls, this is contradicted by Sureshchandra Manilal Pathak, an officer of the Gujarat State Intelligence Bureau (SIB) in his statement before the SIT dated 06.11.2009(**PAGE NO. 307**). This officer corroborates that he was asked to conduct "secret inquiries" about one "Cabinet Minister who had met a Forum of which Justice Krishna Iyer, a retired Supreme Court Judge and some others were members, had come to Ahmedabad to inquire into the riots in the state."

- f. On 15.07.2002 as directed by the then Director-General of Police (DGP), K Chakravarthi, Sreekumar filed his first Affidavit before the Commission. Annexed to this Affidavit was, inter alia, the first of the aforesaid IB Reports. This Affidavit was filed with the Commission, and a copy forwarded to the DGP. Among several SIB Warnings about the Build Up of Communal Tension before 27.2.2002 and also Accumulation of Arms etc. The first Affidavit also contained several Communications by Field Level Officers of the SIB about the communal writings in mainstream Gujarati Newspapers like Sandesh that called for criminal prosecution (Rahul Sharma SP Bhavnagar's letter to DGP, Gujarat K Chakravarthi dated 9.3.2002, PB Upadhyaya, DCP-Communal, SIB to ACS Home Ashok Narayan on Rahul Sharma's letter etc.) The SIT is strangely dismissive about investigating this. While statement of PB Upadhyaya-DCP-Int-Communal is recorded on 10.04.2011 and 15.01.2012, the SIT asks him no questions about the Prelude or Build-Up to Communal Mobilisations prior to 27.02.2002 despite his name being on several of the SIB

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Messages (*Pages 3-4, 5-8, 7-8, 18-19, 20-21, 22-23 and 26-27 of Volume II of the Convenience Compilation*). Petitioners crave leave to produce these statements whenever required. From the above, it appears that it was the SIT who was self-limiting its Inquiry and Investigations into the narrow issue of personalities and one law and order meeting on 27.2.2002. The Original Complaint dtd 8.6.2002 and Protest petition had a much wider ambit that pointed to a Wider Conspiracy and complete breakdown of the Constitutional Machinery in the state.

- g. On 09.08.2002, Sreekumar apprised the Central Election Commission about the tension – ridden situation in the State disagreeing with others who gave a representation of ‘normalcy’ to the CEC. The said assessment was also endorsed by Shri Maniram, the then ADGP, Law and Order. SIT recorded his statement on 18.12.2009(**PAGE NO. 308-309**). In this statement, the Officer who held a senior position as ADGP (Law and Order) corroborates R.B. Sreekumar on the issue of complete subversion of the Law and Order Machinery way beyond May 2002. He gives details in his statement that when KPS Gill was deputed as Special Advisor to the state to quell the violence two months after Godhra, he told Gill that, “Officers who were responsible for not preventing the riots resulting in loss of life and property should be immediately transferred irrespective of their status and good officers posted in there back.” Apart from Shri Maniran, Shri KR Kaushik, at the time Commissioner of Police Ahmedabad says in his statement to the SIT recorded on 20.02.2010 that “he had supported the views of Shri R.B, Sreekumar, the then ADGP (Int) that tension was still prevailing in the state and the situation was not normal.” Besides this officer also mentions in

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his statement that on 11-5-2002 he took over as Commissioner of Police Ahmedabad and other officers perceived through inaction and breakdown of the Law and Order Machinery to have been wilfully inactive during the post-Godhra violence were transferred. This statement is annexed at **(PAGE NO. 310-312)**. Despite these corroborations of Sreekumar, the SIT appears to have made up its mind to ignore it's mandate directed by this Hon'ble Court and conduct a superficial and restrictive Inquiry and Investigation. This more than gives substance to what officers like Rahul Sharma and RB Sreekumar have been saying. Yet SIT, chooses to ignore all this evidence. On the contrary, the SIT clearly appears to have pre-decided the issue and dismiss this substantive evidence by passing judgemental comments on RB Sreekumar's motives.

- h. Relying on Sreekumar's report, CEC published its report on 16.08.2002. The report notes that various officers of the State Administration attempted to portray a picture of normalcy, or near-normalcy, but this was belied by alternate data and reports given by Sreekumar (on 9.8.2002). Sreekumar and his reports are specifically mentioned in paras 20 and 32 of the Central Election Commission's report. (The SIT conducts a token investigation into this. Senior IAS Officers like K Nityanandandan who was Secretary in the Home Department recorded his statement before SIT on 24.09.2009. He is put one perfunctory question on whether he recalls the presentation before the CEC (Central Election Commission). He brushes the issue by saying he has no recollection. The SIT, in its typical fashion of believing all those accused of participation in a conspiracy simply does not investigate further. The Petitioners crave leave to produce this statement

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at the time of the hearing of the matter. (*Annexed as A-2 of Volume X of the SLP Record*)

- i. The ACS, Additional Chief Secretary, Home Ashok Narayan's statements before SIT corroborate the fact that RB Sreekumar as ADGP-Intelligence had, contemporaneously submitted Reports urging remedial and preventive action to control the violence, ensure a sense of justice and fair prosecution. (*Pages 9-13 of Convenience Compilation I wherein all the SIB Messages indicating a Prelude and Build-Up to the Violence before 27.2.2002 annexed to the First Affidavit of R.B. Sreekumar are admitted and acknowledged by him.*)

In addition, in his further statement dated 13.12.2009(**PAGE NO. 313-318**), ACS Ashok Narayan accepts and acknowledges in large part the detailed IB reports submitted by RB Sreekumar with their Annexures that contained the ground level reports and warnings by SIB officials of impending violence and the need for action to be taken. Yet, predictably the SIT simply does not investigate the matter any further.

- j. On 17.09.2002, R.B. Sreekumar was transferred as Additional Director-General of Police (Police Reforms) and the same appears to be a punitive transfer as the same did not have a stipulated charter or dedicated staff. Sreekumar was transferred because he refused to ignore the letter dated 10.09.2002 from Joint Secretary, National Commission for Minorities, Govt. of India seeking a transcript of speech made the higher authorities.
- k. On 15.07.2004 Sreekumar asked the then DGP (as also the Government Pleader before the Commission) to claim privilege in respect of the first Affidavit filed by him of 15.7.2002. No action was taken on Sreekumar's request.

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Copy of letter No. ADGP/PR/PS/69/2004, dated 27.09.2004 from Shri R.B. Sreekumar, ADGP (PRM) to DGP regarding his appearance before Nanavati Commission of Inquiry for the expanded terms of reference before the Nanavaty Commission is also relevant. **(PAGE NOS 277-278)**

- I. The Terms of Reference of the Commission were expanded on 20.07.2004 and now included an enquiry into the role of the Chief Minister, other Ministers, police officers and other functionaries of the State. The DGP directed all the officers to file a second affidavit, however DGP orally asked Sreekumar to ignore the written instruction and not file his second affidavit, and if he did the Government would be prejudiced against him.
- m. Dinesh Kapadia, then Under-Secretary (Home), in a personal discussion on 21.08.2004, attempted to “persuade” Sreekumar to depose before the Commission on 31.8.2004 without harming the interests of the Government. Sreekumar made an audio recording of this conversation.
- n. Veiled threats and Intimidation by Govt Pleader Arvind Pandya and GC Murmu (Home Department). On 25.08.2004, G. C. Murmu (then Secretary, Home) and Arvind Pandya (Government Pleader to the Commission) summoned Sreekumar to a clandestine meeting, at which they attempted to tutor him regarding his forthcoming deposition before the Commission. The tenor of this ‘tutorial’ was that Sreekumar should say nothing adverse about the Government. Sreekumar made an audio recording of this conversation. The same is corroborated in the Tehelka Sting Operation, wherein Arvind Pandya admits that they threatened senior police officer.

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- o. Sreekumar deposed before the Commission on 31.08.2004, and was cross-examined. He deposed, inter alia, in support of his first Affidavit (dated 15.7.2002).
- p. On 28.09.2004, the Government of Gujarat, asked for an explanation of Sreekumar about his alleged omission of not reporting an enquiry pending against him while he was on Central deputation and reply was duly sent on 03.11.2004.
- q. On 06.10.2004, Sreekumar filed his second affidavit before the Nanavati Commission. Despite having received oral instructions to ignore the written direction of the DGP.
- r. Sreekumar was superseded for promotion following a sealed cover procedure sometime in February 2005.
- s. On 09.04.2005, he filed a third Affidavit before the Commission, this time setting out (a) transcripts of the aforesaid audio recordings and (b) a typed copy of a private register or diary kept by Sreekumar from April to September 2002 as an aide-memoire noting the various illegal oral instructions issued to him in that period.
- t. In April 2005, Sreekumar filed an Application before the Central Administrative Tribunal OA 213/2005 challenging his supersession.
- u. Showing additional animus against Sreekumar, the Government of Gujarat in September 2005 opened another front of victimisation and he was served with a charge-sheet containing nine separate heads of charge. Many related to his disclosures in the public interest before the Nanavati Commission.
- v. R. B. Sreekumar filed his Fifth Affidavit before the Nanavati Commission, annexing his Personal Register and the Transcripts of the speech by elected officials.

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- w. R. B. Sreekumar preferred Original Application No 166 of 2006 before the CAT against the chargesheet issued to him. Ad-interim injunction granted by the CAT on 1.5.2006, no enquiry officer was even appointed.
- x. On 06.09.2006, CAT passed its Order on Sreekumar's promotion and a day before his retirement on 28.02.2002, R. B. Sreekumar was promoted to the post of Director General of Police, Gujarat. In a separate judgement, dated 9.9.2007 the CAT also quashed the charge sheet dated 6.9.2005 against him.
Petitioners crave leave to produce the said Orders whenever required.
- y. Tehelka's Operation Kalank is telecast on 25.10.2007. It carries revealing transcripts of Government Pleader Arvind Pandya's extra judicial confession boasting of him trying to intimidate RB Sreekumar and also casting aspersions on the impartiality of the Nanavati Commission. Following this expose Pandya is removed as Government Pleader.
- z. In 2008, Govt of Gujarat challenged the Order of the Central Administrative Tribunal (CAT) in the High Court. On 4.09.2015, a Division Bench of the Gujarat High Court allows the State's SCA citing *Upendra Singh (Supra)* on grounds of the scope of Judicial Review of a Chargesheet but does not comment on merits. A special leave petition filed against the said order is pending after leave was granted.
- aa. Meanwhile, on 09.05.2008, RB Sreekumar (now retired) records his statement before the SIT in Nine Cases for which Investigation has been transferred to the SIT and Further Investigation ordered.
- bb. Between 11.07.2009 and 04.08.2009, statements and further statements of RB Sreekumar (now retired) recorded

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before the SIT investigating the Zakia Jafri Complaint dated 8.6.2006.

22. The Inquiry Report by the SIT filed before this Hon'ble Court on 12.5.2010, despite significant lead evidence on these crucial aspects and allegations of a Conspiracy by subversion of those public (police) officials who were functioning constitutionally, as per the law and dictates of their uniform, is dismissive around these crucial issues and superficial in its probe. (Allegations VI examined in Inquiry Report at Pages 171-175, Volume XI of the SC SLP Compilation; Allegation VII at Pages 175-191; IB Reports of Sreekumar at Pages 191-196, Volume XI of the SC SLP Record) It is pertinent to view and analyse what happened in the State of Gujarat in its entirety especially with relation to widespread outbreak of violence, systemic and pre-planned in at least 14 Districts of the State (Gujarat has 25 Districts) while –due to the single handed leadership and efforts of officers (Commissioners of Police, Dist. Magistrate, Superintendent of Police) two cities and seventeen districts had succeeded to effectively maintain law and order even in traditionally sensitive areas like Surat city and Veraval (Junagadh district).

After the loss of close to 2,000 lives, institutional correction ought to have meant that the state fixed responsibility for culpable negligence of not implementing SOP by relevant officers. It is notable that in many areas of low level violence in 2002 there where

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higher casualties in earlier years. In fact most of the officers who contained violence were harassed and four of them were transferred in the thick of the violence despite, reportedly, DGP K Chakravarti's objection. They were not posted back despite specific directions by CEC in its order dated 16-08-2002.

22. The SIT in its Closure Report, dated 8.2.2012, admits to transfers but draws weak conclusions saying 'Officers do not say these are motivated'. It is unlikely that serving IPS officers, whose jobs are dependant on the whims of a government would openly admit to these being vindictive. Subsequent actions against Sreekumar and Rahul Sharma tell their own story but SIT has adamantly refused to draw conclusions in Rahul Sharma's case. As far as the state's vendetta against Sreekumar is concerned, SIT categorises him a motivated witness, pre-judges the issue and leaves it at that. *(Allegation Nos VI at Pages 1368-1370, Volume VIII of the SC SLP Record and Allegation VII at Pages 1370-1379; R.B. Sreekumar's Four reports to the Govt as SIB chief (ADGP-Intelligence) at Allegation VIII, Pages 1379-1382; Allegation XVI at Pages 1396-1400; Tutoring (Intimidating R.B. Sreekumar an official witness at Allegation XIX, Pages 1401-1407 of Volume VIII of the SC SLP Record.*

24. Magistrate's order: The Order of the Learned Magistrate also dismissed all the evidence adduced from Shri RB Sreelumar.

a) On the four crucial reports submitted by him as ADGP-Int to the State Govt, the Magistrate says:

"The Court relying on the statement of Vijay Badheka apart from the statement of P. C. Pande to come to the conclusion that the allegation of the Petitioner that victims of riots and police firings

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were predominantly of the Muslim community is indicative of a prejudicial bent on part of the administration is not made out.

(Pages 345-346, Volume II of the SLP Record)

b) On the Conscience Register, he holds that the “facts stated in the register entries have been denied as false and baseless by other officers. Thus, the entries in Mr.Sreekumar’s register are malafide. His statement against Murmu and Pandya are not corroborated by anyone. Sreekumar has only resorted to making allegations only after he was superseded. Records that the allegation of G.C. Murmu and Arvind Pandya threatening Sreekumar does not have support of any other witness. The learned Magistrate proceeds to agree with the conclusion of the SIT despite stating that it might not be true to say that details declared by Sreekumar are mala fide.

The Ld Magistrate goes on to the extent of saying that the “Conversations between Arvind Pandya and Sreekumar in context of giving evidence before the Commission cannot be believed to be a criminal activity.”

(Pages 259-267; 271-273 Volume I and Volume II of the SLP Record)

Legal Issues

Evidentiary merit of Shri R. B. Sreekumar's Register

The section that will be relevant to this is Section 35 of the Indian Evidence Act that reads as follows:

“Relevancy of entry in public record, made in performance of duty - An entry in any public or other official book, register or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record is kept, is itself a relevant fact.”

Factual Issues Related to the Register

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

Public Record and Performance of duty

1. The register was supplied by Shri O. P. Mathur. IPS, the then IGP (Admin Security) who was in charge of office of the ADGP. INT and Shri Mathur was also the second in command in the office, headed by ADGP, Intelligence Shri Sreekumar.

2. The Register has an endorsement written by him, in his own handwriting, certifying the numbers of pages.

3. No private and personal or register needs an endorsement / certificate from senior officer, in his official capacity.

4. Please note that no minutes were prepared and circulated about meetings and session of discussions convened by senior officers (DGP and above) which would disprove the validity and veracity of contents in the entries of the Register.

5. Since no minutes were prepared about any of the meetings, mentioned in his Register by Sreekumar, he had no other means to document the gist of discussions, than by keeping an official register.

6. All materials in the Register are fully relevant to the charter of duties of the Addl. DGP Sreekumar, and Police Department as per the provisions of Indian Police Act 1861, Bombay Police Act, Gujarat Police Manual, DGP circulars and other periodical instructions from higher formations.

7. All references to the discussions on events, persons, developing situations law and order strategy, tactics and ground level situation, are made

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by " the public servant (Sreekumar) in the discharge of his official duty," and so are "relevant facts," as per section 35 of Indian Evidence Act.

8. Or the whole, reports sent by ADGP (INT) office under Sreekumar on the prevailing law and order situation make full use of the quintessence of materials in the Register entries. This can be seen by examining Sreekumar's affidavits, particularly copies of reports by ADGP (INT) office appended to the affidavits of Sreekumar.

9. An examinations of press reports of the relevant period will establish the truth of the Register entries, as these media projections, bring out the chain of circumstances and ambience behind many of the illegal and unethical instructions given to Sreekumar.

Entry date 17-04-2002

Please note that as per police records nobody was arrested for the exclusive offence of obstructing examinations in schools / colleges.

Entry 22-04-2002.

The chief secretary Subha Rao's posture against arrest of Hindu leaders is endorsed by the fact that only after interventions by this Hon'ble Court, prominent politicians like MayaKodnani (then an MLA) Jaideep Patel (VHP) were arrested. Numerous Court decisions condemning inaction by Gujarat Administration is additional evidence.

1-05-2002, 28-06-2002

The Chief Secretary's instructions regarding fake encounters and Sreekumar's refusal to implement the same can be proved by the fact that extra judicial killings (largely Muslims), started after Sreekumar's transfer from the post of ADGP (INT) on 17 Sep, 2002. ADGP (INT) has inherent powers to probe into all custodial deaths and fake encounters suo moto.

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8-05-2002

There is sufficient evidence about forcible closure of relief camps - an act approved by Shri Gill.

5-08-2002, 6-08-2002, 8-08-2002 and 9-08-2002

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

30-08-2002

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

19-09-2002

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

Petitioner's Submission: In light of findings regarding R. B. Sreekumar's register, it would be ideal to commit the same to trial in order to ascertain which of the two converse prima facie findings are sustained by the test of trial. The finding of the Magistrate are extremely perverse to the extent that the impugned order says that Sreekumar's statement pertaining to Murmu and Pandyado not find any corroboration while in fact his statement find direct corroboration in the Tehelka sting operation.

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Analysis of the contents of the register:

It is the duty of a competent officer in the intelligence department to collect data from various sources of which he then maintains a record. Sreekumar was issued what he interpreted as unconstitutional oral directives. He not only resisted these orders, which he clearly saw as illegal, he maintained a record of these orders for the future. Not directed by his superiors, this personal register is a contemporaneous document maintained by an officer who grasped the wider motives at work and decided to provide a detailed record of those moments.

Sreekumar's register consisted of three columns. The first recorded the date and the time when each instruction was given, the second recorded the nature and source of the instructions that were issued and the third recorded the nature of action taken. The contents of this register provide invaluable information about the workings of the Government of the day.



EVIDENCE IN DOCUMENTS

| Sr Nos | Document | Content | Reference |
|---------------|---|--|--|
| 1 | Evidence of Rewards to Errant Officers and Punitive Treatment of those who followed Statutory Duties and Prevented Violence | <p>Original Complaint dtd 8.6.2006 relied on Affidavits with Annexures of then serving IPS officers and the Two Volume Report of the Concerned Citizens Tribunal (CCT-Crimes Against Humanity, Gujarat 2002).</p> <p>Protest Petition dtd 15.04.2013</p> <p>Table (Rewards) and Table Punishment (Submitted by the Petitioners as Part of the their Written Arguments to the Ld Magistrate and Gujarat High Court</p> <ul style="list-style-type: none">• Table on rewards to collaborators(<u>PAGE NO. 40-52</u>)• Table on punishments to officers(<u>PAGE NO. 53-59</u>) | <p>Reference:</p> <p>1.(Original Complaint Pgs 6-73 of Volume III of the SC SLP Record).</p> <p>2. (Original Complaint Paras (3), (4), (5), (8) and (9) (13), (14) at Pages 12-15 of Volume III of the SC SLP Record).</p> <p>3.Punishment of IPS officers is listed in detail at Para (67) at Pages 38 to 41, Volume III of the SC SLP Record and Rewards have been listed in detail at Para (68), Pages 41 to 44, Volume III of the SC SLP Record. Para 87 at Pages 58-60, Volume III of the SC SLP Record.</p> <p>4. Para 8, Page 12-13 of the Zakia Jafri Complaint dated 8.6.2006, Volume III of the SC SLP Record;</p> <p>5. Paras 16 – 29 at</p> |

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| | | | <p><i>Pages 16-22 of the Zakia Jafri Complaint, Volume III;</i></p> <p>6.Paras 30-44, Pages 22-29 of the Zakia Jafri Complaint Volume III;</p> <p>7. Paras (82), (83), (84) (85) at Pages 50-51 of the Zakia Jafri Complaint, Volume III of the SC SLP Record</p> <p>Protest Petition: (<i>Para 362, Page 349, Volume IV, Protest Petition of the SC SLP Record; Para 1053-1057, Pages 673-675, Protest Petition ,Volume V of the SC SLP Record</i>)</p> <p>Gujarat High Court Record in CRA 205/2014:</p> <p>1. Annexure A-10, Volume XIII of the SC SLP Record (Written Submissions Filed by Petitioner Zakia Jafri In CRA 205/2014 along with Annexures A, B, C, D) @ Oages 680-710 of Volume XIII of the SC SLP Record</p> |
| 2 | Statutory Duties and SOPs Ignored by Senior | 1. <i>Annexed here is Chapter X on Special Organisations</i> | <p>References:</p> <p>1.Documents</p> |

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| | <p>and Field Officers as Part of a Wider Conspiracy</p> | <p><i>which lay down the Role of the State Intelligence etc.</i> (PAGE NO. 1-2)</p> <p>2.The Booklet on Communal Riots, 1997 researched and circulated under the aegis of then DGP, KV Joseph (PAGE NO. 3-39)</p> | <p>submitted to SIT on Mrs. Jakia Jafri FIR on 06.05.2009 by Ms. Teesta Setalwad - Excerpts of Gujarat Police Manual (copy of Gujarat Duties of Police (Annexure III, File XL (D-191-D-195 SIT Record</p> <p>2. Documents submitted, to SIT on Mrs. Jakia Jafri FIR on 06.05.2009 by Ms. Teesta Setalvad - Booklet on Communal Riots (D-192, Annexure III, File X-L (D-191-195of the SIT Record)</p> |
| <p>3.</p> | <p>Statements of Three Officers who were transferred</p> | <p>The fact of the transfer is not disputed as also the circumstances that ensued just before.</p> <ul style="list-style-type: none"> • Statement of Virambhai V. Rabari (PAGE NO. 60-62) • Statement of Satish Chandra Verma (PAGE NO. 63-64) • Statement of Vinod Kumar Mall(PAGE NO. 65-66) | <p>Reference:</p> <p>1.V.V. Rabari, IPS statement before the SIT on 16.01.2010 100116 Annexure I, Volume II, Serial No 69 SIT Papers</p> <p>2. IPS officer Satish Chandra Verma statement dated 10.2.2010 to the SIT Annexure I, Volume II, Serial No. 77 SIT Papers</p> <p>3.V.K. Mall, IPS statement to SIT</p> |

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| | <p>The Gujarat Govt supplies a list of officers departmentally proceeded against, to the Hon'ble Court in other proceedings where Petitioners are Intervenor</p> | <p>Table submitted by the Gujarat Government before the Hon'ble Supreme Court indicating departmental action against some officers in a related matter before this Hon'ble Court where the Petitioners (CJP) are Intervenor(<u>PAGE NO. 67-90</u>)</p> | <p>dated 9.12.2009 at Annexure I, Volume I, Serial No. 59 SIT Papers</p> |
| | <p>Evidence of Shri Rahul Sharma, IPS, then SP Bhavnagar and DCP-Control Room Ahmedabad:</p> <p>Political Interference in the functioning of Jurisdictional Officers to the extent of this becoming an interference in their duties. This Officer speaks of the DGP mentioning to him that the entire Bureaucracy had been neutralised.</p> <p>Continued Unprofessionalism and Doctoring of FIRs and Manipulation of Investigations and Charge-sheets</p> <p>This Officer collates and</p> | <p>Affidavit dated 02.07.2002 filed by IPS Officer Rahul Sharma before the Nanavaty-Shah Commission with Extracts(<u>PAGE NO. 91-103</u>)</p> <p>Statement of Rahul Sharma, IPS recorded before the SIT on 02.07.2009(<u>PAGE NO. 104-112</u>)</p> <p>Rahul Sharma letter to DGP, K Chakravarti dtd 24.03.2002</p> | <p>References: Annexed to Original Complaint dtd 8.6.2006 in this Hon'ble Court and supplied to SIT By Petitioners (File XXXIX, D-189-190, Annexure III, File XL, D-191-195)</p> <p>Reference: <i>Rahul Sharma Statement at Annexure I, Volume I, Serial No. 4 SIT Papers</i></p> <p>Reference: Annexed to Original Complaint dtd 8.6.2006 in this</p> |

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| | <p>produces a CD with Five Lakh Phone Records and these are not authenticated professionally by the SIT</p> | <p>which details the pressure being put on him not to arrest and release on bail those persons who belonged to the rioting mob(<u>PAGE NO. 113-116</u>)</p> <p>Letter (Contemporaneous) of Rahul Sharma dated 04.06.2002 to then Commissioner of Police K.R. Kaushik (Ahmedabad City) recording the questionable way in which charge sheets were being filed in mass massacre cases, powerful accused being protected and the narrative manipulated as to the causes of the Violence(<u>PAGE NO. 125-126</u>)</p> | <p>Hon'ble Court and supplied to SIT By Petitioners (File XXXIX, D-189-190, Annexure III, File XL, D-191-195)</p> <p>Annexed to Original Complaint dtd 8.6.2006 in this Hon'ble Court and supplied to SIT By Petitioners (File XXXIX, D-189-190, Annexure III, File XL, D-191-195)</p> |
| | <p>Lacklustre Investigation by SIT into the 5 lakh Call Phone Records as Observed in the Naroda Patiya Judgement. This Investigation and these comments by the Judge compare starkly with the manner in which the NHRC directed and CBI conducted authentication of the Tehelka Sting had taken place</p> | <p>Refer to pages 792-799, Chapter III: Mobile Call Details in the Naroda Patiya Judgement dated 29.8.2012). <u>(PAGE NO. 117-124)</u></p> | |
| | <p>Evidence of R.B. Sreekumar, IPS, then ADGP-Intelligence:</p> | <p>1. RB Sreekumar in his statement(s) before the SIT on 11.07.2009(<u>PAGE NO.</u>)</p> | <p>References: 1.Four Reports of the SIB at Pages 115-166</p> |

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| <p>The Evidence of this Officer is substantive and has not only been relied upon for the Original Complaint dtd 8.6.2006. The Central Election Commission (CEC) report –Aug 2002) and NHRC’s several reports of 2002 corroborate what he is alerting his government about: Prelude and Build Up, Hate Speech, Compromised Investigations and Prosecutions, Extortions and Violence by Sectarian Groups targeting the Minorities.</p> <p>This Officer also maintains a Conscience Register which he obtains from his superior OP Mathur who admits to this.</p> <p>This Officer files substantive affidavits before the Nanavaty-Shah Commission to which –in compliance of the Orders of his DGP and the Terms of Reference of the Commission—that contain contemporaneous records from the SIB and PCR of a Build Up to Targeted Violence and</p> | <p><u>127-132</u>, 13-14-15.07.2009(<u>PAGE NO. 133-136, 137-143, 144-150</u>), 16 & 19.07.2009(<u>PAGE NO. 151-157</u>), 1-2.08.2009 and 04.08.2009 (<u>PAGE NO. 158-164 & 165-172</u>) refers to key aspects of four reports that he had brought to the notice of the government. He also details various aspects of the Breakdown of the Constitutional Machinery in the state. The CEC relies on his assessment.</p> <p>These statements are part of the Inquiry report submitted to the Hon’ble Supreme Court in 2010.</p> | <p><i>of Volume III of the Convenience Compilation</i></p> <p>2. <i>Pages 176-182 of Convenience Volume III is the 24.4.2002 Report;</i></p> <p>3. <i>Pages 187-190 is a 20.8.2002 Report submitted by another senior Officer E Radhakrishnan to the Govt</i></p> <p>4. <i>Pages 194-197, Convenience Volume III are the Actionable Points given by RB Sreekumar to KPS Gill in May 2002</i></p> <p>5. Report of the CEC dtd 16.08.2002 annexed at <i>Pages 193-125, A-2, Volume X of the SC SLP Record)</i></p> <p>6. Statements to SIT of RB Sreekumar are at Sr Nos 5-11, from dates 11.07.2009 to 4.08.2009 in Annexure I, Volume 1 of the SIT Papers.</p> <p>Copy of 3rd affidavit of Shri R. B. Sreekumar dated 09.04.2005 submitted to Nanavaty Commission of Inquiry with Annexures</p> |
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| <p>the Failure of Authorities and Officials to act.</p> <p>Bureaucrats attempt to coerce him into tempering his testimony (2004) –oral deposition before the Commission. He records this attempt and places it before the Commission.</p> <p>None of this is Investigated thoroughly by the SIT that seems pre-determined to disregard and question his integrity.</p> | <p>Annexed is the 3rd Affidavit of RB Sreekumar dtd 09.04.2005 with Annexures</p> <ul style="list-style-type: none"> • Affidavit (<u>PAGE NO. 172-213</u>) • Conscience register (<u>PAGE NO. 214-240</u>) • Transcript of meeting between GC Murmu, Arvind Pandya and R.B. Sreekumar (<u>PAGE NO. 241-276</u>) • Transcript of conversation between Dinesh Kapadia and R.B. Sreekumar (<u>PAGE NO. 279-298</u>) | <p>(A to G) at D-23, Annexure III, File III of the SIT Record</p> |
| <p>Admissions and lacklustre denials on the attempts to coerce RB Sreekumar actually corroborate the fact of the coercion. The SIT pre-disposed to not investigate the matter further simply does not investigate further</p> | <p>Statement of Arvind Pandya Govt Pleader in the Nanavaty Shah Commission to SIT dtd 21.11.2009(<u>PAGE NO. 299-300</u>)</p> <p>G.C. Murmu statement to SIT dtd 4.11.2009(<u>PAGE NO. 301-303</u>)</p> | <p>References:</p> <ol style="list-style-type: none"> 1. Annexure I, Volume I, Serial No. 46 SIT Papers 2. Annexure I, Volume I, Serial No. 35 SIT Papers 3. Annexure I, Volume I, Serial No. 36 SIT Papers 4. Annexure I, Volume I, Serial No. |

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| | | <p>Dinesh Kapadia statement before the SIT dtd 5.11.2009(<u>PAGE NO. 304</u>)</p> <p>O.P.Mathur statement before the SIT dtd 4.11.2009 (<u>PAGE NO. 305-306</u>)</p> <p>S. Pathak statement before the SIT dtd 6.11.2009 (<u>PAGE NO. 307</u>)</p> <p>Maniram- ADGP (Law and Order) statement before SIT dated 18.12.2009(<u>PAGE NO. 308-309</u>)</p> <p>K.R. Kaushik, then CP Ahmedabad (Aug 2002) statement before SIT dtd 20.02.2010 (<u>PAGE NO. 310-312</u>)</p> <p>Ashok Narayan's further statement before SIT dtd 13.12.2009(<u>PAGE NO. 313-318</u>)</p> | <p>34 SIT Papers</p> <p>5. Annexure I, Volume I, Serial No. 37 SIT Papers</p> <p>6. Annexure I, Volume I, Serial No. 66 SIT Papers</p> <p>7. Annexure I, Volume II, Serial No. 88 SIT Papers</p> <p>Annexure I, Volume I, Serial No. 63 SIT Papers</p> <p>References: Protest Petition: Paras (xii) to (xxv) at pages 213-215, Volume III, Protest Petition, in SC SLP Record Paras 93-94, Page250, Protest Petition, Volume III of the SC SLP Record Para 101, Page 253, Protest Petition, Volume III of the SC SLP Record Paras 261-322 Pages 321-341, Protest Petition, Volume IV of the SC SLP Record Para 426-444, Pages 372-383, Protest</p> |
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| | | | Petition, Volume IV of the SC SLP Record(Prelude to Violence, SIB Messages) Para 460, Page 399, Protest Petition, Volume IV of the SC SLP Record (First Affidavit of RB Sreekumar) |
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