

ROLE OF THE POLICE

Speaking about the strength of the Police force of Delhi, the then Police Commissioner Tandon has said :

"At that time there were about 22,000 Constables, 3,000 Head Constables, 900 Asstt. Sub-Inspectors, 1,500 Sub-Inspectors, 500 Inspectors, about 200 Asstt. Commissioners of Police, 35 Dy. Commissioners of Police, 6 Addl. Commissioners of Police and one Police Commissioner in the Delhi Police establishment."

Delhi at that time was divided into five police districts and 63 police stations and there were 25 police posts. It is a fact that the police establishment had not been expanded commensurate with the expansion of the population and problems. The police administration had been of the view that a greater number of police stations was necessary to exercise effective control and the outlying areas which were thinly populated and into which revenue villages had been included required more of attention.

Every police station has a Station House Officer of the Inspector's rank and to it are attached a definite number of Sub-Inspectors, Asstt. Sub-Inspectors, Head Constables and Constables. At the headquarters, there is a Central Control Room. Every police station is fitted with wireless arrangement for keeping immediate contact with the headquarters as also the Control Room. The police force of Delhi is a part of the Delhi Administration and members of the force are not transferable outside Delhi. Once someone is taken into employment he is assured of service (subject to disciplinary control and adverse orders, if any) within the compact territory and transfer from one police station to another is not a serious matter for the officer as it hardly involves a distance of 30-40 km. at the most. The Commissioner of Police is necessarily a senior IPS officer but the set up of Delhi Administration has become such that he is under the administrative control of the Home Secretary of the Delhi Administra-

tion who very often is a comparatively junior officer of the Indian Administrative Service. Some times misunderstanding creeps up in regard to exercise of this control on account of this situation. Under the constitutional scheme the President being in over all charge of the administration and such administration being run with the aid and advice of the Cabinet, the Home Ministry of the Central government is the authority to exercise the controlling jurisdiction. But the Administrator designated as Lt. Governor is in direct charge of law and order and the Police Commissioner is certainly subject to his control.

As mentioned in another part of the Report, Shri S.C. Tandon, IPS, was the Police Commissioner at the relevant time. He had the authority both to promulgate orders under section 144, Cr.P.C., as also impose curfew. Beat system prevailing earlier in Delhi had been abandoned for quite some time. No one could tell the Commission the precise reason for such abandonment. The general criticism against the Indian Police that it failed to take note of the changed situation in the country following independence and did not adapt itself to the requirements of an independent welfare State applies equally or even in a greater degree to the Delhi Police. Undoubtedly the police during the British regime was intended to be a protector of the interests of the foreign ruler. Though the Britishers left and India had its own people to govern, the special loyalty to the people in power which was the hangover of the British imperial tradition continued. The police failed even to realise that its new masters in free India were the ^{the common} people of India.

On October 31, after the Home Secretary had alerted the State administrations, Delhi Police had also been alerted in its turn. Prohibitory orders under s. 144, Cr.P.C. had been promulgated by the Police Commissioner. Wireless

instructions had also been issued to the Police Stations. On October 31 itself, instructions marked 'Secret' and 'Most Immediate' and with the subject-title "Special precautions to be taken for maintenance of law and order in Delhi" were issued to all Addl. Commissioners of Police, all Distt./Unit DCPs including Principal, PTS and FRRO. Therein the justification for issuing those directions was explained thus :

"In view of the extremely tragic incident of assassination of the Prime Minister of India at the hands of two police personnel belonging to a particular community which may provide a reaction from other communities, there is a need for putting the entire police force in the Union Territory of Delhi on alert and take adequate steps for maintenance of law and order and communal harmony in the Union Territory. All senior police officers may make suitable arrangements in their respective District/Unit to achieve these objectives."

Under paragraph 2 the aims and objectives of the police arrangements were stated to be :

- i) Maintenance of law and order and crowd control;
- ii) Providing adequate security to the VVIPs;
- iii) Arrangements to regulate the crowds who come to pay homage to the departed soul and suitable arrangements for funeral procession;
- iv) Maintenance of communal harmony and ensuring normal city life;
- v) Protection to places of worship and vital installations.

Clear instructions were given that visible police patrolling in strength may be organised in the city, particularly near the Gurudwaras and other vulnerable points like shopping centres, etc; armed pickets should be deployed in communally sensitive areas, particularly where there is a mixed population and these instructions were said to be necessary for preventing any incident of arson, looting or damage to life and property. It was also mentioned therein that a request had been made to the Home Ministry to provide as much outside force, i.e. BSF, CRPF and ITBP, as possible and to bring forces from neighbouring States to augment police arrangements in Delhi. The

Commandant-General, Home Guards, was also requested to provide as many Home Guards as possible for three days. Preventive action was proposed against anti-social elements and bad characters.

These instructions more or less remained on paper and the police of Delhi visibly failed to rise to the occasion as a professional force. The brutal killing of a revered leader like Smt. Gandhi, Prime Minister of India, certainly wounded the feelings of every Indian. That was legitimate. Individually, every policeman in Delhi had justification to feel sorry and even mentally injured on such an occasion and the suddenness of the news and particularly when two men drawn from the disciplined force were the authors of the crime there was scope for being overtaken by a stunning effect. But if the Delhi Police had the requisite professional approach and training, the temporary obsession brought about by the sudden event could not continue to colour and cloud the vision as also the thought process and conscience of the police force. The call of duty should have helped the police force to revive from the temporary stunning effect and the instructions issued in the manner indicated should have been scrupulously followed.

There is abundant evidence before the Commission that the Police on the whole did not behave properly and failed to act as a professional force. Telephone No.100 which is meant for notifying for police assistance did not respond at all during that period. The police stations when contacted on telephone ordinarily did not respond and if there was any response it was a plea of inability to assist. The behaviour of most policemen was shabby in the sense that they allowed people to be killed, houses to be burnt, property to be looted, ladies to be dragged and misbehaved with in their very presence. Their plea was that they were a few and could not meet the unruly armed mob usually of hundreds or thousands.

Some senior police officers had taken the stand that the community was in a frenzy and to meet the cruel mob greater strength of force was necessary. Obviously, the police could not expect that their number had to be equal to that of the miscreants. A professional police force by its expertise, experience and training was expected to meet any challenge and was not to seek cover under an umbrella of excuses based upon instructions in archaic Police Rules. Has any hero been heard of opening his scriptures when he suddenly meets a challenge to his life ?

Though senior police officers have denied that there was any active support or association of the police with the crowds and the Commission does not have any definite material against named policemen of having played such role, it is difficult to reject the allegation as baseless. The Commission is of the view that detailed investigation/inquiry should be undertaken to find out whether some policemen of the Delhi Administration had not behaved that way. The then Lt. Governor Gavai in his evidence before the Commission has stated :

"The flow of reports of actual happenings was not coming. Lt. Governor's channel for information was through the establishment of the Commissioner of Police."

Police Commissioner Tandon stated to the Commission :

"Evidently the SHOs were not feeding the district police control room from where the police control room was intended to be fed. ... It would be wrong to say that the police administration had collapsed during that period. However, there was failure in certain areas where the local officers did not rise to the occasion. ... Areas from where killings had taken place on a large scale were identified as Trilokpur in P.S. Kalyanpur, some other police stations in East Delhi such as Nandnagri; Palam Village in P.S. Delhi Cantt.; Srinivaspuri; Mangolpur and Sultanpur in West Distt.; Jahangirpur in North District. There may be some more areas details of which I have to check up."

He even specified the names of some of the delinquent police officers. According to him, the SHO of Kalyanpur had to be

suspended and taken into custody along with some of his subordinates and a handful of other officers of other police stations had to be transferred and inquiries were instituted against them. According to the Police Commissioner Tandon, where the local police officers behaved properly the trouble had been minimum or avoided depending upon the initiative, courage and leadership of the local officers. Where the local officer lacked this or failed to rise to the occasion, the trouble spread and life and property were lost. Police Commissioner Tandon exhibited poor knowledge of many aspects. He failed to indicate what exactly should have been the strength of the Police in Delhi. He did not know the strength of the jhuggi dwellers even by estimate or their percentage to the total population; nor was he aware of the total number of fire stations in the Union Territory of Delhi. According to his records the total number of deaths during the riots in Delhi was less than a thousand - to be precise, 970, while Government has put the figure well over 2300. It is a fact that Police Commissioner Tandon had been transferred out of Delhi on November 11, 1984, but by then he should have been able to get a near to actual figure of deaths if his administration had been functioning properly.

Shri Ved Marwah, the present Police Commissioner has said :

"I have found out that during the November 1984 riots information available with the local police did not flow into the police control room. Absence of such information caused failure of proper assessment to be made at the Headquarters and on account of want of proper feed back, steps which could have been taken to control further degeneration of the situation could not be taken. Such instances were quite a good number. If timely information had been received the evaluation made at the Headquarters would have certainly been different. Though I am not in a position to say whether the situation could have been brought under control in the background of such information being available, it is certainly a fact that a different outlook would have developed to meet the situation."

Additional Commissioner Jatav has told the Commission that he got the information of killings in Kalyanpuri only at 7 p.m. on November 2, 1984, and this he checked from his records and stated. Kalyanpuri is 12 km. away from the Police Headquarters. As already mentioned, more than 200 people died in the area and on his own showing these took place during the night of November 1. Such a brutal incident taking place within a distance of 12 km. from the Headquarters not to be known to the Addl. Commissioner of the area for well over 16-18 hours easily gives the impression that the police administration had virtually become ineffective during that period. The version of the officer that higher officers were taking rounds has become not acceptable in view of his statement that during that disturbed condition the information from Kalyanpuri area could not travel to the police headquarters. There are many pockets in the city inhabited by more of Sikhs with which no attempt was made to keep contact either by taking rounds or otherwise. Jatav has assessed that 25% of Delhi Police personnel became indifferent.

Addl. Commissioner Kaul has stated to the Commission :

"There was a break-down of communication particularly between the outlying areas of the Union Territory with the police headquarters. This was so for the first three days namely 31.10.84 and 1st and 2nd November 1984."

He has also stated :

"One incident was noticed in my area namely Delhi Cantt., where an incident of a serious nature was not even brought to the notice of the DCP (South) for three days, and it was only through some non-police sources that the DCP, South managed to get hold of information and then began to inquire into the event."

Shri R.S. Sethi, the then District Magistrate of Delhi and now Commissioner of Lands, DDA, told the Commission :

"My impression is that the senior police officers were anxious to maintain law and order at any cost. They were, however, not fed with appropriate and timely information by the police officers in the different areas in the field. I am prepared to substantiate this impression of mine by facts. For

instance, in Trilokpuri killings were about 260. The Commissioner of Police in the meeting called by the Lt. Governor, on the basis of information collected by him, disclosed this figure to be between 20 and 30. Same was the situation in Palam Colony. As against actual deaths of 300, the police statement disclosed deaths of about 30-40 persons. I moved from house to house in Palam Colony along with Mr. Ashok Pradhan who was helping in relief operations. I saw charred dead bodies and otherwise also several dead bodies lying here and there. I saw the same situation in Trilokpuri area. My own impression is that the local police did not at all act effectively in controlling the situation."

In answering the question of the Commission as to whether it was a case of positive negligence or one of callousness or inattention, Shri Sethi stated :

"I do not think it is a case of open participation but to my mind it seems to be a case where under pressure they remained away from duty and ceased to be effective with a few exceptions. Some SHOs were very effective and dutiful. About 25 to 30% of these SHOs were found effective. All others remained indifferent and did not come up to the mark."

The Commission wanted a clarification as to the meaning of 'pressure' and Shri Sethi stated :

"I refer to local political pressure but in the absence of any positive material I cannot name the source of pressure. It is, however, a fact that the police remained ineffective as if something had happened to keep them away from their duty."

Shri Sethi further stated :

"My impression is that had the police done the appropriate planning and on 31.10.84 apprehended that the situation may turn worse, by themselves with a little assistance and moral support from the Army they would have been able to maintain law and order effectively and nothing to that extent would have happened."

In the opinion of the Commission this is a reasonable assessment of the situation. Police Commissioner Tandon should

not have felt satisfied that by promulgation of prohibitory order under section 144, Cr.P.C. the situation would be brought under effective control. More of useful planning should have been undertaken and the line of action from the afternoon or at least the night of October 31, 1984, should have been different. Some higher police officers should have been deputed to move about in different areas to activate the

Local police and to instill in them the dual sense of duty and confidence. If the Army had to be called that matter should not have been deferred till the next morning. Killing of Smt. Gandhi was not a small matter and everyone should have reasonably apprehended serious repercussions. The then Lt. Governor did have such apprehensions as told by him. Since Government had already alerted the Army, the Lt. Governor and the Police Commissioner should have called in the Army and asked them to patrol during the 31st evening and night in the sensitive localities. If at the right time police action had started with the number of the police force available the entire situation would have remained under control. Police Commissioner Tandon's own statement is the best material to rely upon for such conclusion. He has said that wherever the local police behaved, the situation did not go bad at all or very much. It is ^{not} the stand of Shri Tandon that wherever the police are said to have behaved like a disciplined force, there was an adequate force available. Therefore, inadequacy of police personnel does not seem to be the real cause. On the other hand, Shri Sethi's statement that the police became indifferent appears to be the real one. As has been pointed out in the book entitled "Law and Order Reconsidered" (Praeger Publishers, New York) :

"Civil order, like a fire, can rapidly grow out of control unless it is dealt with quickly in the very early stage. During the first minute of a disorder, a hundred well trained and commanded policemen can often prove more important and effective than one thousand men a few hours later."

Several riot-victims alleged in their affidavits that while the police made no attempt to drive away the riotous mobs moving about in the streets fully armed, they made a systematic attempt to take away the licensed arms available with the Sikhs. Though there may have been some embellishment in the description of the manner in which the police took away the fire arms, the Commission is satisfied that fire arms

had been taken away from the Sikhs during that period. Allegations of this type have been investigated in many instances and the conclusion is in line with the allegation. The police had taken the stand that the arms were taken away as there was apprehension of Sikhs using the arms for killing the people in the mob who were attacking them and damaging their property, and in case such incidents happened, the mobs would get more infuriated and the riots would become more widespread. It has also been their stand that there had been some instances of killing by the Sikhs and to minimise armed confrontation this had been done. Undoubtedly, overawed by the riotous mobs moving in the streets and endangering the safety of person and property of people belonging to the Sikh community, in certain areas Sikhs had formed themselves into groups for self-defence. Law permits use of even fire arms in some eventualities in self-defence of person and property. If the police were able to control the riotous mob certainly they were entitled in a given situation to temporarily take away the licensed fire arms with a view to easing the situation. But when riotous mobs could not be controlled - and this is the admitted position - in the face of the law authorising the right of private defence to be exercised with the aid of fire arms, if necessary and justified, it was not at all proper on the part of the police to withdraw the licensed fire arms from some of the people belonging to the group which was being attacked and thus expose the weaker group to greater risk in the hands of the rioters. The Commission is not in a position to approve of this conduct on the part of the police.

As an illustrative instance of humane attitude of some of the police officers during the riots a reference may be made to the particulars in the affidavit of Smt. Joginder Kaur (no.2450). She was a resident of Palam Colony, one of the worst affected areas during the riots. She has stated :

"On November 3, 1984, when we were hiding in the bushes the mob came towards that side. They had torches and lights with them. They spotted us in the bushes and caught hold of us. I told them that we were Hindus but they saw the turban marks on the heads of my sons. They said, 'you are Sardars. You have got your hair cut just now'. The mob started beating both my sons. At this I said in Hindi, 'We are Hindus. Do not beat us.' Thereupon one person out of the mob came out and said, 'Listen to them carefully. Don't say them anything.' He asked the other men to take us to the Mandir and keep us there. When we were being taken to the Mandir some people tried to hit my sons with sword and iron rods but I came forward and thus rescued my sons. The sword hit my leg which started bleeding profusely. In the Mandir to save us, the Pujari sent us inside the Mandir and locked the gate from outside. The Pujari asked us to sit there and that he will send us to Gurudwara when the curfew is lifted. This was the Shivmandir of Sagarpur. Outside the Mandir the mob was shouting at Pujari and threatened to break open the lock. They also tried to break open the lock. This continued for a long time and in the meantime many more persons joined the mob. Then somebody shouted that the Mandir be set on fire if the Pujari did not open the lock. When they poured kerosene oil from the grill of the Mandir and tried to set it on fire, I dashed my forehead at the feet of Devi and prayed Her to appear and save us. My sons started weeping loudly along with me. At that time one person who had wrapped a blanket around himself came forward and asked the mob not to set the Mandir on fire. That man asked me, 'Sister, where have you to go?' I told him that we had to go to Maharani Bagh. He said that he is also from that side and he would save us. But I did not believe him. He told me that he has the key of the back door and when he would give a signal we should escape from the back door. When I hesitated, he said that he is a Police Inspector and has also a revolver with him. He removed his blanket and showed me the revolver. He was wearing a police uniform. He showed me his identity card also and upon this I believed him. Then he made an announcement at the loudspeaker of the Mandir, 'Extremists have arrived towards the Railway line. Run for your lives.' Many from the mob ran towards the line and he made us come out from the back gate. He called 5-6 more persons and instructed them that we have to be saved. Hardly had he taken us for some distance that the mob returned and surrounded us. Some people in the mob enquired from the Police Inspector that why he was taking the two Sardar children and thereby putting them to a loss of Rs.500/- each. The mob told the Inspector that they would not allow the Sardar children to go. At this the Inspector drew out his revolver and one more man drew out his revolver and threatened the mob to shoot anybody who will come forward. The mob retreated and they took us out from that place. In the way, other persons accompanying the Inspector also removed their blankets. Two of them were in police uniforms. One of them was a Police Inspector and he told me that he is a Police Inspector. ... They accompanied us up to and left us at Gurudwara Sadar Cantt."

This indeed is one of the instances where one member of the

police force rose to the occasion and rescued the lives of three persons of the Sikh community.

The Commission made a serious attempt to identify this particular officer but in the absence of any definite clue, it became difficult to locate him. One of the reasons why this was attempted is to find out why a few of these police officers had covered themselves with blankets in the manner described. Though it has not been suggested - and much less relied upon as a contention - the Commission intended to discover if the reason for such covering up was to conceal police identity on account of the situation that they were a few in number and had become apprehensive of their own security in the presence of the riotous mobs.

There is evidence which the Commission cannot ignore that on several occasions when fire tenders started moving to places of arson on receiving intimation, the mobs blocked the passage and held them up or forced them to return. On several occasions this was done in the presence of the police. It is well-known that fire tenders have precedence of movement on the roads for they move to answer an emergency, yet the police did not attempt to clear the way.

Several instances have come to be narrated where police personnel in uniform were found marching behind, or mingled in, the crowd. Since they did not make any attempt to stop the mob from indulging in criminal acts, an inference has been drawn that they were part of the mob and had the common intention and purpose. Some instances, though few in number, have also been noticed where policemen in uniform have participated in looting.

There is some force in the allegation of DSGMC that the police had no business to change the method of recovery of stolen goods. Ordinarily, the place where stolen articles are stored - be it a house or some other place - is searched,

recoveries of identified articles are made, on the basis of such recoveries prosecution is launched and the possession of identified stolen property constitutes good evidence for the offence punishable under sections 411 and 412, IPC and provides a presumptive link for the offence. During the riots, the police instead of following this known method, adopted a novel one of inviting the culprits to pile up the stolen articles in the open near the houses from where the removal had been made. By this process, the best evidence linking the accused with the offence vanished. Such of the articles which were returned belonged to several persons and were mixed up. Very often, as alleged, they were taken away from there by others and even by policemen. Since the Commission has not been told the justification for the adoption of this novel and uncanny procedure, the suggestion of the victims that this procedure helped misappropriation of some of the articles cannot be ruled out. The Commission has, however, no intention to act on surmises and leaves this aspect to be taken up in the inquiry against the police officers as recommended by it.

Surprisingly the Delhi Administration has supported the action of the police and seriously attempted to extend cover for the lapses. In the written submissions on behalf of the Administration reliance has been placed on different provisions of the Punjab Police Rules, 1934, which perhaps have been kept in force under s. 149(1) of the Delhi Police Act, 1978. The Punjab Police Rules were made at a time when the country was under shackles of foreign domination. The role of the police under the foreign ruler was meant to be different. The long title of the 1978 Police Act says that it was an Act to amend and consolidate the law relating to the regulation of the police in the Union Territory of Delhi. The entire position should have been reviewed when a revamping was attempted by introduction of a new law and if the Punjab Rules were found insufficient inadequate or archaic to meet the

demands of the times, proper rules should have been made. There was no necessity or justification to continue those antiquated Rules under the new Act. Want of a riot squad in the Delhi Police has also been advanced as a justification for the police conduct. The Commission notices with disapproval such a stand by the Administration. Perhaps that could have been advanced as a justification on behalf of Delhi Police if it was being indicted by the Administration but the Administration should not take that stand. By October 1984 riots had become too frequent in India and under the excuse or cover of every available plea based upon economic, religious, political and social issues society was being victimised by riots now and then. Delhi and neighbouring places had seen riots on more than one occasion. It is difficult for the Commission to appreciate that the Delhi Administration had not thought it appropriate to equip its Police with one or more riot squads. The Commission also is not in a position to appreciate the stand of the Delhi Administration that what "happened during 31st October to 3rd November, 1984, was not a problem of maintaining law and order but reflected the sudden and spontaneous national outburst culminating from the vacuum caused by an unprecedented and never thought of murder of the Prime Minister of India." As already found, what happened was certainly unprecedented and possibly beyond the range of advance comprehension. The stand that it was a spontaneous national outburst, which may be a fact, cannot be used as a ground to justify the behaviour of the Delhi Police. The spontaneous national outburst (reiterating the phrase of the Delhi Administration) did not bring about calamity of the type that happened in Delhi in other parts of the country. There are several places outside Punjab where the proportion of the Sikh population to the total local population is higher than at Delhi (here it being 6.33%). There are also other places where the Sikh population is sizeable yet social tranquillity

was not disturbed in those places the way it was at Delhi mainly on account of effective control being exercised by the police who were incharge of maintaining law and order. It is a fact that for some time on October 31, 1984, there was a vacuum in the office of Prime Minister. That again is no ground for the Delhi Administration to rely upon. Even if there was a vacuum in the office of the Prime Minister, the Delhi Administration had no difficulty in functioning and a vacuum in the office of the Prime Minister was no justification for the police to misbehave (failure to behave according to the prescribed standards is a form of misbehaviour). The Delhi Administration has again contended that the police is essentially a civil force; its weaponry, exercise and control are meant to meet the situation arising out of small disturbances. The Delhi Police were already 30,000 strong as against the total population of around 65 lakhs. The proportion works out to one policeman for 200 people. This certainly cannot be said to be a totally inadequate police force though the Commission agrees that the strength should have been increased. The failure of the Administration to provide police with up-to-date equipment and make it an effective team of professional police men cannot again be advanced as a justifying ground for the police conduct. One's own failure or lapse is never advanced, much less accepted, as a justifying excuse for a wrong arising out of the same. In its written submissions the Delhi Administration has also taken the stand that the Sikhs by their conduct of celebrating the death of Smt. Gandhi created a provocative situation which led to the riots. The Delhi Administration and the police certainly knew the position that if the conduct of the Sikhs was wrong they could be independently dealt with by the police and all those persons who were celebrating Smt. Gandhi's death should have been dealt with under the criminal law of the land if such conduct was offensive. One delinquency is no justifi-

cation for another and in a larger proportion. The Commission, therefore, is not in a position to accept the stand of the Delhi Administration on this score taken in the written submissions. It is to be remembered that the Delhi Administration took no positive stand in regard to the police conduct when called upon to do so. It led no evidence and even did not place any document before the Commission unless called for. In the written submissions certain aspects have been assumed though the relevant evidence has not been placed before the Commission. This approach to the matter certainly is not tenable.

The Commission has noticed that the Delhi Police did not have an effective intelligence wing which could have fed the authorities at the top with what should be apprehended on the basis of the existing situation and intelligence actually collected.

Delhi, apart from being the capital of the country, was the place of the killing of Smt. Gandhi. The dead body of the beloved leader was seen lying in state. The reaction of the common man was likely to be of greater intensity here. Police Intelligence should have foreseen this and advised greater preparedness.

It is in evidence before the Commission that administrative action was initiated against some of the delinquent police officers. Shri Ved Marwah, the then Addl. Commissioner of Police was also asked to inquire into the lapses of police officers during the riots. Shri Marwah has told the Commission :

"I was handling an inquiry into the lapses of police officers during the November 1984 riots. I had proceeded with the inquiry to a large extent but some important witnesses had yet to be examined, including the then Commissioner of Police. I had been directed to make this administrative inquiry by the Commissioner of Police but he later directed that the inquiry may not proceed in view of the fact that a judicial inquiry into the matter was being undertaken. That is how the matter has not proceeded further."

He has further stated :

"As I have just stated, I never came to the final stages of the inquiry but in course of inquiry I had come across instances where there was prima facie material to show lapses on the part of some police officers. Such lapses appeared in respect of DCPs, ACPs as also SHOs and officers of even lower ranks."

At one stage the Commission was inclined to go into the lapses, issue notices under section 8B of the Commissions of Inquiry Act and record findings of lapses, but in view of the evidence later available that the lapses were rampant and several officers of different ranks would be involved if such an inquiry is undertaken, the Commission changed its approach to the matter. Such an inquiry would have protracted the proceedings and unusual delay in submission of the Report on the issues referred to the Commission was not considered expedient. Again, the Commission has taken into consideration the position that even if a finding under section 8B of the Act is given, it would not bring about suitable punishment for the delinquency that may be found and further administrative or criminal action would be necessary for such purpose. Keeping all these aspects in view, the Commission has not thought it proper to name anyone as a delinquent. This, however, does not mean that the Commission is of the view that the conduct of the delinquent police officers should not be inquired into. On the other hand, the Commission is of definite opinion that a proper inquiry should be undertaken. Such a probe is in the interest of the police as a force as also the Administration. The black sheep can be identified and suitably dealt with. The dutiful officers should be commended. The defects can be found out and remedied. The morale of the police as a disciplined and professional force can be streamlined on the basis of the result of the inquiry.

On November 25, 1984, hardly three weeks after the riots, the Marwah Inquiry was set up by the Delhi Administration for findings on :

- (i) identification of incidents of serious failure or negligence, if any, on the part of the individual police officers/men;
- (ii) identification of good work, if any, done by individual police officers/men so that they could be suitably rewarded;
- (iii) identification of deficiencies and limitations of manpower and equipment of the police force and for suggestions as to measures to tone up the functioning of the police to meet the challenge in the days to come.

Soon after Shri Marwah, then Additional Commissioner of Police, proceeded with the inquiry, Shri Chander Prakash and Shri Sewa Dass, Deputy Commissioners of Police incharge of South and East Delhi respectively during the November riots filed a suit before the Delhi High Court and at their instance by order dated November 25, 1985, in I.A. No.2246/85 arising out of Suit No.677/85, the High Court made an order of injunction against Shri Marwah and Shri Jog (Police Commissioner), defendants 1 and 2 in the suit, restraining them from publishing the inquiry report or submitting the same to the Lt. Governor of Delhi or the Union of India for taking any action thereupon against the plaintiffs. No further steps appear to have been taken by the Administration to get this injunction vacated or varied. A lot of criticism has been advanced in the written arguments of the DSGMC against the Administration for accepting the injunction staying the inquiry by Shri Marwah. The criticism seems to be justified but with that part of the matter the Commission has indeed no further concern in view of the fact that elsewhere in this Report the Commission intends to recommend another inquiry to be conducted. What is relevant for the purpose of this Report is that two of the Deputy Commissioners of Police were apprehensive that there was likelihood of materials coming out against them if Shri Marwah proceeded with the inquiry and,

therefore, they were anxious to rush to the Court and obtain an order of interim injunction. The inquiry, as the Commission gathers, was not proceeding for other reasons even before the injunction from the High Court came but if the injunction had not been there quite likely some sort of inquiry could have been carried on in view of the fact that Shri Marwaha had by then become Commissioner of Police and appeared to be in favour of an inquiry of this type. The tell-tale circumstance which the Commission is prepared to gather from the conduct of these two Deputy Commissioners of Police is that they were afraid of facing the inquiry. An attempt was made by the Commission to examine Shri Sewa Dass and notice had been issued but service could not be effected. The Commission did not think it worth while to proceed further in the matter of his examination by it as the Commission proposed recommending a detailed inquiry to be undertaken.

It has been pointed out to the Commission that by way of a public interest litigation a writ petition had been filed before the Delhi High Court being CWP No.2667/84, requesting the High Court to issue directions to the Delhi Administration and the Commissioner of Police to take action for criminal negligence against the guilty, including the two Deputy Commissioners of Police. The High Court had declined to interfere in that matter by order dated October 4, 1985, by relying upon and accepting the statement made by a Joint Secretary of the Delhi Administration to the effect that Shri Marwah had already been appointed to inquire into the matter and the said inquiry was about to be completed and thus there was no necessity for any direction of the type asked for.

So far as the Delhi Administration is concerned, the position, therefore, was that an inquiry had been directed to be conducted by Shri Marwaha, the then Addl. Commissioner of Police and that inquiry was being proceeded with involving the

conduct of several police officers, including the two named Deputy Commissioners. The questions which Shri Marwah had been asked to examine and report upon clearly accepted delinquency on the part of several police officers and it, therefore, required an inquiry into such delinquent conduct and identification of the officers. Simultaneously it required identification of officers who had been dutiful and had done good work - apparently with a view to punishing the delinquent and commending the upright ones. If the inquiry had been conducted within a time frame, the report on the basis of materials found would have indeed been a revealing one and would have served the purpose for which the inquiry had been directed. While the Delhi Administration had then on its own directed an inquiry into the delinquencies and good conduct of its police officers, the present stand is one of total justification. Nothing apparently has happened in between which could have brought about such a drastic change in the attitude of the Administration.

The inquiry instead of being done by the Commissioner of Police, should be by a higher authority as some aspects of the conduct of the then Commissioner of Police may also have to be looked into. Administrative propriety would not justify his successor Commissioner of Police to inquire into the conduct of his predecessor. If the inquiry started by Shri Marwah had not been stopped, by now some of the delinquencies would have already been found out. Since a lot of time has been lost and a delayed inquiry may not be very effective and useful, the Commission recommends that an inquiry be undertaken without delay and preferably the inquiry be handled by a Committee of two persons - an experienced retired Judge of a High Court and an experienced civilian. A time frame should be prescribed for its working.

ACTION AGAINST OTHERS

The persons named in the affidavits as perpetrators of the hundreds of inhuman crimes are in great number and may perhaps exceed a couple of thousands on a modest estimate. Everyone in the riotous mobs indulging in criminal activity would, in the strict sense of law, have liability though there may be a distinction between those directly indulging in overt acts and others who may have no overt acts ascribed to them. As already noted, the victims are keen that the law breakers be put on trial. Keeping that aspect in view, it becomes difficult for the Commission while recommending prosecution to be launched, to sit in judgment over the conduct of some and, if necessary, find them guilty by naming them under s. 8B of the Act. Again, the Commission was impressed by the fact that the people involved were in great number and the task would have been almost an impossible one if the allegations against every named person had to be scanned complying with the requirements of the law. This has, therefore, been an added consideration weighing with the Commission for desisting from making any assessment of the allegations implicating individuals as either members of the riotous mobs or organisers thereof. The Commission could not have undertaken an inquisitorial proceeding.

DELAY IN CALLING IN THE ARMY

General A.S. Vaidya, Chief of the Army Staff at the time of the riots has told the Commission that before he had any information from the GOC, Delhi Area, about civil administration alerting the Army, of his own accord he had told the GOC that he had his consent and direction to extend necessary assistance immediately as and when asked for, as the General was apprehensive that an emergent situation might arise when he came to learn about Smt. Gandhi being shot by two of her armed guards. According to him, by about 10.30 a.m. on October 31, 1984, he had directed a Brigade from Meerut to be moved to Delhi and this Brigade had reached Delhi before midnight of October 31. This Brigade had 1600 fighting officers and jawans. At Delhi the usual Army strength is one Infantry Brigade, one Artillery Brigade and the available strength of Rajputana Rifles Regimental Training Centre. In his view the total of these three groups would be somewhere between 5500 and 6000 strong. Maj.Gen. J.S. Jamwal, GOC Delhi Area, has told the Commission that he had at his disposal at the relevant time a full Brigade, a Regimental Centre, an Engineering Regiment, two Regiments of Artillery. The actual number available was 6100; 3000 jawans were available for field duty and 3100 were used for controlling movements at Teenmurti Bhavan where the body of the late Prime Minister was lying in state and arrangements from Teenmurti Bhavan to Shakti Sthal where Smt. Gandhi was to be cremated. The statement of Police Commissioner Tandon that adequate Army personnel were not available in Delhi has turned out to be without basis. There is no reason to disbelieve Gen. Vaidya's statement that by the midnight of October 31, 1984, one Brigade from Meerut was already at Delhi. Thus, at least 5000 fighting Army men were available by October 31 midnight.

On October 31 itself Shri Rajiv Gandhi after being sworn in as Prime Minister reviewed the situation in Delhi and

left instructions that the Army may be alerted, and if, necessary, called in. It is the statement of almost every officer examined by the Commission that the Army had been alerted during the day on October 31, 1984.

Additional Commissioner Kaul has stated :

"The Delhi Police were not in a position to match the challenging task that followed the assassination of Mrs. Gandhi. This was the first time that Delhi Police had to face such a challenge for the entire Union Territory."

Lt. Governor Gawai stated that in the early morning of November 1 he was apprehensive that the situation may worsen and had advised the Commissioner of Police that the Army may be called. It is at that point of time that the Commissioner of Police wanted a personal assessment to be made of the situation by moving around. This took quite some time. The withholding of information regarding the incidents happening in the different parts of Delhi by the police officers and inadequacy of briefing at the Police Control Room and in decision-making offices obviously delayed the move of the civil administration in calling in the Army for assistance. If the Army had been called in in the morning of November 1, 1984 - and by then about 5,000 Army people were at Delhi - the position would certainly not have been as bad as it turned out to be. 5,000 Army jawans divided into columns and moving into the streets properly armed would not have brought about the death of at least 2,000 people. The Government as also the Chief of the Army Staff had already given clearance for the Army being called and the delay in taking the decision and making the requisition was of the Delhi Administration - squarely of the Lt. Governor and the Commissioner of Police. And this again is related to the fact that there was no feed back of incidents by the Station House Officers.

ALLEGATIONS AGAINST D.T.C.

Allegations were made in several affidavits of the victims that buses were utilised in transporting armed mobs during the riots. The Delhi Transport Corporation owns thousands of buses which are plied on different routes. The Corporation also utilises private buses on the routes. The allegations particularly relating to the University area with reference to events of November 1, 1984, were investigated by the Agency. It examined several drivers and conductors and also scrutinised the records of the Corporation. According to the Investigating Agency some buses were as a fact used as alleged but the employees had been cautioned not to disclose that fact to the investigating team. The records of the Corporation, the Agency reported, had been suitably touched up.

In this back drop, the Corporation was called upon to produce the records of November 1, 2 and 3, 1984. In response to notice, Shri Pram Prakash, Additional General Manager of the Corporation appeared and was examined. From his evidence it appears that the Corporation has 30 depots of buses spread over Delhi and it has the Central Communication Centre close to Pragati Maidan. At this centre, a record showing notings of minute to minute development relating to its buses while out of the depots is maintained. Reliance was placed on this record in support of the Corporation's stand that its buses were not used for transporting rioters as no such information is recorded. A list of the vehicles taken out on the routes has been made available for inspection from which it appears that in the morning of November 1, 1984, most of the buses went out on their usual routes. Many were taken off the routes in the afternoon and evening. On the 2nd, buses were not put on the routes.

Though the Corporation does not admit use of its buses for movement of rioters, the Commission is prepared to accept

the material collected by the Investigating Agency and its conclusion that the route buses were forcibly diverted by the mobs to facilitate their movements and as and when the drivers found any opportunity to escape, they returned to the depot. There is no material to hold that the Corporation had extended any assistance to the rioters by allowing its buses to transport the rioters.

INCIDENTS AT KANPUR

I

There is a distinction in the reference to the Commission so far as the events of Delhi and events of Kanpur and Bokaro are concerned. In regard to Delhi the incidents are said to be "organised violence" whereas in regard to Kanpur and Bokaro-Chas what happened during the riots has been described as "disturbances". While all disturbances may not be riots, all riots would usually include disturbances. What happened during October/November 1984 at Kanpur and Bokaro-Chas is certainly riot. All incidents at Kanpur and Bokaro-Chas were confined to 31st October and 1st November. The allegation of organised violence as such is not there in regard to the incidents at Bokaro-Chas though so far as the incidents at Kanpur are concerned, such an allegation has been raised. The Commission is bound by the terms of reference. It would not be open to it to find out whether the disturbances or riots at Kanpur and Bokaro-Chas were also organised. In terms of the reference the question whether the violence at Kanpur was organised, however, would not fall for examination.

On behalf of the State of Uttar Pradesh it has been contended that the terms of reference do not require the Commission to report about the lapses, if any, committed by any particular officer though the extent of the damage may be a relevant aspect for consideration. The Commission is inclined to hold that it has jurisdiction to act under section 8B of the Commissions of Inquiry Act even within the frame of the reference as it stands. However, whether such action should be taken is another matter. When the Commission issued notification calling for affidavits from persons in the know of events relating to the October/November 1984 riots, it was open to officers in the Kanpur District Administration or even the U.P. State Administration to file affidavits disclosing

the facts. No affidavits were, however, filed. In all 675 affidavits were received out of which four were rejected being out of time or being in regard to events outside the Kanpur city limits.

Several groups asked for leave of the Commission to be represented and as already mentioned in a different part of the Report, permission was accorded. The State Government did not disclose any positive stand and stated that the Government would only deny any allegations implicating its officers in any manner in the riots. It also stated that the State Administration would contend that all that was legitimately within its power and could be done had been done to contain the riots and bring about normalcy. That is why normal situation was restored within a brief period of 24 hours and by the evening of November 1, 1984, normalcy prevailed again in Kanpur.

97 deponents were examined by the Commission - mostly at the instance of the victims and a few at the instance of non-Sikh groups.

There is no dispute that 127 Sikhs and 8 non-Sikhs died at Kanpur during the riots. And all these deaths were between the night of 31st October and late at night of 1st November. Though there was an allegation of a killing on 2nd November, it has been verified and the incident appears to have taken place during the night of 1st November. The first incident as appears from the police log book is around 2.30 p.m. on 31st October. As in Delhi, the initial occurrences were of spontaneous type - reaction of the people at large against Sikhs as a whole on the basis that two of their community had injured Smt. Gandhi by bullets. Information of the Prime Minister having been injured seems to have reached

Kanpur and become fairly known by 11 in the morning. From the afternoon as a result of reaction to that situation incidents started taking place. It is a fact that by evening time the incidents had spread into different parts of the city and incoming reports thereof had become very frequent. From the evening of 31st October cases of arson became quite common. The attack as in Delhi was by riotous mobs and several Gurudwaras were already damaged and burnt. Residential and commercial premises of Sikhs were first looted and then burnt. The crimes were almost of the same pattern as the riotous mobs at Delhi committed. Emphasis was laid on this aspect to indicate that the same people who had organised violence at Delhi had also played their part at Kanpur. The Commission has found that the alleged motivation for riots so far as Delhi is concerned, was said to be in the morning of 1st November by holding of meetings and calling upon the people to take revenge. At Kanpur the rioting had started in the previous night, viz., 31st October and there is no acceptable evidence to hold that meetings had also been held and call had been given before the evening of 31st October for taking revenge. Information of Smt. Gandhi's passing away was first widely circulated at Kanpur through the news media of All India Radio by evening time. It is this news that brought about a transformation in the modality of the attacks. Until that time the nature of assault or action taken against the Sikhs was not of a serious type but once the Prime Minister was announced to have succumbed to her injuries, the nature of attack both on property and person changed. Hundreds of vehicles were burnt, Sikh employees returning from Government offices or industrial units after duty shifts were assaulted and badly beaten up. During the night, apart from the Gurudwaras, private houses were also looted and burnt and physical assault of a grave type started. It is a fact - and

ample evidence was placed before the Commission - that the composition of the mobs and the manner of attack and behaviour of the crowds were almost of the same type as in Delhi. Kanpur is a city with a population of about 30 lakhs. It is the biggest city of U.P. and is very much industrialised. A considerable part of its population is of the industrial labour class and there has been pressure on accommodation. A lot of jhuggis and jhopris have come up where the people belonging to the economically backward class reside and these are spread over in many parts of the city.

There is material that initially hoodlums and small groups, each consisting of 40 to 50 people, started pressuring Sikh shop owners and office keepers to close down their establishments. Where they yielded there was not much of scope for trouble. Where, however, there was any resistance, physical force was applied to enforce closure. Towards evening the ratio of hoodlums in the mobs dwindled and residents from jhuggis and jhopris joined. Smt. Gandhi's death was not mourned on party basis. Every Indian, including most of the Sikhs, were genuinely sorry for what happened. Some people in the Congress Party at the lower level as in Delhi either genuinely felt more hurt and aggrieved than others or for reasons best known to them, wanted an exhibition of that type of reaction. Such people did join the riotous mobs. There is allegation that at some places they even led them. Though the Commission is not called upon to examine the question of organised violence, as already mentioned, there is an allegation on behalf of the victims in regard to it and the Commission would like to recall its findings on this score in regard to incidents at Delhi and hold that neither the party nor any particular party man holding public office had organised or helped the rioters. It is, however, a fact as

disclosed in evidence that several of the party men at the loose end had participated in the riots. For the reasons indicated while dealing with this aspect in regard to the Delhi riots the Commission is of the view that criminal overt acts or abetment committed by them would be available to be tried as criminal charges and since the Commission recommended and the State of U.P. has already set up a Committee for reviewing prosecutions, the Commission would not make any positive statement about those people who have participated in the riots. That would be a matter for the Court to determine and the Commission has no intention to prejudice the trial.

As already stated, 127 Sikhs lost their lives during the riots. At one stage the victims claimed that the number of persons who died was more and the Commission asked them to substantiate their claim but no evidence has come. During the oral submissions made on behalf of the Kanpur Riots Inquiry Co-ordination Committee the number disclosed by the State Government was not seriously disputed. From the disclosure made by the Railway Administration some deaths in trains were noticed. But as it appears, such deaths were not within the Kanpur city jurisdiction. The Commission has, therefore, no option but to proceed on the footing that the total deaths of Sikhs during the October/November 1984 riots at Kanpur were 127.

Kanpur city has 31 police stations and 94 police outposts. Ordinarily, every police station has a Station House Officer/Station Officer, 4-5 Sub-Inspectors, around 3 Head Constables and 20-25 Constables. Some police stations are treated as big ones where ordinarily 15-20 rifles or muskets are provided. Of these, at any given time 1/3 are on duty on the basis that during a day everyone is expected to work for 8 hours. It is the case of the State of U.P. that Smt. Gandhi was due to visit Allahabad on 2nd November, 1984.

and for providing security during the Prime Minister's visit to Allahabad, three Circle Officers with their men had been deputed there in advance for practising security measures. From 29th October industrial peace within the city of Kanpur had been disturbed on account of an agitation carried on by the Labour Union of J.K. Cotton Mills following the death of a workman. A large police force including PAC contingents had been deployed to maintain law and order in that area. Of the remaining police force only 1/3 was available to answer the call of duty. It is contended that ordinarily the regular police force was in a position to contain any situation that arose but a very unprecedented and difficult-to-comprehend situation developed at Kanpur and against the mobilised force of the people, particularly the trouble-makers, the small number of policemen did not appear to be adequate.

In Kanpur the following areas have Sikh concentration : Govindnagar, Kidwainagar, Gumti No.5, Ratanlal Nagar, Ranjit Nagar, Pandu Nagar, P - Road, Rajinder Nagar and Daboli. According to the District Administration, since these areas had Sikh concentration and riot in these areas involved greater risk, police had been instructed to keep an eye on these areas. In the absence of adequate police force it did not become possible to provide protection in small pockets. The District Administration contended that in this background the riots were more frequent in small pockets, the incidents were many and these were mostly in these areas. Factually this position is not correct. Gumti No. 5 is one of the most affected areas. Similarly, there are some more areas out of the places named above where a lot of incidents took place.

The victims have accepted the position that the riotous situation continued for about 36 hours at Kanpur, being from the evening of 31st October till the morning of 2nd November.

The incidents as claimed by the victims during these 36 hours are not at all disputed by the State Government or the Kanpur District Administration, except in regard to allegations of rape and certain other minor aspects. According to counsel for the riot victims, on account of appropriate and timely preventive steps having been taken, no widespread disturbances took place in cities like Allahabad, Agra, Varanasi, Gorakhpur, Meerut and Bareilly located in the State of Uttar Pradesh. Counsel for the State has disputed this position as also the comparative basis. It was contended before the Commission that the cities referred to above were of about 1/5 size of Kanpur. The Sikh population living in these cities was small, While at Kanpur their number was about 1.5 lakhs, in each of these cities it did not exceed 15,000 to 20,000 at the most. None of these cities is as industrialised as Kanpur. Nor are these cities as spread out as Kanpur. Kanpur City is a full district and Kanpur Dehat is another independent district consisting of the rural areas but its administrative head - quarters is still located within the city of Kanpur. It is a fact that not much of riotous situation developed within the Dehat District. It is also a fact that in all these cities as also in Kanpur Dehat area there has been some sort of trouble during the period though the disturbances were not as widespread as at Kanpur. The Commission is of the view that the stand taken by the Government of Uttar Pradesh is correct and merely on a comparative basis of the situation arising in these towns and Kanpur a conclusion would not follow that the riotous situation at Kanpur was on account of negligence and incompetence as also deliberate anti-Sikh stance of the district administration of Kanpur.

According to the Government records made available in answer to the interrogatories, it appears that the Home

Secretary of the State Government alerted the district administration in the morning of 31st October against possibility of untoward situations developing on account of Smt. Gandhi having been injured by security guards' bullets. Around 11 a.m. on 31st October the District Magistrate, the Senior Supdt. of Police, The Supdt. of Police, City, and the Addl. District Magistrate met to chalk out steps to be taken to meet the situation that might arise. They decided to impose prohibitory orders under s. 144, Cr.P.C. immediately but in their opinion reference to Smt. Gandhi's condition as a ground for imposition of prohibitory orders did not look appropriate. Therefore, the prohibitory order was grounded upon the labour trouble which was already existing for the last two days in the industrial area of the city. These officers along with police officers and some other Government officers again met at 2 p.m. at Kotwali to review the situation. It was decided to alert the police again and the police were asked to keep a close eye on the situation and have intensive patrolling. According to the District Administration, the District Magistrate kept on moving from place to place throughout the night of 31st October in order to ensure that the situation got and remained contained. They held a meeting again at 4 a.m. and an assessment of the situation was made which indicated that the situation had improved. While the holding of meetings has not been denied on behalf of the victims it has been contended that the situation had not improved at all during the night of 31st October. Between midnight and morning there were 24 cases of arson and between 6 and 10.30 in the morning of 1st November there were as many as 164 cases of arson. These figures have been taken from the records of the Fire Brigade establishment of the State Government and are not in dispute. The Commission accepts the stand of the victims that there

was no abatement of the riotous activity during the night of 31st October. It is also quite possible, and the Commission is prepared to accept, that apart from the 188 incidents of arson till 10.30 a.m. of 1st November, there could have been several other small incidents where the Fire Brigade authorities might not have been contacted. A tense situation had developed; security both of person and property had come to be in a state of jeopardy and contacting the Fire Brigade and waiting for its response may not have been possible in every case.

The genuineness of the entries in the Log Book which has been produced from the police control room was challenged on behalf of the victims. The Commission had to refer to several entries in the Log Book. There is an official presumption of correctness attached to such entries. The manner in which entries have been made in the Log Book and the contents thereof when cross-checked with reference to entries in other documents, lend support to the genuineness of the entries in the Log Book. There is no clear material on the basis of which the Commission can dislodge the presumption of correctness and hold that spurious entries have been made in the Log Book.

Curfew had not been imposed in the city till the morning of 1st November. Notwithstanding the imposition of prohibitory orders under s. 144, Cr.P.C., the riotous mobs freely moved during the afternoon, evening as also night of 31st October. The imposition of curfew in the morning brought not much of impact on the situation. Prohibitory orders under s. 144, Cr.P.C. or curfew can be effective only when enforced. The Commission is satisfied on the basis of the evidence that neither the prohibitory orders under s. 144, Cr.P.C., nor curfew was strictly enforced and, therefore, neither of these

worked as an impediment against the riots. The Commission has noticed the fact that some prosecutions are pending involving a charge under s. 188, I.P.C. for violating the prohibitory orders. They are a few and are perhaps related to certain areas where the police did attempt to enforce these orders.

The plea of inadequacy of the strength of the police advanced by the State during the inquiry and particularly while cross-examining the deponents on the side of the victims perhaps is not wholly wrong. It is a fact that quite a sizeable part of the police force had gone to Allahabad and till almost noon time of 31st October some local police as also the PAC contingents were keeping guard in the Factory Area. It is the case of the District Administration that when it was alerted by the State Home Secretary in the morning of 31st October, they brought about a settlement of the labour dispute, withdrew the police and the PAC contingent from the factory area for deployment within the city to meet the apprehended situation. Conceding that the police force available in the city area was inadequate and the requisition for additional force had not been answered until late at night on 31st October, attempt should have been made for calling the Army on the 31st itself and there was no necessity to wait till 9 a.m. of 1st November. The Commission has examined Brig. R.K. Kohli who was Station Commander at Kanpur at the relevant time. He has stated that on 31st October the availability of officers and men at Kanpur was : 65 officers, 159 JCOs and 2366 other ranks. He received the written request from the Distt. Magistrate at 9.35 a.m. on 1st November 1984 and the Army moved into the city by 11 a.m. In fact, the very first column had moved within 10 minutes of the request and in the course of every half an hour one after the other new columns moved in. By afternoon of 1st November, 7 columns were in the city. By evening another column was sent. If without waiting till

the morning of 1st November the assistance of Army had been asked for during the previous day at least for patrolling in the city, that would have been a great deterrent against the build-up of the riots. As Brig. Kohli has said, the Army initially undertook flag march and patrolling duty but as they were not used to every part of the city and required magistrates to issue appropriate requisitions, in the absence of either proper guidance or magistrates, their functioning was impeded. The Commission, therefore, is of the opinion that in case the Army had been called on 31st October, the situation would not have deteriorated and possibly the incidents that took place in the night of 31st October or on 1st November would not have happened. The District Magistrate made a wrong assessment of the situation by feeling satisfied that with the incidents taking place in the afternoon, evening and night of 31st October, the situation had eased and nothing more untoward would happen. Obviously the factual position was either ignored or not taken into account. There was no abatement of the riots. It may be that after the midnight the incidents had become less in number but that could not be a feature to lead to an assessment of that type. Non-enforcement of the prohibitory orders under s. 144, Cr.P.C., delay in imposition of curfew and non-enforcement of curfew when imposed and the delay in calling in the Army to stand by the civil administration facilitated the riotous mobs to build up, operate and bring about the calamity of that proportion in the city. It may be noted that at several places, such as Calcutta for instance, the Army had been called in on the 31st October itself.

The stand of the Uttar Pradesh Government that more of incidents of grave type took place after the Army had been called in is not fully correct. As the statement of Brig.

Kohli shows, the Army took position in different areas by 1 p.m. of 1st November and till 11.15 p.m. that night the Army did not have occasion to face crowd engaged in arson, looting or killing to require resort to firing. It is only then that two rounds were fired within Kakadeo Police Station as a result of which two rioters died. This firing had followed a magisterial order to disperse the riotous mob.

It is in evidence that the police did not render appropriate assistance when the riotous mobs attacked the houses, commercial premises and Gurudwaras, looted them and committed arson. There is also allegation that the police officers remained as bystanders when these offences were being committed. In some of the affidavits it was alleged that even police participated in the riots by supporting openly the mobs. These allegations were investigated through the Commission's Investigating Agency and it has been found that while there is no material to form the basis of a finding that the police had actually participated in the riots, police indifference and becoming onlookers when incidents took place have been found. The Commission has scrutinised the material on which the Investigating Agency has recorded such conclusions and is of the view that the conclusions are proper. Such conclusion of the Investigating Agency is also supported by the affidavits on record as also the evidence of deponents examined by the Commission. On the basis of such material the Commission records a finding that the police did not act up to expectation and did not behave as a disciplined force. It is possible that like every other Indian the policemen were also stunned when they got the information of Smt. Gandhi's injuries by gunshot in the hands of securitymen and her succumbing to these injuries but the discipline of a professional force should have got them out of the stunning effect

when the call of duty came and they should have behaved as policemen meant to protect the lives and properties of the citizens. At that point they could not become passive and silent spectators.

CONSIDERATION OF SOME AFFIDAVITS

Few incidents may now be dealt with mainly for the purpose of showing that the pattern of incidents was similar to those of Delhi. Smt. Gurjinder Kaur (no.286) in her affidavit has stated :

"On 1.11.84, in the morning, I along with my husband late S. Balwinder Singh, daughter Ginni aged 15 years, sons Manpreet Singh aged about 12 years and Bhupinder Singh aged 10 years and my employee Karnail Singh was at my house situated at 81, Industrial Estate, Kanpur. In the morning at about 10.30 a.m. about 500-600 persons came to my house. They were raising slogans, 'Pradhan Mantri Indira Gandhi Zindabad'. ... After breaking the gate they pushed our Fiat car No.UPG 8000 on the road. Then, after breaking the inner gate and getting iron rods etc. in their hands, came to the first floor. Then they tried to break open the channel gate but could not succeed. Upon this Ahmed shouted that the cement grills be broken. Then Prem Die-maker, Ahmed, Mishra's tenants and others whose names I do not know but can identify if happen to come before me came in by breaking the cement grills. Ahmed and Prem Die-maker started beating my husband and Karnail Singh with attache and iron rods. They were demanding two lakh of rupees from my husband. But the deponent's husband had Rs.70,000/- with him which he gave to Ahmed and Prem Die-maker. In the meantime, while being beaten, Karnail Singh jumped into the adjacent factory no.8. But the owner of that factory Shri Gupta and his wife, on being pressed by the rioters turned Karnail Singh out of their house. Then the rioters beat Karnail Singh with bricks, stones and sticks and threw him in front of our factory. ... In the meantime they came to the first floor and Ahmed hit my husband Balwinder Singh with a Gamla in his head whereupon he fell down and they started dragging him down. At this my daughter Ginni tried to save her father by holding the hand of her father but Prem pushed her away. ... Meanwhile, Ahmed compelled the deponent to relieve her of the gold bangles which she was having on her person. After that they threw the deponent's husband on ground and the deponent's car was set on fire and my husband and Karnail Singh were thrown in it. They also threw four to five wooden benches in the fire. The fire raged and my husband and Karnail Singh were burning in it. At this myself and my children screamed and shouted to help my husband and Karnail Singh. Then some amongst the mob and Ahmed and Prem shouted threatening that we shall meet the same fate if we tried. The deponent and her children got scared and kept silence. ... Ahmed and Prem had a big hand in getting the deponent's house looted and in getting her husband and employee Karnail Singh killed. ... On 1.11.84 at about 4 p.m. my brother-in-law S. Amarjit Singh who resides in Govindnagar gave money to two policemen who then