



# भारत का राजपत्र The Gazette of India

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असाधारण  
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित  
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नई दिल्ली, बुधवार, अक्तूबर 9, 2024/आश्विन 17, 1946

No. 4026]

NEW DELHI, WEDNESDAY, OCTOBER 9, 2024/ASVINA 17, 1946

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 9 अक्तूबर, 2024

का.आ. 4387(अ).—केंद्रीय सरकार ने, विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की भारत के राजपत्र, असाधारण, भाग 2, खंड 3, उपखंड (ii), तारीख 27 फरवरी, 2024 में प्रकाशित अधिसूचना संख्यांक का.आ. 924(अ), तारीख 27 फरवरी, 2024 (जिसे इसमें इसके पश्चात उक्त अधिसूचना कहा गया है) द्वारा जमात-ए-ईस्लामी, जम्मू और कश्मीर (जेईआई) को विधिविरुद्ध संगम के रूप में घोषित किया था;

और, केंद्रीय सरकार ने उक्त अधिनियम की धारा 4 की उपधारा (1) के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना संख्यांक का.आ. 1327(अ), तारीख 13 मार्च, 2024 द्वारा विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण (जिसे इसमें इसके पश्चात उक्त अधिकरण कहा गया है) का गठन किया था, जिसमें दिल्ली उच्च न्यायालय के न्यायाधीश न्यायमूर्ति श्री नवीन चावला थे;

और, केंद्रीय सरकार ने उक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस न्यायनिर्णयन के प्रयोजन के लिए कि क्या जमात-ए-ईस्लामी, जम्मू और कश्मीर (जेईआई) को विधिविरुद्ध संगम के रूप में

घोषित किए जाने का पर्याप्त कारण था या नहीं, तारीख 26 मार्च, 2024 को उक्त अधिकरण को उक्त अधिसूचना निर्दिष्ट की थी;

और, उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना में की गई घोषणा की पुष्टि करते हुए तारीख 23 अगस्त, 2024 को एक आदेश पारित किया था;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 4 की उपधारा (4) के अनुसरण में, उक्त अधिकरण के आदेश को प्रकाशित करती है, अर्थात्:-

“

---: अधिकरण का आदेश अंग्रेजी भाग में छपा है :---

(न्यायमूर्ति नवीन चावला)

विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण”

[फा. सं. 14017/52/2024/एन.आई.-एम.एफ.ओ.]

प्रवीण वशिष्ठ, अपर सचिव

## MINISTRY OF HOME AFFAIRS

### NOTIFICATION

New Delhi, the 9th October, 2024

**S.O. 4387(E).**—Whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as the said Act), declared the Jamaat-e-Islami, Jammu and Kashmir (JeI) as an unlawful association *vide* notification of the Government of India in the Ministry of Home Affairs, number S.O. 924(E), dated 27<sup>th</sup> February, 2024 (hereinafter referred to as the said notification) published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated 27<sup>th</sup> February, 2024;

And, whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 5 read with sub-section (1) of section 4 of the said Act constituted the Unlawful Activities (Prevention) Tribunal (hereinafter referred to as the said Tribunal) consisting of Justice Navin Chawla, Judge, High Court of Delhi *vide* notification of the Government of India in the Ministry of Home Affairs, number S.O. 1327(E), dated 13<sup>th</sup> March, 2024 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated 13<sup>th</sup> March, 2024;

And, whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 4 of the said Act referred the said notification to the said Tribunal on 26<sup>th</sup> March, 2024 for the purpose of adjudicating whether or not there was sufficient cause for declaring the Jamaat-e-Islami, Jammu and Kashmir (JeI) as an unlawful association;

And, whereas, the said Tribunal in exercise of the powers conferred by sub-section (3) of section 4 of the said Act, passed an order on 23<sup>rd</sup> August, 2024, confirming the declaration made in the said notification;

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the order of the said Tribunal, namely :-

**“UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL**  
**NEW DELHI**

**Date of Decision: 23<sup>rd</sup> August, 2024**

**IN THE MATTER OF:**

Gazette Notification No. S.O. 924(E) dated 27<sup>th</sup> February, 2024 issued by the Central Government under Section 3(1) & 3(3) of the Unlawful Activities (Prevention) Act, 1967 declaring the Jamaat-e-Islami (JeI), Jammu and Kashmir as an ‘Unlawful Association’

**AND IN THE MATTER OF:**

Reference under Section 5(1) read with Section 4(1) of the Unlawful Activities (Prevention) Act, 1967 *vide* Notification No. S.O. 1327(E) dated 13<sup>th</sup> March, 2024 constituting this Unlawful Activities (Prevention) Tribunal.

**AND IN THE MATTER OF:**

**UNION OF INDIA**

Through: Ms.Aishwarya Bhati, ASG with Mr.Amit Prasad, Mr.Rajat Nair,  
Ms.Poornima Singh, Mr.Sabrish Subramanian, Ms.Manisha  
Chava, Mr.Abhijeet Singh, Advs.

Mr.Parth Awasthi and Ms.Deepika Gupta, Advs for UT of J&K

Mr.Manoj Singh, Asst. Director, Mr.Brijesh Kumar Sharma,  
Under Secretary and Mr.Sameer Shukla, ASO for MHA.

versus

**JAMAAT-E-ISLAMI, JAMMU AND KASHMIR (JeI)**

Through: Mr.Jawahar Raja, Mr.Archit Krishna, Ms.Aditi Saraswat and  
Ms.Puhimi Aditya, Advs.

**CORAM:**

**HON’BLE MR. JUSTICE NAVIN CHAWLA**

**ORDER**

1. The Central Government has made Reference to this Tribunal under Section 4(1) of the Unlawful Activities (Prevention) Act, 1967 (Act No. 37 of 1967) (hereinafter referred to as the ‘Act’) for the purpose of adjudicating whether or not there is sufficient cause for declaring *Jamaat-e-Islami*, Jammu and Kashmir (in short, ‘JeI-J&K’) as an Unlawful Association. This Order shall answer the said Reference.

**I. THE NOTIFICATION**

2. The Central Government, in exercise of powers conferred by Section 3(1) & 3(3) of the Act, *vide* Notification No. S.O. 924(E) dated 27<sup>th</sup> February, 2024, declared the ‘JeI-J&K’ as an ‘Unlawful Association’ and directed that the said Notification shall, subject to any order that may be made under Section 4 of the said Act, have effect for a period of five years from the date of its publication in the Official Gazette. In the said Notification, the Central Government has noted that the JeI-J&K has been indulging in activities, which are prejudicial to the internal security and public order and have the potential of disrupting the unity and integrity of the country. The Central Government referring to various cases registered by National Investigation Agency (NIA) and the Jammu and Kashmir Police, states that these activities lay the ground for forming an opinion that JeI-J&K is indulging in the activities which are prejudicial to the integrity and security of the country. The Central Government further forms the opinion that:-

- (i) JeI-J&K is in close touch with militant outfits and is supporting extremism and militancy in Jammu and Kashmir and elsewhere;
- (ii) JeI-J&K is supporting claims for secession of a part of the Indian territory from the Union and supporting terrorist and separatist groups fighting for this purpose by indulging in activities and articulations intended to disrupt the territorial integrity of India;
- (iii) JeI-J&K is involved in anti-national and subversive activities in the country intended to cause disaffection.

3. The Central Government has further opined that if the unlawful activities of JeI-J&K are not curbed and controlled immediately, it will take the opportunity to:-

- a) Escalate its subversive activities including attempt to carve out an Islamic State out of the territory of Union of India by destabilizing the Government established by law;
- b) Continue advocating the secession of the State of Jammu and Kashmir (now Union Territory of Jammu & Kashmir, by virtue of Jammu and Kashmir Reorganisation Act of 2019, but hereinafter it shall be referred to as 'State of J&K') from the Union of India while disputing the accession of the State with the Union;
- c) Propagate anti-national and separatist sentiments prejudicial to the integrity and security of the country; and,
- d) Escalate secessionist movement, support militancy, and incite violence in the country.

4. In the light of the aforementioned reasons, the Central Government formed the opinion that it is necessary to declare JeI-J&K as an Unlawful Association with immediate effect.

5. Thereafter, in exercise of the powers conferred by Section 5(1) of the Act, *vide* Notification No. S.O. 1327(E) dated 13<sup>th</sup> March, 2024, the Central Government has constituted this Unlawful Activities (Prevention) Tribunal (in short, 'Tribunal') for the purpose of adjudicating whether or not there is sufficient cause for declaring JeI-J&K as an Unlawful Association. By the letter constituting the Tribunal, attention was also invited to the Proviso to Rule 5 of the Unlawful Activities (Prevention) Rules, 1968 (hereinafter referred to as the 'Rules'), which provides that nothing in this sub-section shall require the Central Government to disclose any fact which is considered to be against the public interest to disclose.

6. The Reference made to this Tribunal under Section 4(1) of the Act, was received by this Tribunal on 21<sup>st</sup> March, 2024.

## II. THE BACKGROUND NOTE

7. Along with the aforesaid Notification, the Central Government has furnished to the Tribunal a Background Note on JeI-J&K and its activities, stating the background, objectives, activities, and criminal cases registered against JeI-J&K activists by the Jammu & Kashmir Police and NIA, as also the justification for declaring JeI-J&K as an Unlawful Association.

8. The historical background and the activities of JeI-J&K, as stated in the Background Note, are as under:

- (i) The JeI-J&K came into existence in 1941 with one Moulana Abul Alla Madoodi spear-heading it with its headquarters at Lahore. After the partition, Jamat-e-Islami Hind separated from this body and established its headquarters at Rampur (UP). In the State of Jammu and Kashmir (J&K), a branch of Jamat-e-Islami Hind was established in 1945 and Pir Saad-ud-Din was its *Amir*. The aims and objectives of the party at the time of its inception were to propagate Islamic teachings and creation of an Islamic State with life based on Shariat. However, after the accession of the State with India, JeI-J&K started to follow the instructions and directions imparted by JeI of Pakistan and began to question the accession of the State with Union of India.
- (ii) JeI-J&K has a Constitution of its own known as "*Dastoor-e-Jammu-wa-Kashmir Jamat-e-Islami*" which discusses the aims and objectives of establishment of an Islamic rule based on dictums of holy Quran and *Shariat-i-Nizam-e-Mustafa*. It also discusses the conduct and procedure for enrolment of the members, governing body, and disciplinary actions, etc.
- (iii) The Association is patronizing *Hizb-ul-Mujahedeen* (the militant wing of JeI) which was constituted in the last quarter of 1989. With the aforesaid political ideology, this militant outfit has been indulging in acts of armed violence for secessionist movement in the valley, with Pakistan/PoK support in terms of arms training, supply of arms and ammunition and guidance.
- (iv) JeI leaders have all along been challenging the accession of State of Jammu and Kashmir with Union of India and issuing press reports, addressing public gatherings in their resolve to have the voice raised for solution of the so-called Kashmir problem.
- (v) JeI-J&K was banned for two years by the Government of India *vide* SRO No. 146 dated 16<sup>th</sup> April, 1990 under Jammu & Kashmir Criminal Law Amendment Act, 1983 and the ban was confirmed in 1991 by the then Tribunal duly constituted under Law. In spite of the said ban, the anti-national, anti-secular, and pro-secession activities of the party continued. The devoted and dedicated leaders of the JeI-J&K have not desisted from indulging in unlawful activities.
- (vi) The activists working for JeI-J&K have been found to be involved in various subversive activities, thereby posing a direct threat to the security and integrity of the nation. The affiliates have thrown a

direct challenge to the law enforcement agencies and are regularly and consistently indulging in anti-national and anti-social activities. The cadres are instrumental in managing riotous crowds at different places who are being led to indulge in arson, stone pelting, and causing damage to the public and property.

- (vii) Most of the activists of JeI-J&K are involved in commission of heinous offences that are detrimental to the interest of nation. The cadres have been booked under different provisions of law including the Act, sedition, rioting and other substantive offences. JeI-J&K cadres are highly radicalized and spreading the canker of radicalization to the youth of State of J&K. Keeping them free is providing them a fertile ground where they come in contact with vulnerable sections of public, thus take the opportunity to radicalize them. The State of J&K is infested with militancy as the cadres of JeI-J&K are bent upon to exhibit their devilry in order to grab attention and further their involvement in Unlawful Activities.
- (viii) The above referred facts, circumstances and acts of the JeI-J&K lead to the conclusion that this Association is bent upon to work towards secession and separation of the State of J&K from the Union of India. It has encouraged and is actively and continuously encouraging the armed insurgency aimed at causing disaffection, disloyalty, dis-harmony by promoting feelings of enmity and hatred against the lawful government and is indulging and acting in a manner prejudicial to the territorial integrity and sovereignty of the Union of India. For this purpose, it has not spared even the places of worship and used the same as their platform. Thus, the activities of JeI-J&K fall within the purview of Unlawful Activities.
- (ix) Keeping in view the gravity of the situation and unlawful activities by the Association, the Central Government decided to ban JeI-J&K under the provisions of the Act. Accordingly, Notification No. S.O. 1069 (E) dated 28<sup>th</sup> February, 2019 was issued declaring JeI-J&K as an Unlawful Association for a period of 5 years, that is, till 27<sup>th</sup> February, 2024. The Declaration was also confirmed by the Unlawful Activities (Prevention) Tribunal consisting of Hon'ble Mr. Justice Chander Shekhar, Delhi High Court, vide Order dated 27th August, 2019 published in Gazette of India Notification No. S.O. 3155(E) dated 30th August, 2019.
- (x) Even after the declaration of JeI-J&K as an Unlawful Association in 2019, it continues to be a significant threat to the integrity and security of the Union of India. Its ideology and activities are aimed at undermining the secular fabric of the nation and promoting separatism, which goes against the principles that bind our diverse society together.
- (xi) Activists/Members, associated with JeI are covertly supporting *Hizbul Mujahideen* (herein after referred to as 'HuM'), a banned terrorist organization, and other terrorist organizations operating in Jammu and Kashmir. These alleged connections indicate collaboration between JeI-J&K and HuM, posing a potential threat to the National security and integrity.
- (xii) JeI-J&K has been known to propagate radical ideologies and support groups engaged in activities that incite violence, disturb public order, and challenge the sovereignty of the Indian State. The organization's influence extends beyond its membership, impacting social harmony and stability within communities. JeI-J&K stands for secession of State of Jammu and Kashmir from Union of India and merger with Pakistan.

9. The Background Note also states that the complicity of JeI-J&K cadres in criminal and anti-national activities is evident from the series of criminal cases that stand registered against them. After 28th February, 2019, that is the date of last imposed ban, 47 cases have been registered against the JeI-J&K and its activists under various provisions of law, including the Act and other substantive offences. It is asserted that the cases registered against the JeI-J&K activists/members provide clinching evidence regarding their involvement in various unlawful activities.

10. In the Background Note, it is asserted that the above referred facts, circumstances, and acts of the JeI-J&K lead to the conclusion that this Association is bent upon to work towards secession and separation of the State of J&K from the Union of India. It has encouraged and is actively and continuously encouraging the armed insurgency aimed at causing disaffection, disloyalty, dis-harmony by promoting feelings of enmity and hatred against the lawful government and is indulging and acting in a manner prejudicial to the territorial integrity and sovereignty of the Union of India. Thus, the activities of JeI-J&K fall within the purview of Unlawful Activities.

11. The Tribunal has also been furnished with the details of cases registered by the Jammu & Kashmir Police and the NIA on or after 28<sup>th</sup> February, 2019, that is, after the JeI-J&K had been banned earlier for a period of 5 years. Details as provided by the counsels for the Union of India with notification and during the course of arguments are summarized as under:-

- (i) Case Crime No. RC-03/2021/NIA/DLI has been registered by the NIA against members and cadres of JeI-J&K, under Sections 120B and 124A of the Indian Penal Code, 1860 and Sections 10, 13 and

39 of the Act, on 04.02.2021, for collection of funds and using them to encourage violent and secessionist activities. The funds were also used by the active cadres and members of *HuM*, *Lashkar-e-Taiba* and other terrorist organizations through a well-established network of their cadres to organize violent protests, create public unrest and communal disharmony, thus creating a sense of fear and insecurity in Jammu and Kashmir and all over the country. Charge-Sheet has been filed in this case;

- (ii) Case Crime No. RC-07/2022/NIA/JMU has been registered by the NIA on 03.09.2022, against members and cadres of JeI-J&K including Ameer Mohammed Shamsi, Chief Executive, Al-Huda Educational Trust (AHET) under Sections 120B and 153A of the Indian Penal Code, 1860 and Sections 10, 13 and 22C of the Act for receiving the funds through AHET, Rajouri in the name of JeI-J&K even after its ban in February, 2019. The funds were used by the members of JeI-J&K in anti-national activities in the region of Jammu and Kashmir. The AHET was formed by the top leadership of JeI-J&K and seven top leaders thereof, including accused Ameer Mohammed Shamsi, were the Trustees of AHET. Charge-Sheet has been filed in this case;
- (iii) FIR/Case Crime No.11/2019 has been registered at P.S Bomai on 01.03.2019, under Sections 10 and 13 of the Act against accused Aijaz Ahmad Makhdoomi and Ab Rashid Beigh, alleging that on 01.03.2019, P.S Bomai received information through reliable sources that workers of the banned Association, JeI-J&K, are supporting terrorist organizations and are intending to disrupt the territorial integrity of India and are involved in subversive activities within its jurisdiction. The charge sheet in this case stands filed;
- (iv) FIR/Case Crime No.22/2019 has been registered at P.S Dangiawacha, on 01.03.2019 under Sections 10 and 13 of the Act against accused Haji Gh. Nabi Dar and Saif Ul Lah Dar, alleging that P.S. Dangchiwala received information through reliable sources that workers of the banned Association, JeI-J&K are engaging youth of the area for militant activities and are raising slogans against sovereignty and integrity of India, and are also supporting terrorist organizations and are intending to disrupt the territorial integrity of India and are involved in subversive activities within its jurisdiction; the case is presently under investigation;
- (v) FIR/Case Crime No. 31/2019 has been registered at P.S Baramulla, on 01.03.2019 under Sections 10, 11, and 13 of the Act against the accused Shoib Ahmad Czor, alleging that the organization JeI-J&K, which stands banned by the proclamation of Government of India, has been carrying out activities against the integrity and sovereignty of India. The chargesheet in this case stands filed;
- (vi) FIR/Case Crime No.41/2019 has been registered at P.S Sopore, on 01.03.2019 under Sections 10 and 13 of the Act against accused Bashir Ahmad Beigh, alleging that on 01.03.2019, P.S Sopore received information through reliable sources that workers of the banned Association, JeI-J&K are involved in subversive activities and are supporting terrorist organizations, promoting militancy in the area, are inciting the general public to continue their struggle for freedom by provoking the youth with the intention to create antagonism amongst the general masses against the government, and are disrupting peace and tranquility; the charge-sheet in this case stands filed;
- (vii) FIR/Case Crime No.68/2022 has been registered at P.S Baramulla on 24.04.2022, under Sections 10 and 11 of the Act against Mohd Amin Ganie, alleging that on 24.04.2022, P.S Baramulla received a written complaint from Major Yashvinder of 46 RR Camp Bagh Baramulla, that on specific information, Mohd. Amin Ganie/accused was found collecting funds for the banned Association, JeI-J&K and some receipt book, cash and other material were also recovered from his possession; the case is presently under Investigation;
- (viii) FIR/Case Crime No.19/2019 has been registered at P.S Bandipora on 01.03.2019, under Sections 10 and 13 of the Act against accused Mohammad Skinder Malik alleging that the accused persons associated with the banned organization JeI-J&K are carrying out Unlawful Activities which are anti-national and prejudicial to the security, territorial integrity and sovereignty of India. The charge-sheet in this case stands filed;
- (ix) FIR/Case Crime No.29/2019 has been registered at P.S Handwara on 02.03.2019, under Sections 10 and 13 of the Act against accused Gh Rasool War, alleging that the accused is a member of the Association, JeI-J&K, which has been banned and restrictions have been imposed on the activities of its members. It is alleged that the activities of the accused are prejudicial to the integrity of the State; the case is presently under investigation;
- (x) FIR/Case Crime No.31/2019 has been registered at P.S Handwara on 04.03.2019, under Sections 10 and 13 of the Act against accused Mohamad Ismail Lone. Pursuant to the registration of the FIR, investigation was taken up as the activities of the accused person were in contravention of the ban

- imposed on the Association, JeI-J&K by Notification issued by the Central Government. The chargesheet in this case is filed;
- (xi) FIR/Case Crime No.10/2019 has been registered at P.S Kralgund on 04.03.2019, under Sections 10 and 13 of the Act against accused Gh Qadir Lone Pursuant to the registration of the FIR, investigation was taken up as the activities of the accused person were in contravention to the ban imposed on the Association, JeI-J&K by Notification issued by the Central Government. The chargesheet in this case is filed;
  - (xii) FIR/Case Crime No.25/2019 has been registered at P.S Pulwama on 01.03.2019, under Sections 10, 11 and 13 of the Act against accused Nazir Ahmed Bhat, alleging that the banned organization was running its different offices within the jurisdiction of the Police Station and the activities of the accused persons were in contravention to the ban imposed on the association, JeI-J&K on 28<sup>th</sup> of February 2019. This case is presently under investigation;
  - (xiii) FIR/Case Crime No.27/2019 has been registered at P.S Shopian on 01.03.2019, under Sections 10,11 and 13 of the Act against accused Mohammad Ashraf Gonchi, Mohamad Imran Wani and Mohammad Yousuf Wani, alleging that on 01.03.2019, P.S Shopian received information from a reliable source that members of JeI-J&K are provoking general public of district Shopian through hate speech and slogans in order to disintegrate the nation, and that the members of JeI-J&K are raising funds from different sources and are using the same to damage the integrity and sovereignty of India. The case is presently under investigation;
  - (xiv) FIR/Case Crime No.18/2019 has been registered at P.S Anantnag on 01.03.2019, under Sections 10, 11 and 13 of the Act against accused Mohammad Yaseen Reshi, Mohammad Maqbool Bhat and Mohammad Amin Tantray, alleging that P.S Anantnag, on 28.02.2021, received information through reliable sources regarding various institutions of the said banned Association being run within the Police Stations' jurisdiction from where the said association was planning to disrupt sovereignty and integrity of the nation by aid of their active cadres. The charge-sheet in this case is filed;
  - (xv) FIR/Case Crime No.65/2021 has been registered at P.S Achabal on 03.07.2021, under Sections 11, 13 and 18 of the Act against accused Ali Mohamad Parray, Imtiyaz Ahmad Lone and Shafeeq Ahmad Itoo, alleging that P.S Achabal received reliable information to the effect that the 3 accused persons are hardcore members of the banned Association, JeI-J&K, who were involved in organizing secret meetings, arranging finance and other logistics to enable the banned Association to run its unlawful activities, imparting religious education with the primary motive of inducing people, especially youth to join the proscribed terrorist outfit *HuM*. The 3 accused persons are also alleged to be coordinating with absconding militants operating from the neighboring country and are collecting funds from them. They are further alleged to have entered into a criminal conspiracy with other unidentified individuals to strengthen and broaden the ideological base of the proscribed Association and establish a large terror network in the area with the intent to threaten the unity, security, integrity and sovereignty of India. The charge sheet in this case stands filed;
  - (xvi) FIR/Case Crime No.32/2019 has been registered at P.S Ganderbal on 01.03.2019, under Sections 10 and 13 of the Act against accused Nazir Ahmad Wani, Javaid Ahmad Lone, Gul Mohd War, Ab. Majeed Dar, Arshid Ali Sheikh, Ali Mohd Bhat, Wani Rouf Khaliq, Gh. Mohd Bhat and Ab. Hamid Bhat, alleging that, the accused persons were instigating the youths for protests/pelting stones and being associated with the banned association, JeI-J&K, despite the said association being banned by the Central Government by virtue of the Notification issued by the Ministry of Home Affairs. The charge sheet in this case stands filed;
  - (xvii) FIR/Case Crime No.14/2019 has been registered at P.S Kangan on 21.03.2019, under Section 10 of the Act against accused Gh. Mohammad Bhat, Ab. Rashid Main, Ab. Majeed Bhat and Nazir Ahmad Wani, alleging that on 21.03.2019, P.S Kangan received a reliable information that unknown persons affiliated with the banned Association, JeI-J&K, were conducting secret meetings wherein they were instigating people to carry out processions, and also to carry out anti-national activities through funding and other means and to achieve their agenda, to endanger the security, unity and sovereignty of India. The charge sheet in this case stands filed;
  - (xviii) FIR/Case Crime No.5/2019 has been registered at P.S Pampore on 01.03.2019, under Sections 10, 11 and 13 of the Act against accused Gh. Mohd Ganie and Gh. Mohd Rather, alleging that the accused were involved in activities of the Association, JeI-J&K which was banned by the Government of India *vide* Notification No.S.O.1069(E) dated 28.02.2019. It was learnt through reliable sources that some offices of the banned Association existed within the jurisdiction of the Police Station wherefrom, funds were being collected/transacted among the JeI-J&K cadre to fulfill

its aims and objectives, which are prejudicial to the unity and integrity of India. The charge sheet in this case stands filed;

- (xix) FIR/Case Crime No.14/2019 has been registered at P.S Tral, under Sections 10, 12 and 13 of the Act against accused Shahnawaz Ahmad Bhat, alleging that P.S Tral received information through reliable sources that few offices/institutions of the banned association, JeI-J&K, were located in the jurisdiction of the P.S Tral, and those were being utilized for carrying out activities which are harmful to the sovereignty of the nation. The charge sheet in this case stands filed;
- (xx) FIR/Case Crime No.25/2019 has been registered at P.S Awantipora on 01.03.2019, under Sections 10, 11 and 13 of the Act against accused Ab. Aziz Dar, Ab. Rashid Dar, Amin Shah and Ab. Rashid Dar s/o Akbar, alleging that P.S Awantipora received information through reliable sources that few offices/institutions of the banned association, JeI-J&K, were located in the jurisdiction of the P.S Awantipora, and those were being used for activities which were harmful for the sovereignty of the nation. The charge sheet in this case stands filed;
- (xxi) FIR/Case Crime No.5/2019 has been registered at P.S Charie-Sharief on 01.03.2019, under Sections 10, 11 and 13 of the Act against unknown persons, alleging that on 01.03.2019, P.S Charie-Sharief received information through reliable sources that few offices/institutions of the banned association, JeI-J&K, were located in the jurisdiction of the P.S Charie-Sharief, and those were being utilized for carrying activities which are harmful to the sovereignty of the nation. The case is presently under investigation;
- (xxii) FIR/Case Crime No.9/2019 has been registered at P.S Khag on 01.03.2019, under Sections 10, 11 and 13, of the Act against unknown persons, alleging that on 01.03.2019, P.S Khag received information through reliable sources that members of JeI-J&K were utilizing resources for carrying out activities which are harmful to the sovereignty of the nation. Presently, the case is under investigation;
- (xxiii) FIR/Case Crime No.17/2019 has been registered at P.S Magam on 01.03.2019, under Sections 10, 11 and 13 of the Act against accused Gh. Mohi-din Lone, Gh Mohammad Ganie and Habibullah Ganie, alleging that on 01.03.2019, P.S Magam received information through reliable sources that few offices/institutions of the banned Association, JeI-J&K, were located in the jurisdiction of the P.S Magam, and those were being utilized for carrying out activities which are harmful to the sovereignty of the nation. The charge sheet in this case stands filed;
- (xxiv) FIR/Case Crime No.20/2019 has been registered at P.S Khan-Sahib on 01.03.2019, under Sections 10, 11 and 13 of the Act against accused Khursheed Ahmad Sanie, alleging that on 01.03.2019, P.S Khan-Sahib received information through reliable sources that few offices/institutions of the banned Association, JeI-J&K, were located in the jurisdiction of the P.S Khan-Sahib, and those were being utilized for carrying out activities which are harmful to sovereignty of the nation. The charge sheet in this case stands filed;
- (xxv) FIR/Case Crime No.24/2019 has been registered at P.S Beerwah on 01.03.2019, under Sections 10, 11 and 13 of the Act against accused Ghulam Mohammad Parray and Ali Mohd Sheikh, alleging that on 01.03.2019, P.S Beerwah received information through reliable sources that few offices/institutions of the banned Association, JeI-J&K, were located in the jurisdiction of the P.S Beerwah, and those were being utilized for carrying out activities which are harmful to sovereignty of the nation. The charge sheet in this case stands filed;
- (xxvi) FIR/Case Crime No.33/2019 has been registered at P.S Chadoora on 01.03.2019, under Sections 10, 11 and 13 of the Act against accused Bilal Ahmad Mir and Mohammad Ashref Wani, alleging that on 01.03.2019, P.S Chadoora received information through reliable sources that members/organizers of the banned Association were carrying activities despite the ban and the said activities are harmful to sovereignty of the nation. The charge sheet in this case stands filed;
- (xxvii) FIR/Case Crime No.42/2019 has been registered at P.S Budgam on 01.03.2019, under Sections 10, 11 and 13 of the Act against accused Mohammad Yousuf Malik, Ghulam Mohammad Wani, Syed Nazir shah, Ghulam Mohammad Bhat and Ab Hamid Ganie @ Hamid Fayaz, alleging that on 01.03.2019, P.S Budgam received information through reliable sources that few offices/institutions of the banned Association, JeI-J&K, were located in the jurisdiction of the P.S Budgam, and those were being utilized for carrying out activities which are harmful to sovereignty of the nation. The charge sheet in this case stands filed;
- (xxviii) FIR/Case Crime No. 3/2019 has been registered at P.S Kund on 01.03.2019, under Sections 10 and 13 of the Act against accused Mohammad Yousuf Tantray and Sajad Ahmad Naikoo, alleging that on 01.03.2019 P.S Kund received reliable information that workers and members associated with



the banned association, JeI-J&K, are in close contact with terrorists and are providing assistance to them. Persons affiliated with JeI-J&K are indulging in activities causing disaffection among the youth of the area against the Government of India and that of J&K. It is also alleged that the members of the unlawful association have organized and conducted special meetings in the area where they have managed to collect funds for advancement of terrorist activities and are also utilizing these funds in publishing joint advertisements in relation to the banned terrorist organization HuM and the Unlawful Association, JeI-J&K against India through posters and other journals. It was further alleged that there are various facilities, office bearers and establishments existing in the jurisdiction of the P.S where the said members of the banned Association, JeI-J&K review the matters pertaining to economic and financial issues besides other related activities in order to disrupt the peace and tranquility in the area. The charge sheet in this case stands filed;

- (xxix) FIR/Case Crime No.4/2019 has been registered at P.S Manzgam on 01.03.2019, under Sections 10 and 13 of the Act against accused Zeenat-UI-Islam Magray, Imtiyaz Ahmad Parray and Mohd Sikender Lone, alleging that on 01.03.2019, P.S Manzgam received reliable information that workers and members associated with the banned Association, JeI-J&K, are in close contact with terrorists and are providing assistance to them. Persons affiliated with JeI-J&K are indulging in activities causing disaffection among the youth of the area against the Government of India and that of J&K. The charge sheet in this case stands filed;
- (xxx) FIR/Case Crime No.12/2019 has been registered at P.S Devsar on 01.03.2019, under Sections 10 and 13 of the Act against accused Mohammad Akram Baba, Mohammad Jamal Wagay and Mohd Hussain Sheikh, alleging that on 01.03.2019, P.S Devsar received reliable information that workers and members associated with the banned Association, JeI-J&K, are in close contact with terrorists and are providing them financial and logistical help. Persons affiliated with JeI-J&K are indulging in activities causing disaffection among the youth of the area against the Government of India and that of J&K. It is also alleged that the members of the unlawful association have organized and conducted special meetings in the area where they have managed to collect funds for advancement of terrorist activities. The charge sheet in this case stands filed;
- (xxxi) FIR/Case Crime No.18/2019 has been registered at P.S Kulgam on 01.03.2019, under Sections 10 and 13 of the Act against accused Farooq Ahmad Shah, Abdul Gani Laway, Mysar Manzoor Itoo, Mubashir Ahmad Ganie, Sartaj Ahmad Wani, Peer Muzaffar Ahmad, Gh. Mohd Dar, Ab. Rashid Thoker, Basharat Ahmad Kuchay, Fayaz Ahmad Rather, Abdul Qayoom Dar, Peer Hafiz Ullah, Mohd Yousuf Rather, Mushtaq Ahmad Thoker and Mohammad Ramzan Naik, alleging that on 01.03.2019, P.S Kulgam received reliable information that workers and members associated with the banned Association, JeI-J&K, are operating at a school at village Chattabal, Kulgam, where the members of the said organisation conduct special meetings to instigate the participants against the sovereignty and integrity of the nation and collect donations which are used to provide economic assistance to terrorist outfit. The charge sheet in this case stands filed;
- (xxxii) FIR/Case Crime No.27/2019 has been registered at P.S Qazigund on 01.03.2019, under Sections 10 and 13 of the Act against accused Mohammad Shaban Shah and Sajad Ahmad Bhat, alleging that on 01.03.2019, P.S Qazigund received reliable information that workers and members associated with the banned Association, JeI-J&K are in close contact with terrorists and are providing assistance to them. Persons affiliated with JeI-J&K are indulging in activities causing disaffection among the youth of the area against the Government of India and that of J&K. It is also alleged that the members of the unlawful association have organized and conducted special meetings in the area where they have managed to collect funds for advancement of terrorist activities and are also utilizing these funds in publishing joint advertisements in relation to the banned terrorist organization HuM and the unlawful association, JeI-J&K against India through posters and other journals. It was further alleged that there are various facilities, office bearers and establishments existing in the jurisdiction of the P.S where the said members of the banned association, JeI-J&K, review the matters pertaining to economic and financial issues besides other related activities in order to disrupt the peace and tranquility in the area. The charge sheet in this case stands filed;
- (xxxiii) FIR/Case Crime No.63/2019 has been registered at P.S Parimpora on 01.03.2019, under Sections 10, 11 and 13 of the Act against accused Tariq Ahmad Haroon alleging that on 01.03.2019, Police Post Bemina produced a written docket in P.S Parimpora to the effect that Police Post Bemina received an information through reliable sources that few activists of the banned Association, JeI-J&K, are indulging in anti-national activities, and these activists are also inciting the youths of Bemina and other nearby areas towards militancy, which is a great threat to the sovereignty of the country. This case is presently under investigation;

- (xxxiv) FIR/Case Crime No.17/2019 has been registered at P.S Batmaloo on 01.03.2019, under Sections 10, 11 and 13 of the Act against accused Mohammad Shafi Dar and Abdul Salam Dagga, alleging that P.S Batmaloo received information through its reliable sources that the banned association, JeI-J&K, has several offices located within its jurisdiction where various activities related to the association including its financial activities are carried out by its members. The charge sheet in this case stands filed;
- (xxxv) FIR/Case Crime No.4/2019 has been registered at P.S Harwan on 04.03.2019, under Sections 10, 11 and 13 of the Act against accused Bashir Ahmad Lone and Mohd Yousf Sheikh, alleging that on 04.03.2019, P.S Harwan received reliable information that the banned Association, JeI-J&K has several facilities/offices located within the jurisdiction of P.S Harwan, where various activities related to the association including financial assistances are being carried out by the members of the association. The charge sheet in this case stands filed;
- (xxxvi) FIR/Case Crime No.14/2019 has been registered at P.S Peermitha on 01.03.2019, under Section 10 of the Act against accused Jameel Ahmed and Abdul Karim, alleging that on 01.03.2019, information was received through reliable sources that some people of the banned Association, JeI-J&K, are active in Jammu City, particularly in Peermitha area. The charge sheet in this case presently stands filed;
- (xxxvii) FIR/Case Crime No.27/2022 has been registered at P.S Peermitha on 06.05.2022, under Sections 10, 13 and 39 of the Act against accused Mohammad Sharief Sartaj, alleging that on 06.05.2022, Sh. Rahul Nagar, Dy SP SDPO City West, Jammu forwarded a docket to P.S Peermitha depicting that SP City North Jammu issued order to conduct search in case FIR No.01/2007 under Sections 124-A/147 Ranbir Penal Code, 1932 (in short, 'RPC) and in compliance with the search warrant issued, a search was conducted at the residence of one Azhar Sharief in presence of Executive Magistrate Nagrota, and recovered/seized some objectionable material viz, letter pads, documents of banned Association, JeI-J&K, and the counsel failed to give any satisfactory reply with regard to the same. The charge sheet in this case stands filed;
- (xxxviii) FIR/Case Crime No.19/2019 has been registered at P.S Banihal on 01.03.2019, under Section 10 of the Act against accused Ghulam Nabi, alleging that on 01.03.2019, information was received at P.S Banihal through a reliable source that one Ghulam Nabi is operating as *Ameer Jamat* of the banned Association, JeI-J&K, in District Ramban. The banned Association is in close touch with militant outfits and indulges in anti-national/subversive activities with the aim to liberate the State of J&K from the Union of India. The accused person had continued to be *Ameer-e-Jamat* of the association, despite the fact that the Association had been banned by the Government of India by issuing a Notification in this regard. The charge sheet in this case stands filed;
- (xxxix) FIR/Case Crime No.91/2019 has been registered at P.S Rajouri on 01.03.2019, under Section 10 of the Act against accused Amir Mohamad Shamsi, alleging that the accused person namely Amir Mohd Shamsi was running a Madrassa in the name of 'Jamat-e-Islami'. This case is under investigation;
- (xl) FIR/Case Crime No.27/2019 has been registered at P.S Kishtwar on 01.03.2019, under Sub-Section (3) of Section 3 and 10A of the Act against accused Master Abdul Majid sheikh, Master Ghulam Qadir Butt, Dr. Mohd Iqbal Malik and Master Ghulam Nabi Gundna, alleging that the accused persons have neither resigned from the banned Association, JeI-J&K, nor have they stopped their activities, in view of the Notification by the Government of India banning the Association JeI-J&K, the accused persons have been found to be involved in Anti-National activities. This case is presently under Investigation;
- (xli) FIR/Case Crime No.4/2023 has been registered at P.S CID CIK on 12.06.2023, under Sections 10, 11, 12, 13 and 39 of the Act against unknown persons, alleging that information was received that in spite of the ban imposed on JeI-J&K by the Government of India, there are certain individuals, who have been members of JeI-J&K and are continuing with the Unlawful Activities by actively conducting, coordinating, arranging and participating in meetings on behalf of and for the banned Association JeI-J&K, collecting financial aid in the form of '*Zakat*', '*Ushur*' and other forms of charities in order to further the activities of JeI-J&K and assisting in allied operation of JeI-J&K. These members or office bearers are managing the properties either owned by, or held in the name of JeI-J&K which include but are not limited to commercial establishments, residential places, and vacant lands, etc. Further Information was also received that several JeI-J&K members continuing to deal with monies, funds, securities, etc. which are used or intended to be used for JeI-J&K activities. Some of them were also using the JeI-J&K properties. It was further reliably learnt that members of the Unlawful Association JeI-J&K, continue to be in close contact with terrorist outfits and are supporting extremism in various districts of Jammu region including Jammu, Rajouri and

Doda. They are all making efforts to make State of J&K secede from the Union of India and are supporting anti-India agenda of terrorist and separatist groups. This case is presently under investigation.

- (xlii) FIR/Case Crime No.2/2023 has been registered at P.S CID CI on 08.06.2023, under Sections 10, 11, 12, 13 and 39 of the Act against Unknown persons, alleging that information was received that in spite of the ban imposed on JeI-J&K by the Government of India, there are certain individuals within the Jammu Zone, who have been members of JeI-J&K or have been associated with it as sympathizers/supporters, and are continuing with the Unlawful Activities by actively conducting, coordinating, arranging and participating in meetings on behalf of and for the banned Association JeI-J&K, collecting financial aid in the form of 'Zakaut', 'Ushur' and other forms of charities in order to further the activities of JeI-J&K and assisting in allied operation of JeI-J&K. These members or office bearers are managing the properties either owned or held in the name of JeI-J&K, which are being used for Unlawful Activities by JeI-J&K. Further, it is also alleged that several JeI-J&K members are continuing to deal with monies, funds, securities, etc which are intended to be used for JeI-J&K activities. Further, it is also learnt that members of JeI-J&K continue to be in close touch with terrorist outfits and are supporting extremism and terrorism in various districts of Jammu region including Jammu, Rajouri and Doda, and that these persons are making all efforts to make the State of J&K secede from the Union of India, and are supporting anti-India agenda of terrorist and separatist groups. This case is presently under investigation;
- (xliii) FIR/Case Crime No.17/2019 has been registered at Batmaloo on 01.03.2019, but was subsequently transferred to P.S SIA, Kashmir, under Sections 10, 11 and 13 of the Act against accused Ab Salam Dagga and Mohammad Shafi Dar, alleging that information was received through reliable sources that the banned Association, JeI-J&K has several offices located within the jurisdiction of P.S SIA Kashmir, where various activities related to the Association, including financial activities were carried out by its members. The charge sheet in this case stands filed;
- (xliv) FIR/Case Crime No.14/2021 has been registered at P.S CIK SIA Srinagar, Kashmir on 07.12.2021, under Sections 467, 468 and 120B of Indian Penal Code, 1860 and under Sections 13 and 38 of the Act against accused Assadulah Bhat, Abdul Rehman Mir, Bilal Ahmad Dar, Mudasir Nengroo, Abdul Rehman Bhat, Mohammad Amin Bhat, Mohammad Shaban Dar, Assadullah Bhat, Nazir Ahmad Bhat, Shabir Ahmad Dar, Ghulam Rasool Dar, Ali Mohammad Thokroo, Mohammad Iqbal Raina, Abdul Rashid Shah and Mohammad Amin Padder, alleging that information was received by the P.S SIA, Kashmir to the effect that the managing body of the banned Association, JeI-J&K, comprising of the accused persons, have resorted to devious manipulation and forgery of relevant revenue records, regarding a patch of land, resulting in illegal and fraudulent transfer of such land to *Jamait-e-Saulihaat Marhama*, with dishonest intention of bestowing the proprietary right to the institution even when the law on the subject expressly prohibits it. It is further alleged that the *Jamait-e-Saulihaat Marhama* is a proxy institution of the banned Association, JeI-J&K, and it has already constructed a three storied building over the said land, and two more buildings are under construction. The institution is, at present, imparting education to over 350 students with boarding and lodging facilities. After the establishment of this institution, the area around it has witnessed a rise in terrorism and secessionism related agitation, arson and other unlawful, terrorist activities. It is further alleged that with the active support of the terrorist organizations and members of the banned Association, JeI-J&K, the managing body of the institution have been covertly instigating and motivating the local youth and students of the said institution to support the ongoing secessionist cum terrorist programme with the intention of furthering terrorist and unlawful activities in State of J&K, so as to achieve their ultimate objective of secession of State of J&K from the Union of India by waging a war against it. The case is presently under investigation;
- (xlv) FIR/Case Crime No.9/2019 has been registered at P.S D.H Pora on 01.03.2019, under Sections 10 and 13 of the Act, against Fayaz Ahmad Itoo and Reyaz Ahmad Naik, alleging that on 01.03.2019, P.S D H Pora received reliable information that workers and members associated with the banned Association, JeI-J&K are in close contact with terrorists and are providing logistic assistance to them. Persons affiliated with JeI-J&K are indulging in activities causing disaffection among the youth of the area against the Government of India and that of the State of J&K. These members of banned organization are stated to be spreading hatred among the youth of the area against the Govt. of India/J&K and inciting the common masses to struggle hard for *Azadi*. It was also disclosed in the information that these members of JeI-J&K are organizing various meetings within the jurisdiction of the said police station to prepare and execute anti-national propaganda and collecting funds to provide support to the terrorist organization HuM. The charge-sheet in the present case stands filed;
- (xlvi) FIR/Case Crime No.11/2019 has been registered at P.S Qaimoh on 01.03.2019, under Sections 10 and 13 of the Act against accused Mohammad Akbar Dar, Mohsin Hassan Dar, Mohd. Ramzan

Sheikh, Mohammad Jamal Lone, Abdul Gaffar Wagay, Mohammad Maqbool Dar, Mohammad Shaban Dar and Nadeem Alaie, alleging that on 01.03.2019, P.S Qaimoh received reliable information that workers and members associated with the banned Association, JeI-J&K are in close contact with terrorists and are providing assistance to them. It is alleged that the members of the Unlawful Association have organized and conducted special meetings in the area where they have managed to collect funds for advancement of terrorist activities and are also involved in providing logistic and financial support to the banned terrorist organization HuM. It was further alleged that the members of JeI-J&K are also spreading hatred among the youth of the area. The charge-sheet in this case has been filed; and

- (xlvii) FIR/Case Crime No.12/2019 has been registered at P.S Yaripora on 01.03.2019, under Sections 10 and 13 of the Act against accused Abdul Rashid Shah, Nazir Ahmad Parry, Ghulam Mohammad Sheikh, Abdul Rehman Dar, Imtiyaz Ahmad Dar, Gulzar Ahmad Ganie, Mohammad Ayoub Padder, Khurshid Ahmad Thoker, Ayaz Ahmad Mir, Sharif Ahmad Mir, Mohd. Yaqoob Malla, Ghulam Mohi-ud-din Bhat, Mohammad Maqbool Mir, Umar Yaseen Sheikh, Nadeem Ahmad Mir, Gh. Mohi-Ud-Din Bhat, Mohd Azad Khan, Bashir Ahmad Malik and Mohd Yaqoob Bhat, alleging that on 01.03.2019, P.S Yaripora received reliable information that workers and members associated with the banned Association, JeI-J&K, are in close contact with terrorists and are providing assistance to them. Persons affiliated with JeI-J&K are indulging in activities causing disaffection among the youth of the area against the Government of India and that of J&K. It was also disclosed in the information received that the members of JeI-J&K hold special meetings for the purpose of collecting funds for advancing terrorist activities in the area. Further it is alleged that the banned association has many offices in the jurisdiction of the Police Station. The chargesheet in this case stands filed.

12. It is asserted that on the afore-noted grounds, the Central Government formed the opinion that JeI-J&K has been indulging in activities which are prejudicial to the security of the country and have the potential of disturbing peace and communal harmony and disrupting the unity and integrity of the country. The Central Government is also of the opinion that having regard to the activities of the JeI-J&K, it is necessary to declare JeI-J&K to be an Unlawful Association with immediate effect. Thus, the Central Government, in exercise of powers conferred by Section 3(1) of the Act, vide its Notification No. S.O. 924(E) dated 27<sup>th</sup> February, 2024, declared the JeI-J&K as an “Unlawful Association” with immediate effect, which was followed by the Notification No. S.O. 1327(E) dated 13<sup>th</sup> March 2024, under Section 5(1) read with Section 4(1) of the Act, constituting this Tribunal.

### **III. PROCEEDINGS BEFORE THE TRIBUNAL**

13. On receipt of the Notification appointing this Tribunal, this Tribunal listed the Reference for preliminary hearing on 8<sup>th</sup> April, 2024.

14. On consideration of the material placed on record by the Central Government, this Tribunal was, *prima facie*, satisfied that a notice under Section 4(2) of the Act should be issued to JeI-J&K to show cause, within 30 days from the date of service of notice, as to why it should not be declared as an “Unlawful Association”. Hence, vide order dated 8<sup>th</sup> April, 2024, notice was issued for 15<sup>th</sup> May, 2024. The notice was directed to be served upon JeI-J&K in the following manner:

- (i) By Speed Post/Registered A.D. at the last known address of JeI-J&K, along with all their leaders, members, factions, wings and front organization, as well as that of their principal office bearers;
- (ii) By publication along with a copy of the Gazette Notification dated 27<sup>th</sup> February, 2024 in two national newspapers (all India Edition), one in English and one in Hindi, and also in two local newspapers having wide circulation in the States where the activities of the Associations are ordinarily carried on, in vernacular language, within three weeks from today;
- (iii) By affixation of the notice along with a copy of the Gazette Notification dated 27<sup>th</sup> February, 2024 at the last known address of the JeI-J&K, along with all their leaders, members, factions, wings and front organization as well as that of their principal office bearers;
- (iv) By proclaiming by beat of drums as well as loudspeakers about the contents of the notice and the Notification dated 27<sup>th</sup> February, 2024, in the State/places where the activities of the Association were or are believed to be ordinarily carried on;
- (v) By displaying the notice along with a copy of the Gazette Notification dated 27<sup>th</sup> February, 2024 on the notice board of the Deputy Commissioner/District Magistrate/Tehsildar in all the district headquarters of the State/Union Territory where the activities of the association were or are believed to be ordinarily carried on;
- (vi) By serving on the State of Jammu and Kashmir through its Chief Secretary; and,

- (vii) By announcing the notice along with a copy of the Gazette Notification dated 27<sup>th</sup> February, 2024 in the All India Radio/Electronic media of State Edition at the prime time and shall also be pasted at the prominent places in the State where the activities of the association were or are believed to be carried on.

15. The Central Government was directed to make necessary arrangements for service of notice and to submit a report of notice with the Office of the Registrar, duly supported by affidavits, within two weeks after effecting the service. The Registrar of the Tribunal was directed to check and ensure the compliance of the directions and to file an independent report in this regard. Central Government and the State Government/UT were also directed to file their respective affidavits along with documents in support of grounds on which JeI-J&K has been declared unlawful.

16. Pursuant to the above directions issued by the Tribunal, the Union Territory of Jammu & Kashmir filed the affidavit of service, placing on record the factum of service of notice.

17. The Registrar of this Tribunal had also submitted a report dated 13.05.2024, confirming the service of notice as per direction of this Tribunal. It was also noted that as per the tracking report retrieved from India Post Website, the letter issued at the address of the JeI-J&K through speed post, was duly delivered.

18. Counsel for one of the alleged members of the Association also put in his appearance. Accordingly, this Tribunal was satisfied that service had been effected on the Association and their principal office bearers as per directions contained in the order dated 08.04.2024.

19. Pursuant to the notice issued, Mr. Jawahar Raja, Advocate, for Mr. Asad Ullah Mir, stated to be a member of JeI- J&K, appeared before this Tribunal and filed his *Vakalatnama*. As per his request for supply of material relied upon by the Central Government including Brief Background Note accompanying the Notification, this Tribunal vide its order dated 15.05.2024, directed the same to be supplied to him by way of electronic mode during the course of the day. He was also permitted to inspect the file of this Tribunal.

20. *Vide* Order dated 15.05.2024, the Central Government was directed to file affidavits in support of the grounds on which the JeI-J&K has been declared as an Unlawful Association. In order to afford opportunity to the Central Government/State Government to lead evidence in support of their respective averments, as also to give opportunity to the Association to rebut the same, this Tribunal fixed the matter for recording of evidence on 20<sup>th</sup>, 21<sup>st</sup> and 24<sup>th</sup> June, 2024 at Srinagar. The matter was also directed to be listed on 4<sup>th</sup> June, 2024 for further directions, if any.

21. On 4<sup>th</sup> June, 2024, the Central Government had filed an application, JeI Appl.No. 01/2024, seeking modification of order dated 15.05.2024 whereby leave had been granted to Mr. Asad Ullah Mir to participate in the proceedings and to file objections. In the application, it was asserted that Mr. Mir has failed to establish that he has been duly authorized on behalf of the Association, and that the objection of the Central Government to this effect is still pending consideration in the Writ Petition, being W.P.(C) No. 753/2020 filed by Mr. Asad Ullah Mir in this Court, by which the Notification of 2019 had been challenged by the Association.

22. Notice was issued on the above application, which was duly accepted by Mr. Jawahar Raja, counsel appearing on behalf of Mr. Asad Ullah Mir. He was granted time to file reply, if any, within a week. Accordingly, the matter was directed to be listed on 12<sup>th</sup> June, 2024.

23. Mr. Jawahar Raja, counsel appearing for Mr. Asad Ullah Mir, also filed Statement of Objection/Reply to the show cause notice issued to the Association – JeI-J&K, claiming that Mr. Asad Ullah Mir has been a member of the Association. Along with the said reply to the show cause, learned counsel for Mr. Asad Ullah Mir also filed Special Power of Attorneys of Mr. Bashir Ahmad Lone, Gul Mohammad War, and Mohammad Ashraf Wani, the objectors, stated to be former members of the Association. These SPAs were claimed to have been executed by them in favour of Mr. Asad Ullah Mir.

24. In the Statements of Objections/Reply to notice to show cause under Section 4(2) of the Act, the Objectors stated that:

- i. The Notification purports to set-out the ‘opinion’ of the Central Government in terms of Section 3(1) of the Act, but it does not contain ‘the grounds’ or ‘other particulars’ in terms of Section 3(2), and is, therefore, not a valid Notification and deserves to be cancelled under Section 3(3) of the act *in limine*.
- ii. The Reference to the Tribunal is also bad for non-compliance with Rule 5(ii) of the Rules as the Reference to the Tribunal was not accompanied by all the facts on which the ‘grounds’ specified in the Notification are based, and the same is evident from the Tribunal’s order dated 08.04.2024 and 15.05.2024, whereby the Tribunal has directed the Central and the State Government to file their respective affidavits along with the documents in support of their grounds.
- iii. The Association was in no position to Show Cause without the grounds which should not only contain the ‘opinion’ of the government but also the ‘basic facts’ based on which Notification was issued, and requiring

the Association to show cause without effective notice and/or on the basis of a Notification, which is not in compliance with section 3 of the UAPA, will defeat the very purpose of the statutory scheme on the basis of which severe inroads are sought to be made into the Fundamental Rights of citizens.

- iv. The Central Government could not have claimed that the material on which it based its decision was not available with it. It was incumbent upon the Central Government to immediately provide to this Tribunal all the material based on which the said decision was taken. The Central Government refused to do so and instead of providing the same even at a later stage, just provided vague details of the cases with no details as to what led the Central Government to declare the Association as Unlawful.
- v. That neither the Notification, nor the Background Note provides any supporting documentation for the members of the Association to be able to contest the claims made in them.
  - a. The notification and the Background Note list 45 cases allegedly registered by the Jammu and Kashmir police and two cases registered by the National Investigation Agency but provide no information on why those cases are relevant to determine whether the association should have been declared unlawful.
  - b. Neither of the documents gives the details of the process by which the decision to declare the association unlawful: when did this material become available? Who was it placed before? Who decided to declare the association unlawful? On whose advice? What were the documents before the authority that considered and took the decision? There is, therefore, no way to determine whether relevant factors have been taken into consideration and irrelevant factors omitted.
  - c. The notification and the Background Note cannot, by any stretch of imagination, be deemed to provide the association with all the material facts and particulars which will be essential for a proper scrutiny of the basis for the Central Government's decision.
  - d. That in some cases, the Background Note provides names of persons and claims that these persons were members of the association but provides no further details to establish their involvement, let alone membership of the association.

And without prejudice to the above preliminary objections, submitted that:

- vi. The Association expressly states that it is a socio-religious organisation with a written constitution and is committed to peaceful constitutional means and does not have any links with militant outfits or support extremism in any form.
- vii. The Association was set up in November 1953 to spread the word of Islam and in doing so it extends its Da'wah (invitation to Islam) to all people without discriminating on the basis of sect, language, colour, race, nation, or country. The Association is committed to democratic and constitutional methods and is guided by a written Constitution.
- viii. Constitution of the association has never supported violence. Most importantly, the Constitution stipulates that the association shall not employ ways and means "against ethics, truthfulness and honesty or which may contribute to strife on the earth". And further, that the Association "shall use democratic and constitutional methods while working for the reform and righteous revolution". The Association is, therefore, committed to peaceful means.
- ix. The Association has always participated in the democratic process. In 1969, the Association participated in the Municipal and Panchayat elections. It contested the Lok Sabha elections in 1971 securing more than 1 lakh votes. In 1972, five members of the Association were elected members of the Legislative Assembly. In 1977, one member of the association was elected to the Legislative Assembly. In 1983, none from JeI, J&K was elected to the State Legislative Assembly, although the Association contested 20 constituencies. In 1987, two members of the Association were elected to the Legislative Assembly.
- x. The Association was first declared unlawful after emergency was imposed in 1975. The Chief Minister of Jammu and Kashmir at the time, Sheikh Mohammad Abdullah, got the Central government to declare the Association as unlawful because the Association was his only serious rival in the state. The declaration of the Association as unlawful was lifted with the election of the new Government at the Centre, after emergency was lifted.
- xi. The Association participated in the elections of 1987 and put up 22 Candidates. However, the elections of 1987 were rigged, resulting in election of only two members from the Association. That the 1987 elections were rigged is common knowledge and has been acknowledged even by Former Deputy Prime minister and Home Minister, Mr L. K. Advani, in his autobiography, '*My Country My Life*', and by several others. Most recently, the Union Home Minister, Mr Amit Shah, while moving the amendment bill of the Jammu and

Kashmir Reservation Act, 2004, in the Lok Sabha also stated that “Farcical elections were conducted by the earlier Congress Government in Kashmir”.

- xii. It is only after the wholesale rigging of elections of 1987 that the Association decided not to contest elections until there is a guarantee of free and fair elections.
- xiii. Although the Association has always been opposed to violence, and although the Ameer-e-Jama'at when the state was in the grip of armed militancy in 1987, Hakeem Ghulam Nabi, expressly condemned violence at several public meetings, a misconception began to build that the Association supported militancy. This misconception was entirely the creation of persons with avested interest against the Association. It was because of this misconception that the Association was declared unlawful in March 1990.
- xiv. Most importantly, the Association did not receive notice of having been declared unlawful or notice of Tribunal proceedings to adjudicate the validity of such declaration. Many of its office-bearers were, however, placed in preventive detention for long periods of time.
- xv. Although the declaration of the Association as unlawful should have expired with the passage of time, there was a common misconception that the Association continued to be under a declaration that it was an Unlawful Association, even as late as 1997. This misconception was perhaps because most people did not know that the declaration of Unlawful Association was constitutionally mandated to expire with time and perhaps also because the media continued to call the Association a banned/ Unlawful Association. The 1990s was also a period of heightened militancy and extreme violence in the state. The Association bore the brunt of the violence with a few thousand of its members being killed. Due to a combination of these reasons the Association was unable to reopen its offices until 1997, i.e., long after the declaration of it being an Unlawful Association should have expired.
- xvi. It was only in 1997 that a few members began to make the first efforts to revive the Association after its declaration as unlawful in 1990. The media and the general public were informed that the declaration of the Association as unlawful had expired with the passage of time and that JeI-J&K was no longer “banned/unlawful”.
- xvii. Elections to the offices of the Association, for the first time after 1988 were held in 1997, and Ghulam Mohammed Bhatt was elected Ameer-e-Jama'at.
- xviii. Once the Association resumed functioning, it began to once again make clear its stand that it had never supported militancy and did not support militancy.
- xix. On November 14, 1998, Ghulam Mohammed Bhat addressed a press conference accompanied by Sheikh Mohammed Hassan, the Association's then General Secretary; Hakeem Ghulam Nabi, Ex Ameer-e-Jama'at; and Maulana Ahrar, one of the founder members. At this press conference, Ghulam Mohammed Bhat stated that the respondent Association remained committed to democratic and constitutional means and had nothing to do with militancy or underground work.
- xx. Ghulam Mohammed Bhat gave an interview to the Srinagar News daily, Greater Kashmir, which was published on 17<sup>th</sup> November, 1998, in which he clarified once again that the respondent Association had never been associated with the Hizbul Mujahideen let alone being its “militant wing”.
- xxi. At this time, 2 members of the *Majlis-e-Shoora* felt that the Association must devote itself entirely to finding a political solution to the strife in the state of Kashmir, whereas the remaining 28 members of the Majlis disagreed. These 2 members were Mr Syed Ali Shah Geelani and Mr Mohammad Ashraf Khan alias Sehrai. Both Mr Geelani and Mr Sehrai made several efforts at forcing the Association to adopt their position. Their efforts went on from the late 1990s until 2004. Jama'at leadership, however, was resolute and Mr Geelani was unable to prevail over the respondent Association to change its position. Although this effort of JeI-J&K was met with criticism, and division of the party was also expected, the party leadership was determined to adhere to its principled stand.
- xxii. The growing rift between Mr Geelani and Mr Sehrai on the one side and the rest of JeI-J&K on the other, culminated in action being taken under the Rules of the Association against Mr. S.A.S. Geelani and Mr. Sehrai and also against a few other persons who were in the Association who were of the same persuasion as Mr. Geelani and Mr. Sehrai.
- xxiii. In August 2004, Mr Geelani and Mr Sehrai realized that the respondent Association was unwilling to be swayed to their opinion and set up their own Association with an independent Constitution called *Tehreek-e-Hurriyat*. A bare perusal of the Constitution of the *Tehreek-e-Hurriyat* will make clear and apparent the difference in the ideology of the two Associations and that the two Associations are of diametrically opposite views.

- xxiv. After 2004, neither SAS Geelani nor Mr. Sehrai has been a part of the Association; they criticized the Association at every opportunity for not following their opinion and perspective.
- xxv. Meanwhile, in 2002, the Association undertook a complete overhaul of membership to weed out any persons who might support militancy, extremism or underground or unconstitutional means. All members of the Association were asked to sign a fresh undertaking and reapply for membership. In this new undertaking that was required to be filed by all members, they specifically rededicated themselves to clauses 2, 3 and 4 of Article 5 of the Constitution of the Association that reads as follows:
- a. The Jama'at shall not employ ways and means against ethics, truthfulness and honesty or which may contribute to strife on the Earth.
  - b. The Jama'at shall use democratic and constitutional methods while working for the reform and righteous revolution.
  - c. The Jama'at shall present its *Da'wah* (invitation to Islam) before the whole world without any discrimination whatsoever of sect, language, colour, race, nation or country."
- xxvi. Further, before the elections in 2006 to the posts in the Association, the Majlis resolved that only those persons would be eligible to stand for elections, who were not part of any organization other than the respondent Association. This was in furtherance of the rules of the respondent Association that its members could not be members of other Associations. The resolution of the Majlis stated that - "If any member of the party wants to clear his position in this regard, he can do so through announcement of disassociation from other forums like Tehreek-i-Hurriyat by 30<sup>th</sup> of June 2006."
- xxvii. From 1997 onwards, the office bearers of the Association also regularly petitioned and interacted with the National Human Rights Commission. Ameer-e-Jama'at attended several hearings at the NHRC and also met with the Chairpersons of the NHRC, Chief Justice (Retd.), M. N. Venkatachaliah and Late Chief Justice (Retd.), J.S. Verma.
- xxviii. Continuous formal and informal interactions between the senior members and office bearers of the Association and office bearers and members of the NHRC and several members from civil society, intelligentsia, and government functionaries resulted in a change in the perception of the Central Government regarding the Association and the wrong perception of Association as a supporter of militancy waned.
- xxix. After holding two terms of office from 1987-2000 and from 2000-2003, Ghulam Mohammed Bhat demitted office as the Ameer-e-Jama'at in September 2003. In 2003, Syed Nazir Ahmad Kashani was elected the Ameer-e-Jama'at. He held office till August 2006 and carried forward the same policies.
- xxx. Sheikh Mohammad Hassan was elected Ameer-e-Jama'at in 2006 and he held office until August 2012. In 2012, Mohammad Abdullah Wani was elected Ameer-e-Jama'at and held office until August 2015. Through all their term there was no change or deviation in the position or stance of the Association.
- xxxi. In 2015, Ghulam Mohammed Bhat was once again elected Ameer-e-Jama'at. On his election, Ghulam Mohammed Bhat once again issued several press statements reiterating the Association's long-established position that it did not support militancy or extremism or other kinds of underground activity and that it was committed to constitutional and democratic means.
- xxxii. In August 2018, Dr Abdul Hameed Fayaz was elected Ameer-e-Jama'at. He has also issued statements on several occasions stating that the Association does not support extremism or militancy.
- xxxiii. Ghulam Qadir Lone, Secretary General of the organization, while addressing a massive public gathering in Beerwah area of Budgam, in central Kashmir once again clarified that the respondent Association did not believe in underground activities, and it was dedicated to operating in a transparent manner in the full light of day. His address was carried in, 'Jama'at does not believe in underground activities: General Secretary', Kashmiruzma, 14 May 2018.
- xxxiv. The Association or its cadre has never supported any illegal activity like arson or stone-pelting or any damage to public or private property.
- xxxv. On 28 February 2019, the Association was, once again, declared 'unlawful' by the Central Government. Asad Ullah Mir was authorised by the last General Secretary of the association before it was banned to represent the Association and defend it in proceedings before the UAPA Tribunal of Hon'ble Chander Shekhar J.
- xxxvi. The Association contested proceedings and presented its defence and other supporting material before the UAPA Tribunal. The Chander Shekhar J. Tribunal, however, was pleased to uphold the Central Government's declaration of the Association as unlawful. The Association filed a Writ Petition before the Hon'ble Delhi High Court challenging the order of the UAPA Tribunal of Chander Shekar J.



- xxxvii. The Association's Constitution has governed the Association right from its inception in November 1953; the Central Government, therefore, has always had notice of the values that the Association stands for.
- xxxviii. There is no reason, let alone constitutionally valid reason for the Central Government to declare the Association an Unlawful Association.
- xxxix. The Central Government's declaration of the Association as an Unlawful Association must therefore be cancelled.
- xl. In the facts and circumstances set out above it is most respectfully submitted that the Central Government's declaration of the Association as an Unlawful Association with immediate effect and its declaration of the Association as an Unlawful Association in terms of section 3 (1) of the UAPA is bad, unsustainable, cannot form the basis for an adjudication by an impartial Tribunal and must, therefore, be cancelled.
- xli. He notices stating that JeI-J&K had been again declared as an Unlawful Association were received by some persons who were members of the Association when it was declared unlawful in 2019, and some of these persons who were members of the Association had issued letters of Authorization/Power of Attorneys authorizing Mr. Asad Ullah Mir to represent them in the present proceedings, to contest the declaration of the Association as Unlawful. Therefore, Mr. Asad Ullah Mir is contesting the present proceedings as a person who was a member of the Association when it was declared unlawful as also on behalf of the persons who have issued Letters of Authorization/Powers of Attorney in his favour as their representative.

25. The Central Government filed Interim Reply to the Statement of Objections/Reply to the Show Cause Notice filed on behalf of Mr. Asad Ullah Mir, reiterating their stand, challenging the locus of Mr. Asad Ullah Mir in the present proceedings, *inter alia*, on the following grounds:

- (i) In terms of Section 4(2) of the Act only "the association or the office-bearers or members" affected by notice are authorized to participate in the proceedings conducted by the Tribunal. It is incumbent upon any person claiming to be associated with the association, in any capacity, to *prima facie* demonstrate to this Tribunal that he is either "authorized representative of the association" or "an office-bearer of the association" or "a member of the association". A rank outsider with no proof of either being "authorized representative of the association" or "an office-bearer of the association" or "a member of the association" has no locus to participate in the proceedings before a Tribunal constituted under Section 5(1) read with Section 4 of the Act.
- (ii) Although, Mr. Asad Ullah Mir has claimed before this Tribunal to be a member of JeI-J&K, he has not placed any documentary evidence on record to prove his membership. In terms of the "Statement of Objections/Reply to Notice to Show Cause," Mr. Asad Ullah Mir claims that he joined the Association in 1980 and remained a member until it was declared unlawful in 2019. However, there is no substantial evidence provided by him to verify this claim. Further he himself is accepting that he is presently not a member of the banned Association. Therefore, in terms of Section 4 (2) of the Act, he has no locus to participate in the proceedings before the Tribunal.
- (iii) The production of substantial evidence of his claim to be a member is relevant as there is a significant difference in the stand of the applicant/objector with respect to the 2019 proceedings claiming himself to be SPA of General Secretary, and now that of being an alleged member of JeI- J&K. The Central Government also stated that this change in the stand has occasioned due to the objection raised on behalf of the Union of India to the locus of Mr. Asad Ullah Mir to file Writ Petition, that is, W.P.(C) No. 753/2020, before the Delhi High Court. It was stated that the said challenge is still pending adjudication before the Delhi High Court.
- (iv) It was stated that in light of the objections taken by the Central Government regarding Mr. Asad Ullah Mir's locus, Mr. Asad Ullah Mir, *inter alia*, filed a Special Power of Attorney (SPA) dated 27.02.2020, in terms of which the General Secretary of JeI- J&K is purported to have authorized Mr. Asad Ullah Mir to institute all proceedings relating to matters which had been initiated under the Act, including Writ Petitions before the High Court.
- (v) The Central Government claimed that on 29.11.2021, the abovesaid SPA was also objected to by the Union of India, as constitution of JeI-J&K does not confer any power on the General Secretary to authorize a person by way of a power of attorney to institute proceedings for and on its behalf. It was stated that the learned ASG appearing for the Union of India in the said Writ Petition has also raised an objection that Mr. Asad Ullah Mir "has not been established to either be a member of the association" nor "has he in proceedings before the Tribunal deposed that he was a supporter of the cause and the aims of the association".

- (vi) It was asserted that the shift in stand started thereafter by execution of an affidavit dated 12.03.2022, whereby, for the first time, Mr. Asad Ullah Mir claimed *inter alia* that he joined the association in 1980 as member and remained a member until it was declared unlawful in 2019. Thereafter, this change of stand is being continued now before this Tribunal. The Central Government states that this change in stand needs to be seen with great circumspection as Mr. Asad Ullah Mir in his deposition, on oath, in proceedings before the Tribunal challenging the earlier Notification of 2019, never deposed that he was a member of JeI-J&K. It was asserted that the law is well settled that when material improvements are made by a person from his earlier depositions and/or statements by way of affidavit to subsequent depositions and/or statements by way of affidavit, the improvements need to be accepted only when they are duly supported by contemporaneous documentary evidence.
- (vii) The Central Government also stated that the proof of alleged membership to JeI-J&K of Mr. Asad Ullah Mir is within his special knowledge and he alone is to produce such documentary evidence. When such documentary evidence is not produced, adverse inference needs to be drawn against the party who refuses to produce such documentary evidence.
- (viii) In so far as the claim of Mr. Asad Ullah Mir that he has been authorized by Bashir Ahmad Lone, Gul Mohammad War, and Mohammad Ashraf Wani, as mentioned in paragraph 45 of his "Statement of Objections/Reply to Notice to Show Cause", to represent their interest before this Tribunal, it is stated that the membership and activities conducted by individual members of JeI-J&K are personal in nature. It was asserted that Power of Attorney holder can only depose about the facts within his personal knowledge and not about those facts which are not within his knowledge or are within the personal knowledge of the person who he represents or about the facts that may have transpired much before he entered the scene. It was asserted that therefore, the personal knowledge of Bashir Ahmad Lone, Gul Mohammad War, and Mohammad Ashraf Wani cannot be attributed via a Special Power of Attorney (SPA).

26. In the proceedings of the Tribunal held on 12.06.2024, Mr. Amit Prasad, learned counsel for Central Government, submitted that the issue of locus of Mr. Asad Ullah Mir may be kept open to be determined at the stage of final hearing of the proceedings. It was directed accordingly.

27. In the proceedings of the Tribunal held on 12.06.2024, it was further recorded that the learned counsel for the Central Government has submitted that there are a total of 25 witnesses which are to be examined, and on the same day has filed the affidavits by way of evidence of 12 witnesses, and submitted that affidavits by way of evidence of other 10 witnesses shall be filed by 14.06.2024, while the affidavits of the remaining 3 witnesses shall be filed by 30.06.2024. Copies of these affidavits were directed to be served on the learned counsel for the Objectors.

28. On 20.06.2024, the hearing of the Tribunal was held in Srinagar, UT of J&K, when PW-1 was examined-in-chief, cross-examined, but his further cross-examination was deferred and he was bound down to appear on the 24.06.2024, along with documents called for by the learned counsel for the Objectors. Statement of PW-2 was recorded.

29. On 21.06.2024, the hearing of the Tribunal was held in Srinagar, UT of J&K when the statements of PW-3, PW-4, PW-5, and PW-6 were recorded.

30. On 24.06.2024, the hearing of the Tribunal was held in Srinagar, UT of J&K, when further statement of PW-1, cross-examination of whom was deferred on 20.06.2024, was recorded. Other than him, statements of PW-7, PW-8, PW-9, PW-10, PW-11, PW-12, PW-13, PW-14, and PW-15 were recorded. Additionally, the learned counsel for the Central Government submitted that the affidavits of three remaining witnesses shall be filed on or before 01.07.2024. The learned counsel for the UT of J&K also submitted that affidavits of four additional witnesses shall be filed by the next date of hearing.

31. On 05.07.2024, the hearing of the Tribunal was held at New Delhi. Evidence by way of affidavits of 2 witnesses on behalf of NIA were filed, and the learned counsel for UT of J&K stated that the evidence by way of affidavits of the additional 4 witnesses will be filed by 06.07.2024. The learned counsel for the Central Government submitted that the evidence by way of affidavit of the last remaining witness from the Ministry of Home Affairs shall be filed immediately upon completion of the cross-examination of the witnesses of the UT of J&K.

32. On 15.07.2024, the hearing of the Tribunal was held at New Delhi when PW-16 and PW-17 were examined-in-chief, and for their cross-examination, the proceedings were deferred for 16<sup>th</sup> July 2024.

33. On 16.07.2024, the hearing of the Tribunal was held at New Delhi when PW-16 and PW-17 were cross-examined and discharged.

34. On 19.07.2024, the hearing of the Tribunal was held at Srinagar, UT of J&K, when statements of PW-19, PW-20, PW-21, PW-22 and PW-23 were recorded. The learned counsel for UT of J&K stated that an additional witness was needed to be examined and his affidavit would be filed during the course of the day.

35. On 22.07.2024, the hearing of the Tribunal was held at Srinagar, UT of J&K, when statements of PW-25, PW-26, PW-27, PW-28 and PW-29, were recorded. PW-24 was partly cross-examined and the rest of his cross-examination was deferred for 25.07.2024 to be conducted at New Delhi. The Central Government also filed the affidavit by evidence of Mr. Rajesh Kumar Gupta, Director (CT), Government of India, Ministry of Home Affairs.

36. On 25.07.2024, the hearing of the Tribunal was held at New Delhi when, the statement of PW-24 was recorded and PW-30 was also examined-in-chief.

37. An application being, JeI Appln. 2/2024, was filed by the objectors seeking supply of documents relied upon by the PW-30, Sh. Rajesh Kumar Gupta, Director (CT), Ministry of Home Affairs, Government of India in paragraphs 5 and 6 of his evidence by way of affidavit, which had been filed by the said witness before the Tribunal in a sealed cover.

38. In the said application, the objectors claimed that the affidavit of PW-30 contained several falsehoods and misleading half-truths, by stating that numerous documents in support of the statements made in the affidavit were not on record, and neither were served on the objectors. The objectors stated that their ability to challenge such statements would be seriously hampered by failure of the Central Government to serve copies of the documents asked for by way of this application. The objectors stated that the denial of the Central Government to serve copies of documents based whereon the opinion was formed to declare the Association unlawful, was illegal and frustrated the very purpose of the present Tribunal. Relying on Rule 3 of the Unlawful Activities (Prevention) Rules, 1968 (hereinafter referred to as the 'Rules'), the Objectors contended that this Tribunal cannot disallow copies of documents to be supplied to a party to the proceedings before it. It was contended that granting the Central Government's claim of privilege would entirely frustrate the statutory mandate of the Act.

39. The notice on this application was accepted by the learned counsel for the Central Government and he was granted time to file a reply to the same.

40. On 02.08.2024, the hearing of the Tribunal was held at New Delhi and on the said date PW-30's statement was recorded, and the learned counsel for the objectors filed a list of witnesses naming only one witness and stated that the said witness' evidence by way of affidavit shall be filed by 03.08.2024.

41. Learned counsel for the Central Government also filed a reply to the application, JEI Appln 2/2024, in which the Central Government placed its claim of privilege in relation to the documents, filed in a sealed cover. The Central Government also relied on the judgment of the Supreme Court in *Jamaat-e-Islami Hind v. Union of India*, (1995) 1 SCC 428, and contended that in case of privilege being claimed, the Tribunal itself has to look into the contents of the documents and satisfy itself whether non-disclosure of such information to the Association or its office-bearers is in public interest. Upon hearing the learned counsels and on perusal of the documents filed, it was decided by the Tribunal that this application shall also be considered at the stage of final hearing.

42. On 10.08.2024, the hearing of the Tribunal was held at New Delhi. On the said date, RW-1 was examined-in-chief, and partly cross examined, and his further cross-examination was deferred for 13<sup>th</sup> August 2024 and matter was directed to be listed for arguments on 14<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> August 2024.

43. On 13.08.2024, the hearing of the Tribunal was held at New Delhi, when further cross-examination of RW-1 was completed and he was discharged.

44. The learned counsel for the Objectors, however, filed an Application, being, JeI Appln No.3/2024, seeking permission to examine nine further witnesses, who were stated to be persons who have authorized Mr. Asad Ullah Mir to file objections on his behalf. Out of the nine witnesses, four were present before the Tribunal while five were proposed to be examined virtually.

45. The learned counsel for the Central Government stated that without prejudice to the rights and contentions of the Government, he has no objection to the witnesses being examined, however, the witnesses cannot be examined virtually in absence of a remote point. He stated that the witnesses should be personally present before this Tribunal for their cross-examination.

46. On this objection by the learned counsel for the Central Government, the learned counsel for objectors stated that he would only examine the four witnesses before the Tribunal. The objectors were allowed to examine these four additional witnesses and the application was allowed in part. The four additional witnesses were also examined-in-chief, cross-examined, and were discharged on the same day.

47. On 14.08.2024, 15.08.2024, 16.08.2024 and 17.08.2024, the hearings of the Tribunal were held at New Delhi and final arguments on behalf of the Central Government and the Objectors were heard.

48. On 18<sup>th</sup> August 2024, the Objectors filed an updated note of facts along with requisite information in tabular form, note of additional submissions and index of judgment compilation; the note of facts was initially handed over in court during the arguments on 17<sup>th</sup> August 2024.

49. On 20<sup>th</sup> August 2024, the Central Government filed its final Written Submissions, list of FIRs having seizures reports, synopsis of evidence of RWs and synopsis/chart of evidence of PWs. Subsequently, on 21<sup>st</sup> August, they again filed a revised synopsis/chart of evidence of PWs, with respect to number of FIRs dropped. In response thereof, the objectors also filed their response to the Written Submissions filed by Central Government on 22<sup>nd</sup> August, 2024. They have all been considered while considering the present reference.

#### **IV. WITNESSES OF THE CENTRAL GOVERNMENT AND OBJECTORS**

50. The Central Government, in support of the Notification banning JeI-J&K, has examined the following witnesses: -

- (i) Mr. Mohammad Aftab Awan, SDPO, Magam (PW-1);
- (ii) Mr. Sajad Ahmad, SDPO, Qazigund (PW-2);
- (iii) Mr. Daljeet Singh, SDPO, D.H. Pora (PW-3);
- (iv) Mr. Satish Kumar, SDPO, Handwara (PW-4);
- (v) Mr. Sarfaraz Bashir, SDPO, Sopore (PW-5);
- (vi) Mr. Bahar Ahmad Khan, SHO, PS Khansahib (PW-6);
- (vii) Mr. Tanweer Ahmad, ASP, Kulgam (PW-7);
- (viii) Mr. Majad Mehboob, SDPO, West Bemina Zone, Srinagar (PW-8);
- (ix) Mr. Shafat Mohammad, DSP, Bandipora (PW-9);
- (x) Mr. Zaheer Abbas, SDPO, Nehru Park, Srinagar (PW-10);
- (xi) Mr. Hilal Ahmad, SDPO, Rafiabad (PW-11);
- (xii) Mr. Imtiyaz Ahmad, SHO PS Budgam (PW-12);
- (xiii) Mr. Gh. Hassan, SP, HQs Ganderbal (PW-13);
- (xiv) Mr. Mohammad Muzaffar, SDPO, Kangan (PW-14);
- (xv) Mr. Kuldeep Raj, DSP, HQs Anantnag (PW-15);
- (xvi) Mr. Santosh Kumar Singh, Inspector, NIA (PW-16);
- (xvii) Mr. Prabhat Kumar Bajpai, DSP, NIA (PW-17);
- (xviii) Mr. Abdul Raqeeb Malik, SDPO, Achabal (PW-18);
- (xix) Mr. Mohd. Nawaz Khandey, DSP, Pulwama (PW-19);
- (xx) Mr. Gh. Jeelani Bhat, SHO PS Shopian (PW-20);
- (xxi) Mr. Rashid Younis, ASP Awantipora (PW-21);
- (xxii) Mr. Altaf Ahmad, DSP, Baramulla (PW-22);
- (xxiii) Mr. Waseem, SHO, PS Kralgund (PW-23);
- (xxiv) Mr. Owais Ahmad Wani, SDPO, Charar-I-Shrief (PW-24);
- (xxv) Mr. Lov Karan Taneja, DSP, JIC, Jammu (PW-25);
- (xxvi) Mr. Devinder Singh, SDPO, City Jammu (PW-26);
- (xxvii) Mr. Saheel Iqbal, DSP, SIA (PW-27);
- (xxviii) Mr. Mir Gulzar, DSP, CID CI Kashmir Ganderbal (PW-28);
- (xxix) Mr. Sheikh Manzoor Qadir, DSP, SIA Kashmir (PW-29); and,
- (xxx) Mr. Rajesh Kumar Gupta, Director (CT), MHA (PW-30)

51. The objectors, while objecting the Notification banning JeI-J&K, has examined the following persons as their witnesses:

- (i) Mr. Ghulam Qadir Lone (RW-01)
- (ii) Mr. Mohammad Ashraf Wani (RW-02)
- (iii) Mr. Gul Mohammad War (RW-03)

- (iv) Mr. Shoaib Ahmad Czhor (RW-04)
- (v) Mr. Shamim Ahmad Thoker (RW-05)

**i. WITNESSES OF THE CENTRAL GOVERNMENT:**

**PW-1**

52. PW-1, Mr. Mohammad Aftab Awan, Sub-Divisional Police Officer, Magam, Kashmir appeared and produced his affidavit exhibited as Ex.PW 1/A. The said witness deposed in respect of FIR no.17/2019 registered at PS Magam under Sections 10, 11, and 13 of the Act [Ex.PW1/1], FIR no. 09/2019 registered at PS Khag under Sections 10, 11, and 13 of the Act [Ex.PW1/11], and FIR no. 24/2019 registered at PS Beerwah under Sections 10, 11, and 13 of the Act [Ex.PW1/5]. Mark PW 1/1A, PW 1/11A, and PW 1/5A are the translated copies of the aforesaid FIRs.

53. In his evidence by way of Affidavit, the witness stated that the abovementioned cases have been registered against the influential members and office bearers of JeI-J&K. He stated that the said FIRs were registered on receipt of reliable information that the members of the banned Association JeI-J&K have been utilizing resources to carry out illegal activities that are harmful to the integrity and sovereignty of India. He stated that during the investigation, statements of witnesses under Section 161 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') supporting the case of the prosecution were recorded. He stated that a charge-sheet has also been filed in the FIR no.24/2019 at PS Beerwah, while in the other two cases, the investigation is still going on, however, it is likely to be concluded soon.

54. The witness in his affidavit has further stated that the JeI-J&K has been formed on the ideals of a longtime internationally known secessionist leader Moulana Abul Alla Madoodi and it has its own Constitution which discusses their aims and objectives. He states that JeI-J&K has been spearheading their anti-India secessionist agenda at the instance of ISI, Pakistan, and the prominent terrorist organization *Hizb-ul-Mujahedeen*, and also by following pro-Pakistan propaganda for the secession of Jammu & Kashmir from the Union of India. He stated that the members of the Association have shown sheer disrespect towards the constitutional authority and constitutional setup of the Country and have been inciting and brainwashing the local Muslim community and youths of the said community to bring about such cession of the constitutional authority of the Union of India and secession of Jammu and Kashmir from the Union of India. He states that JeI-J&K patronizes *Hizb-ul-Mujahedeen*, that is, its militant wing, and the activists associated with the Association are covertly supporting *Hizb-ul-Mujahedeen*, which is a banned terrorist group prominently operating in the valley of Kashmir. He states that the members of the Association are involved in the commission of heinous offences which are detrimental to the interest of the nation and its cadres are highly radicalized and are instrumental in managing riotous crowds at different places who are being led to indulge in arson, stone pelting and causing damage to the public properties. He states that the Association has been continuously challenging the accession of the erstwhile State of Jammu and Kashmir with the Union of India and have been issuing public press reports and addressing public gatherings in relation to the same and the association and its members have continuously been encouraging an armed insurgency aimed at causing disaffection, disloyalty, dis-harmony by promoting feelings of enmity and hatred against the lawful government and against the territorial integrity of the nation.

55. In his cross-examination, the witness admitted that he does not remember how many Investigating Officers have investigated the aforementioned FIRs, however, he can verify from the record and inform the same. He stated that he is not aware if the Investigating Officers of the above-mentioned FIRs are still available for deposing in the present proceeding or as to where they are posted as of present. He admitted that he has not personally recommended to the Central Government for declaring JeI-J&K as an Unlawful Association, however, he states that he has forwarded the FIRs and documents in his control to the appropriate Authorities. He states that he did not remember when such documents were forwarded to the Authorities. He states that he had sent these documents before reading the Brief Background and even thereafter. He further stated that these documents were sent to the concerned Authorities even prior to his joining the post of SDPO, Magam. He stated that he can produce the record of sending these documents to the concerned Authorities, if so required.

56. He stated that he did not know when the JeI-J&K was first declared as an Unlawful Association. He stated that he knows that JeI-J&K has been declared as an unlawful Association at least since 2019. On the question of the learned counsel for the objectors if the members of JeI-J&K had been arrested after it was declared unlawful, the witnesses stated that he can only depose in relation to the FIRs that are mentioned in his affidavit. On being asked if the offices of the Association had been sealed and the records of the Association seized on it being declared unlawful in 2019, the witness stated that the offices and documents in relation to the FIRs in question in the Sub-Division under his jurisdiction were sealed. While referring to the three statements filed in relation to FIR No.17/2019 along with his affidavit, the witnesses stated that documents filed along with his affidavit would show that after the registration of the FIR, the persons connected with the Association were arrested, office sealed, and documents seized, and thereafter, no further activity of the Association was reported in his jurisdiction. He denied that in FIR No.24/2019, nothing incriminating was found. He stated that, in fact, the Charge Sheet already stands submitted in the concerned Court in the said case, though he did not remember, at that time, the exact nature of incriminating documents that were

recovered. He stated that all documents that are mentioned in the Seizure Memo [Ex.PW1/10] are incriminating in nature. He denied the suggestion that these documents have not been filed along with his affidavit. He stated that charges have been framed and the trial is going on. He stated that he does not remember the Sections for which charges have been framed, however, he produced the Order on Charge (Ex.PW1/17/Y).

57. He admitted that from the statements recorded in relation to FIR No.09/2019, P.S. Khag, the Association did not have the office within the jurisdiction of P.S. Khag. He denied the suggestion that the statements of Mohd. Afzal, ASI Bashir Ahmad, HC Gulam Mohammad do not contain any material of which they had personal knowledge and only have insinuations picked up from third parties. He denied the suggestion that no charge sheet has been filed for more than five years after the FIR No.09/2019, P.S. Khag had been registered because the police do not have any material on which to prosecute. He stated that the charge sheet could not be filed due to the promulgation of the Jammu and Kashmir Reorganisation Act, 2019, and then the outbreak of COVID-19 pandemic, and because whenever the police tried to arrest any person, there is unrest in the area created by the sympathizers of the Association.

58. He stated that they could not match the names of the accused in the FIR with the membership register of the Association as the relevant documents had been taken away by the Association when it was banned. He stated that it is for this reason that the investigation is still going on. He stated that the Beat Constables found out the main persons of the Association in the area and the investigation is going on against them. He stated that whatever and wherever material was found, the same has been filed along with the Charge Sheet.

59. He denied the suggestion that none of the accused mentioned in the FIRs and his affidavit have any association with JeI-J&K and that it is for this reason that no attempt was made to verify or correlate their names in the register of members. He further denied that his testimony that the documents of membership of the Association were taken away by the members of the Association on it being banned, is false. He denied that it is for this reason that there is no FIR or other document to support this claim that the documents were taken away by the Association. He stated that he can only say that whatever documents were found have been placed along with the FIR/charge sheet and it is for this reason that in some cases, the investigation is still going on. He stated that the police has been making an endeavour to find out these documents, and they have been questioning the concerned persons and calling them. He admitted that he was not aware if any written notice was given in this regard, however, he stated that the persons during the investigation and questioning were asked for the same. He volunteered that on checking his record available with him, he could not find any written notice calling upon any person to produce documents. He stated that he would have to check if the book mentioned at Sr. No.1 of Ex.PW1/10 has been banned. He stated that the title itself shows the character of the book.

60. He stated that Mohd. Ahsaan, SPO Ishfaq Ahmad Kumar, and SPO Mushtaq Ahmad were not produced before the Judicial Magistrate for the recording of their statements. He denied that these witnesses were not produced before the Judicial Magistrate because the police was aware that there was no material to prosecute for the offence under Section 13 of the Act.

61. He denied that there is no document that links the persons accused in FIRs mentioned in his affidavit with the Association. He denied the suggestion that none of the persons accused in the FIRs have any connection with the Association. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings.

62. On being questioned whether Mr. Asadullah Mir, or other objectors, or the Association or its office bearers, or its members had filed any complaint regarding theft or unlawful removal of membership register of JeI-J&K, the witness stated that no such complaint has been filed to his knowledge.

63. On being recalled, the witness also produced a copy of communication dated 02.09.2023 from the Sub-Divisional Police Officer, Magam to the Sr. Superintendent of Police, Distt. Budgam (Ex.PW1/18/Y). On a question as to why the witness has not produced the two leaves enclosed with Ex.PW1/18/Y, he stated that these documents had already been produced by him in his earlier affidavit. On checking his record, he stated that the said seizure memo in relation to FIR no.17/2019, which is the document mentioned in Ex.PW1/18/Y, is not on the record. He, however, on checking his own record, produced the same, and the same was exhibited as Ex.PW1/19/Y. He denied the suggestion that he was deliberately producing the record in a piecemeal manner in order to prejudice the defence. He further denied the suggestion that it is for this reason that he had not produced the translation of Ex.PW1/17/Y and stated that he was only called upon to produce the original of the documents called for.

## **PW-2**

64. PW-2, Mr.Sajad Ahmad, Sub-Divisional Police Officer, Qazigund, Kashmir appeared and produced his affidavit exhibited as Ex.PW 2/A. The said witness deposed in respect of FIR no.03/2019 registered at PS Kund under Sections 10 and 13 of the Act [Ex.PW2/1], FIR no. 12/2019 registered at PS Devsaron under Sections 10 and 13 of the

Act [Ex.PW2/5], and FIR no. 27/2019 registered at PS Qazigund under Sections 10 and 13 of the Act [Ex.PW2/9]. Mark PW 2/1A, PW 2/5A, and PW 2/9A are the translated copies of the aforesaid FIRs.

65. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by PW-1 in his evidence by way of affidavit in relation to the same.

66. The witness states that in relation to the abovementioned FIRs, the concerned police stations received information disclosing that the members mentioned in the said FIRs of the Association JeI-J&K are in close contact with the terrorist organisations and are providing assistance, including financial and logistical assistance to them. He stated that it was also informed that these members are affiliated with JeI-J&K and are causing disaffection among the youth of the area against the governments of the Union of India and Jammu and Kashmir and are inciting them to continue their so-called struggle for freedom. He stated that it was also disclosed that these members of JeI-J&K have organised and conducted special meetings in the area whereunder they have managed the collection of funds for advancing terrorist activities in the area and are also utilizing these funds for advancing terrorist activities and for publication of joint advertisements with respect to banned terrorist organisation HuM and the unlawful association JeI-J&K against the Union of India through posters, journals, etc. He stated that the activities of the members of JeI-J&K have disrupted the peace and tranquility within the jurisdiction of the said Police Stations. He stated that the members are advising/inciting the youth of the area against the integrity and sovereignty of India and motivating them to continue their propaganda of freedom against the Government of India and the Union Territory of Jammu and Kashmir. He stated that after the said information, as the police found commission of cognizable offences, the said FIRs were registered and thereafter, during the investigation, statements of witnesses under Section 161 of the Cr.P.C. supporting the case of the prosecution were recorded. He stated that after collecting sufficient material against the Accused persons which *prima facie* established the commission of the alleged offences, charge sheets have also been filed in all the three cases.

67. In his cross-examination, the witness admitted that he does not remember the exact number of Investigating Officers who have investigated the aforementioned FIRs, however, he can confirm the same on checking the charge sheets. He stated that if these Investigating Officers are issued summons by the Tribunal, they can appear before it and that they are presently working in the Department, however, they are not present before the Tribunal. He stated that he has not forwarded any Report to the Central Government or any other Authority asking for the JeI-J&K to be banned.

68. He stated that as per the records of FIR No.03/2019 of PS Kund, no incriminating document was seized connecting the accused therein with the Association. He stated that the witnesses have deposed of the meetings of the Association having been conducted at village Valtengo, Kund, near BDO Office and that there are witnesses who have deposed that in these meetings, the accused used to sermonize regarding the JeI-J&K ideology. He stated that there are witnesses who have deposed about people attending these meetings and the accused propagating the ideologies of JeI-J&K. He stated that the challan was filed in 2023, most probably in the month of June, however, he could not say exactly when. He stated that he could not recollect if the charges have been framed. He admitted that the advertisement jointly published by JeI-J&K and HuM, as mentioned in the FIR, was not recovered and that no money was also recovered. He stated that, in fact, there is no Seizure Memo as per the record of the case. He admitted that there was also no recording of the alleged speeches recovered. He stated that the witnesses have, however, deposed about the same. He stated that there is no exact transcription of the speech available either, however, as per the record of the case, there are civil witnesses who have witnessed the speech by the accused in the FIR. He admitted that the statements of these witnesses had not been filed along with his affidavit. On checking his record, he stated that one of the witnesses namely Abdul Rashid Baksh s/o Asadullah Baksh, r/o Karalu had deposed about the accused calling the persons to attend the Masjid where they gave sermons calling upon them to continue the so-called freedom movement, spreading hatred amongst the youth against the Government of India and J&K. He stated that after the ban also, the accused remained affiliated with the Association, though did not raise funds in the name of the Association. He admitted that they also have no contact with any terrorist organisation nor participated in terror operations, but remained intact with the Association.

69. The witness admitted that the statement referred by him does not contain a reproduction of what was said at any of these meetings. The witness also produced the statement of Mr. Abdul Rashid Baksh, which is exhibited as Ex.PW2/13 and its translation is Mark PW2/13A. He admitted that there is no transcript of the sermons referred to in the statement of the abovementioned witness, and that there is no mention of the founding members of the Association referred to in the Statement of the abovementioned witness. He stated that the charge sheet has been filed only against the two accused persons and it is correct that no founding member has been made an accused on the basis of the statement of the witness.

70. He denied the suggestion that the witness, that is, Mr. Abdul Rashid Baksh, has not stated that the accused in the FIR had made objectionable sermons. He stated that the accused had made sermons against the Central Government and the State Government. He admitted that none of the witnesses in FIR no. 03/2019 has deposed about any particular office of the Association being located in the jurisdiction of PS Kund. He volunteered that post the ban, the Association started working covertly and the witnesses in the case also mentioned about the location where the

activity was carried out. He stated that he does not remember if any Site Plan of the location was prepared. He denied the suggestion that the witness's statement does not refer to any particular place but there are references to generic public places and that there is no independent verification possible of what is claimed in the statements because no such meetings happened.

71. On the question regarding the efforts made to verify from the register of Association whether Sajad Ahmad or Mohd. Yusuf Tantray are members of the Association, he stated that immediately after the ban, the Association removed all the records and, therefore, it was not possible to verify the same, however, by the statements of the witnesses it was established that they were the active members of the Association also known as Rukan Jamat. He stated that he could not say if a separate case was registered against the Association or its members for having removed the records of the Association and he cannot state if any notice was given to the Association or its members for producing the record.

72. He denied the suggestion that immediately with the declaration of the Association as unlawful in February, 2019, all the offices of the Association were sealed and all the records were seized and that the police has possession of all the records of the Association including its register of members. He also denied the suggestion that no effort was made to verify from the register of members if Sajad Ahmad or Mohd. Yusuf Tantray were members of the Association because such verification would have revealed that they were not members of the Association.

73. He denied the suggestion that he has not produced any material to show as to how Section 153 of the RPC is made out in FIR No.12/2019 of P.S. Devsar. He denied that he has not produced any material to show how Section 153 or 506 of the RPC are made out in FIR 27/2019, P.S. Qazigund. He denied the suggestion that none of the persons accused in the FIRs have any connection with the Association. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal, or that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6 and 17 of his affidavit, or that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely.

### **PW-3**

74. PW-3, Mr. Daljeet Singh, Sub-Divisional Police Officer, D.H. Pora, Kashmir, appeared and produced his affidavit, exhibited as Ex.PW 3/A. The said witness deposed in respect of FIR no.04/2019 registered at PS Manzgam under Sections 10 and 13 of the Act [Ex.PW3/1] and FIR no. 09/2019 registered at PS D.H. Pora under Sections 10 and 13 of the Act [Ex.PW3/6]. Mark PW 3/1A and PW 3/6A are the translated copies of the aforesaid FIRs.

75. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association, JeI-J&K, and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

76. The witness states that the concerned Police Station had received information disclosing that long-standing members of the banned Association JeI-J&K, named as accused in the FIRs, are in close contact with terrorist organisations and providing assistance, including logistical and other assistance to them. He stated that these members were involved in activities which disrupted the peace and tranquility of the area and they are also provoking the youth of the area and spreading hatred against the Government of India and the Government of J&K, causing disgrace to the national integrity and sovereignty of India. He stated that it was also disclosed in the information that these members of JeI-J&K are organising various meetings within the jurisdiction of the said police station(s) to prepare and execute anti-national propaganda and collect funds to provide support to the terrorist organization *HuM*. He stated that after the said information, as the police found commission of cognizable offences, the said FIRs were registered and thereafter, during the investigation, statements of witnesses under Sections 161 and 164 of the Cr.P.C., supporting the case of the prosecution were recorded. He stated that after collecting sufficient material against the Accused persons which *prima facie* established the commission of the alleged offences, charge sheets have also been filed in both cases.

77. In his cross-examination, the witness has admitted that he does not remember how many Investigating Officers have investigated the aforementioned FIRs. He admitted that he did not know if these Investigating Officers are still with the Police Department. He stated that he knew that one of the officers, namely, Mr.Aashiq, is still in the Force. He stated that he has not personally submitted any report to the Central Government or any other authority to declare JeI-J&K as an Unlawful Association. He stated he knows that JeI-J&K was declared as an Unlawful Association in 2019 and now, by the Notification in 2024. He stated that he was not aware if some persons were arrested after the JeI-J&K had been declared as an Unlawful Association in 2019, as he was posted in Jammu at that time. He stated that for the same reason, he could also not say if the offices of JeI-J&K or its records were sealed/seized at that time.



78. He admitted that there is no mention of the date, time or place of the meetings that are mentioned in FIR No.4/2019. He stated that, as per the record available with him at the time his statement was being recorded before this Tribunal, there was no document which showed the connection of the accused in FIR No.04/2019 with JeI-J&K, or of any money being recovered, or any recording or transcript of speech referred to being available.

79. He denied the suggestion that there is no statement of any independent public witness regarding the alleged speech/sermon made by the accused with respect to FIR No.04/2019. The witness then referred to the statement of Mohd. Hussain Magray S/o Waheed Ahmed Magray (page 15 of his affidavit-Mark A to A). He also denied the suggestion that in the above statement there is no reference to the accused having delivered any sermons. He stated that the statement records that during sermons, the accused, as the Imam, would ask the inhabitants to support the JeI-J&K Association. He denied the suggestion that there is no date of recording of the statement mentioned. He stated that the said document itself shows that the statement was recorded on 19.03.2019.

80. He stated that he could not say as to whether any investigation was done to check if the names of the accused in the FIR also appeared in the membership register of JeI-J&K. He denied the suggestion that he has filed incomplete and incorrect translations in order to mislead the Tribunal.

81. He denied the suggestion that he has not produced any material to show as to how Section 153 of the RPC is made out in FIR No.09/2019 of P.S. D.H. Pora. He denied the suggestion that none of the persons accused in the FIR have any connection with the Association. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6 and 14 of his affidavit, and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely.

#### **PW-4**

82. PW-4, Mr.Satish Kumar, Sub-Divisional Police Officer, Handwara, Kashmir appeared and produced his affidavit, exhibited as Ex.PW 4/A. The said witness deposed in respect of FIR no.29/2019 registered at PS Handwara under Sections 10 and 13 of the Act [Ex.PW4/1], FIR no. 30/2019 registered at PS Handwara under Sections 10 and 13 of the Act [Ex.PW4/3], and FIR no. 31/2019 registered at PS Handwara under Sections 10 and 13 of the Act [Ex.PW4/8]. Mark PW 4/1A, PW 4/3A, and PW 4/8A are the translated copies of the aforesaid FIRs.

83. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K, and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

84. The witness stated that in relation to the abovementioned FIRs, the concerned police stations received letters and reliable information which revealed that despite the ban on JeI-J&K and restrictions being imposed on its activities, the accused in the said FIRs, who are significant members of the JeI-J&K, are undertaking anti-national activities which are prejudicial to the unity and integrity of India and the State of Jammu and Kashmir. He stated that on receipt of the said information, as the police found commission of cognizable offences, the said FIRs were registered, and thereafter, during the investigation, statements of witnesses under Sections 161 and 164 of the Cr.P.C. supporting the case of the prosecution were recorded. He stated that sufficient material was collected against the accused person in FIR 30/2019, however, the accused died of natural reasons before the completion of the investigation and, therefore, an abated challan was filed before the concerned Court against the said accused, which is Ex.PW4/4.

85. He stated that after collecting sufficient material against the Accused persons in FIR no. 31/2019, which *prima facie* established the commission of the offences, the charge sheet has also been filed in the said case, which is exhibited as Ex.PW4/9.

86. In his cross-examination, the witness stated that as per his record, there were four investigating officers in FIR 29/2019, one in FIR no. 30/2019, and two in FIR no.31/2019. He stated that the said officers are still in the Police Department, however, he could not say where they were posted at the time when his statement was being recorded before this Tribunal.

87. He stated that he has not submitted any report to any authority asking JeI-J&K to be declared as an Unlawful Association. He stated that he knew that JeI-J&K was once earlier declared as an Unlawful Association, however, he could not state the date or the year of such declaration.

88. He stated that he was appointed as the SDPO, Handwara in September, 2023. He stated that before the aforesaid posting, he was posted as DSP, District Armed Reserve (DAR), Srinagar, and he was posted there for about 18 months. He stated that he could not say as to what action was taken post the first time JeI-J&K was declared as an Unlawful Association.

89. He admitted that the final challan in FIR No.29/2019 has not been filed till date and stated that the said FIR is still under investigation.

90. He stated that he could not say as to what is the correct position of FIR No.268/2018 registered at PS Handwara referred to in the statement of ASI Gh. Mohammad attached along with his evidence by way of affidavit, at page 11 thereof. He stated that he could not also say as to what transpired in the PSA case referred thereto. The witness later referred to the statement of ASI Gh. Mohammad, and stated that in the said statement, it is mentioned that Gh. Rasool War was released in the said PSA case. He could not say as to whether Gh. Rasool War was released because the PSA case was quashed by a court or had expired by efflux of time or the period thereof had expired or it was withdrawn. He stated that, at the time when his statement was being recorded before this Tribunal, he was not carrying the records of the same. He stated that he could not tell whether any investigation was done on the above. He stated that only the Investigating Officer would be in the position to confirm the same.

91. He admitted that there is no statement of any youth or any public witness recorded in FIR No.29/2019 stating that the accused therein had provoked him/her against the integrity and sovereignty of the Nation or of any illegal or unlawful acts. He volunteered that in the area in question, no such youth will ever come forward to give such a statement as the accused are connected with secessionist and terrorist organisations. He denied the suggestion that the statement of the witness ASI Gh. Mohammad does not provide any detail of how the accused “remained active with the said organisation”. He could not say as to what was the position of FIR No.356/2016 registered at PS Handwara as he was not carrying the record of the same.

92. He stated that he could not say as to what happened in the PSA case mentioned in the statement of SPO Khurshid Ahmed attached with his evidence by way of affidavit, at page 18 thereof. The witness, later, referred to the statement of SPO Khurshid Ahmed and stated that in the said statement, it is mentioned that Gh. Mohammad Bhat was released in the PSA case. He could not say as to whether Gh. Mohammad Bhat was released because the PSA case was quashed by a court or had expired by efflux of time or the period thereof had expired or it was withdrawn. He stated that he was not carrying the records of the same. He stated that he could not tell whether any investigation was done on the above and only the concerned Investigating Officer would be in the position to confirm the same.

93. He also denied the suggestion that in the bank account referred to in the statement of Mohd. Arif Chopan, no transaction was made post 01.03.2019. He denied the suggestion that Mohammad Ismail Lone was the Amir-e-Zilla of the Association only until it was declared unlawful and ceased to be so thereafter. He denied the suggestion that the charge sheet has not been filed in FIR No.29/2019 as there was no material found in support of the allegations made therein.

94. He denied the suggestion that the persons mentioned in the above FIRs except Mohd. Ismail Lone, have never had any connection with the Association. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6 and 16 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely.

#### **PW-5**

95. PW-5, Mr. Sarfaraz Bashir, Sub-Divisional Police Officer, Sopore, Kashmir appeared and produced his affidavit, exhibited as Ex.PW 5/A. The said witness deposed in respect of FIR no.11/2019 registered at PS Bomai under Sections 10 and 13 of the Act [Ex.PW5/1] and FIR no. 41/2019 registered at PS Sopore under Sections 10 and 13 of the Act [Ex.PW5/6]. Mark PW 5/1A and PW 5/6A are the translated copies of the aforesaid FIRs.

96. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K, and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

97. The witness stated that the concerned Police Station had received information disclosing that the activists of the banned Association JeI-J&K are carrying out anti-national activities in the jurisdiction of these police posts. He stated that it was also disclosed that they are carrying out activities of provoking the local public to carry out agitation for the secession of the State of Jammu and Kashmir from the Union of India. He stated that after the said information, as the police found commission of cognizable offences, the said FIRs were registered and thereafter, during the investigation, statements of witnesses under Sections 161 and 164 of the Cr.P.C. supporting the case of the prosecution were recorded. He stated that after collecting sufficient material against the Accused persons in FIR no. 11/2019, which *prima facie* established the commission of the alleged offences, the charge sheet has also been filed in the said case, which is exhibited as Ex.PW5/2.

98. He stated that during the course of the investigation in FIR no. 41/2019, the police, headed by SDPO, Sopore along with the Executive Magistrate (Tehsildar), Sopore, visited the District Office of JeI-J&K Sopore, District Office *Falah-I-Aam Trust*, Sopore, and seized booklets and other documents pertaining to the said Association along with the cash of Rs. 30000/-. He further stated that during the course of investigation, both the offices were seized and sealed by the Executive Magistrate, Sopore in the presence of the police officials. The Investigating Officer of the case prepared site plan, recorded the statement of witnesses, and arrested the accused, who was present in the office and who is stated to be an active member of banned JeI-J&K Association and is working as Kaim-E-Zila in the area of the Police District Sopore. He stated that the investigation of the case stands closed and the witnesses have deposed that the above-mentioned accused person is a member of a banned unlawful/militant Association of JeI-J&K, and was found involved in subversive/unlawful activities/offences under Sections 10 and 13 of the Act. Challan against above mentioned accused, for which the sanction from the Government (Home Department) was obtained, was filed before the concerned jurisdictional Court, which is exhibited as Ex.PW5/7.

99. In his cross-examination, the witness stated that there has been only one Investigating Officer each in the two FIRs mentioned in his affidavit. He stated that although they are in the Department, they are not posted in Sopore. He stated that he has personally not sent any request or report to any authority asking for JeI-J&K to be declared as an Unlawful Association. He stated that he would have to check as to how many times earlier JeI-J&K has been declared as an Unlawful Association or the year thereof, however, he knew that it has earlier been declared as an Unlawful Association.

100. He stated that he took over as SDPO, Sopore in February, 2024 and earlier thereto, he was posted as DSP-Operations at Lolab, Kupwara. He stated that he did not know what steps were taken by the police when JeI-J&K was declared as an Unlawful Association for the first time and he would have to check the records.

101. He stated that there is no electronic or other recording or transcript of what was stated by the accused in the meeting referred to in FIR No.11/2019 PS Bomai and it is only the nature of the speech that is available. He stated that the statements of persons who were present in such meetings are not available with the police as these persons ran away when the police arrived and that no person agreed to give a statement against the accused out of fear. He stated that no person has complained that they are unwilling to give a statement against the accused out of fear. He admitted that no material connecting the accused with JeI-J&K was recovered from the search of their residence. He volunteered that the search was conducted post the release of the accused.

102. He stated that he has to check the records to confirm if any investigation is done on whether the names of the accused are in the register of members of JeI-J&K and that the concerned Investigating Officer will be in the position to say so. He admitted that there is no electronic or other recording or transcript of what was stated by the accused in the meeting referred to in FIR No.41/2019 PS Sopore. He stated that the accused was present in the office of JeI-J&K after it was banned and he was arrested on 01.03.2019. He admitted that there is no public witness named in the investigation of the above FIR. He stated that the accused was found running the office of JeI-J&K after it had been banned. He admitted that even the police witnesses have not stated that the accused said anything illegal or unlawful.

103. He denied the suggestion that the persons mentioned in FIR No.11/2019 that are, Abdul Rasheed Sofi and Aijaz Ahmed Maqdoomi, have no connection with the Association. He denied the suggestion that his testimony is hearsay. He denied that no persons who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 2 to 6, 12 and 13 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

#### **PW-6**

104. PW-6, Mr. Bahar Ahmad Khan, Station House Officer, PS Khansahib, Kashmir appeared and produced his affidavit, exhibited as Ex.PW 6/A. The said witness deposed in respect of FIR no.20/2019 registered at PS Khansahib under Sections 10, 11, and 13 of the Act [Ex.PW6/1]. Mark PW 6/1A is the translated copy of the aforesaid FIR.

105. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K, and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

106. The witness stated that the concerned Police Station had received information disclosing that a ban has been declared on the JeI-J&K by the Government of India, however, there are some offices and institutions of the said banned Association existing within the jurisdiction of the said Police Station, wherefrom the members of the banned Association are utilizing their resources to carry out unlawful activities which are detrimental to the integrity and sovereignty of India. He stated that after the said information, as the police found commission of cognizable offences, the said FIR were registered, and, thereafter, during the investigation, statements of witnesses under Section 161 of the

Cr.P.C. supporting the case of the prosecution were recorded to that effect. He stated that during the course of the investigation, it was found that Khursheed Ahmad Sanaie, a member of JeI-J&K, was spreading the organisational network by holding meetings with the youth of the locality and was also delivering speeches and lectures to motivate the general public to join JeI-J&K and was inducing anti-national ideology in the general public of the vicinity, and hence the Accused was arrested. He stated that after collecting sufficient material against the Accused persons in FIR no. 11/2019, which *prima facie* established the commission of the alleged offences, the charge sheet has also been filed in the said case, which is exhibited as Ex.PW6/2.

107. In his cross-examination, the witness stated that there have been four investigating officers investigating the FIR No. 20/2019, although they are working in the Department, they are posted at different places. He stated that he had personally not made any request or report for JeI-J&K to be declared as an Unlawful Association. He stated that he was aware that the Association was earlier declared as an unlawful association in the year 2019, and post such declaration, the said FIR was registered and action in accordance with the rules was taken against its members across Jammu and Kashmir. He stated that he could not say if any arrests were made. He stated that, at that time, as he was working in a different wing of the Police Department, he could not state if the offices of the Association were sealed.

108. He admitted that there is no statement of any public witness recorded who states that the accused in FIR No.20/2019 instigated him/her for an unlawful or illegal activity. He volunteered that, normally, no such public witness ever comes forward to give such a statement and it is only the police witnesses who report the same. He denied the suggestion that the statements of the witnesses were only hearsay. He also denied the suggestion that the said statements do not contain any details of the alleged clandestine meetings.

109. He denied the suggestion that the person mentioned in FIR No.20/2019, that is, Khursheed Ahmad Sanai, has no connection with the Association. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 11 and 12 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

#### **PW-7**

110. PW-7, Mr. Tanweer Ahmad, Additional Superintendent of Police, Kulgam appeared and produced his affidavit, exhibited as Ex.PW 7/A. The said witness deposed in respect of FIR no.18/2019 registered at PS Kulgam under Sections 10 and 13 of the Act [Ex.PW7/1], FIR no. 11/2019 registered at PS Qaimoh under Sections 10 and 13 of the Act [Ex.PW7/6], and FIR no. 12/2019 registered at PS Yaripora under Sections 10 and 13 of the Act [Ex.PW7/9]. Mark PW 7/1A, PW 7/6A, and PW 7/9A are the translated copies of the aforesaid FIRs.

111. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K, and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

112. The witness stated that PS Kulgam, through reliable sources, got information that the JeI-J&K is operating a school at village Chattbal, Kulgam, where the members of the said Association conduct special meetings to instigate the participants against the sovereignty and integrity of the nation and collect donations which are used to provide economic assistance to terrorist's outfit. He stated that on receipt of the said information, as the police found commission of cognizable offences, the said FIR No. 18/2019, PS Kulgam, was registered and thereafter, during the investigation, the Investigating Officer visited the spot, prepared Site Plan and recorded the statements of witnesses under Section 161 of the Cr.P.C. supporting the case of the prosecution. He stated that the Investigating Officers also seized the office of banned JeI-J&K Association at the village Chattabal in the presence of Executive Magistrate 1<sup>st</sup> Class Kulgam, and prepared a seizure memo of books and records and the furniture that was lying in the said building. He stated that after collecting sufficient material against the Accused persons in FIR no. 18/2019, which *prima facie* established the commission of the alleged offences, the charge sheet has also been filed in the said case, which is exhibited as Ex.PW7/2.

113. He further stated that PS Qaimoh received information from reliable sources that JeI-J&K has conducted a meeting at the residence of Mohd. Shaban Dar, resident of Wanpora, to collect funds to provide logistical and financial support to terrorist outfit *HuM*. He stated that it was also disclosed that these members are spreading hatred among the youth of the area and inciting them to get freedom from the Government of India and Jammu and Kashmir, which pose a serious threat to the integrity and sovereignty of India. He stated that after the said information, as the police found commission of cognizable offences, the said FIR No. 11/2019 PS Qaimoh was registered and, thereafter, during the investigation, the statements of witnesses under Section 161 of the Cr.P.C. supporting the case of the prosecution were recorded. He stated that after collecting sufficient material against the Accused persons, which

*prima facie* established the commission of the alleged offences, the charge sheet has also been filed in the said case, which is exhibited as Ex.PW7/7.

114. He further stated that PS Yaripora received information from reliable sources that some members and workers of JeI-J&K are causing disaffection among the youth of the area and inciting them to continue their propaganda of freedom against the Government of India and the Union Territory of J&K. He stated that it was also disclosed in the said information that these members of JeI-J&K held special meetings for the purpose of collecting funds for advancing terrorist activities in the area. He stated that further, this banned Association has many offices in the jurisdiction of this Police Station, where they plan to carry out activities which are detrimental to the national interest. He stated that after the said information, as the police found commission of cognizable offences, the said FIR No. 12/2019 PS Yaripora was registered and during the investigation, the statements of witnesses under Section 161 of the Cr.P.C. supporting the case of the prosecution were recorded.

115. He stated that the investigations in the above cases faced significant challenges after the abrogation of Article 370 of the Constitution of India and due to the outbreak of the Covid-19 pandemic in the years 2020 and 2021, and hence some delay has been caused in the completion of the investigation and in filing of the Chargesheets, which was apparently not due to any negligence of the concerned Investigating Officer.

116. He further stated that the investigations faced significant challenges due to the volatile situation in the valley, orchestrated by separatist leaders and their affiliated groups, who received unwavering support from across the border and terrorist organisations. He stated that this climate of fear deterred individuals from coming forward to provide statements, hindering the progress of the investigations. He stated that any attempt to probe these separatist organisations and their leaders, triggered widespread unrest and turmoil in the affected regions, causing delays in concluding the investigations and furthermore, certain sympathizers within the government and various departments obstructed the timely resolution of these cases.

117. He stated that after collecting sufficient material against the Accused persons, which *prima facie* established the commission of the alleged offences, the charge sheet has also been filed in the said case, which is exhibited as Ex.PW7/10.

118. In his cross-examination, the witness stated that there have been fifteen Investigating Officers in the three FIRs mentioned in his affidavit and that these officers are still working with the department. He stated that his office did not make any report or requisition for the JeI-J&K to be declared as an unlawful Association. He stated that to his recollection, JeI-J&K has been earlier declared as an Unlawful Association three times, and though he is not aware of the exact dates, but to his understanding, it was sometime in the 1970s, 1990s, and in the year 2019. He stated that he took over the charge as Additional Superintendent of Police, Kulgam in February, 2024, and prior thereto, he was posted as Additional Superintendent of Police, Pulwama, where he remained posted for a period of four years.

119. He stated that he could not say if the offices of JeI-J&K were sealed and its records seized in other Districts post it being declared unlawful in 2019. He stated that in Kulgam, where he is posted presently, the offices were sealed and records were seized. He denied the suggestion that he has not produced any material to show how Sections 153, 120B, and 506 of the RPC are made out against the persons accused in FIR No. 18/2019 PS Kulgam. On being asked about any document which links the accused in FIR No.18/2019 with JeI-J&K, he stated that they have the statements of witnesses and the documents seized which link the accused in FIR No.18/2019 with JeI-J&K.

120. He admitted that there is no material in FIR no.11/2019 to show when the alleged meeting of the accused persons happened at the residence of Mohd. Shaban Dar. He denied the suggestion that there is no material to show that the accused in the said FIR are providing logistic support to any unlawful or illegal association. He stated that it was from the local information that the above conclusion had been reached. He denied the suggestion that he had not produced any material to show how Sections 153, 120B, and 506 RPC are made out in FIR no. 11/2019.

121. He admitted that in the investigation of FIR no. 12/2019, there is no material to show the date, time, or place of the alleged meetings conducted by the accused. He denied the suggestion that there are no statements of public witnesses recorded in FIR no.12/2019 stating that the accused made any unlawful or illegal speeches in their presence. He admitted that no such statement was filed along with his evidence by way of affidavit, however, on checking his record, he referred to the statement of Nawaz Ahmad Padroo s/o Mohd. Maqbool Padroo (Ex.PW7/21) and to the statement of Nazir Ahmad Malik s/o Abdul Sattar Malik (Ex.PW7/22) and he produced those documents. On being asked that these statements record that the accused in the FIR No.12/2019 are not members of JeI-J&K, he answered in the affirmative, but volunteered that they also record that they make provocative statements against the establishment including the government and the police, and also instigate people.

122. He admitted that advertisement pertaining to any banned association was not recovered in the investigation of FIR No.12/2019. He denied the suggestion that he has not produced any material to show how Sections 153 and 506 of the RPC are made out in FIR No.12/2019.

123. He denied the suggestion that the three FIRs mentioned in his affidavit are word-to-word the same as each other. He denied the suggestion that the registration of the above FIRs was motivated by mala fide.

124. The attention of the witness was also drawn to the FIRs and the chargesheet [Page 19 (Mark PW7/2A), Mark A to A and Page 15 (Mark PW7/1A), Mark A to A of his affidavit] and he was asked that is it a practice in Kashmir to reproduce the FIR verbatim in the Charge Sheet, to which he answered in the affirmative.

125. He denied the suggestion that apart from Farooq Ahmad Shah s/o Nazir Ahmad Shah, Mohd. Yusuf Rather s/o Gh. Mohd., and Mohd. Ramzan Naik s/o Ghulam Qadir Naik, none of the other persons accused in the FIRs mentioned in the affidavit are members of JeI-J&K. He also denied the suggestion that apart from these three persons, others mentioned in his affidavit have no connection whatsoever with JeI-J&K. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 18 and 19 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

#### **PW-8**

126. PW-8, Mr. Majad Mehboob, Sub-Divisional Police Officer, West Bemina, Srinagar, Kashmir appeared and produced his affidavit, exhibited as Ex.PW 8/A. The said witness deposed in respect of FIR no.63/2019 registered at PS Parimpora under Sections 10, 11, and 13 of the Act [Ex.PW8/1] Mark PW 8/1A is the translated copy of the aforesaid FIR.

127. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned association JeI-J&K and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

128. The witness stated that PS Parimpora received a DD Report *vide* no. 28 on 01.03.2019 from the Incharge Police Post Bemina, indicating that around 21:30 hours, reliable sources reported that members of the banned JeI-J&K Association were actively engaged in anti-national activities within the police post's jurisdiction. He further stated that these activities included recruiting youth for terrorist outfits, raising anti-national slogans, inciting the public against the government, and causing fear among the general populace. He states that as a result, FIR No. 63/2019 was registered at PS Parimpora. He states that the investigation, supported by witness statements recorded under Sections 161 and 164 of the Cr.P.C., has thus far established the commission of the alleged offences, however, the investigation is nearing its conclusion, with the chargesheet expected to be filed soon. The witness also stated that the investigations faced significant challenges due to the volatile situation in the valley, orchestrated by separatist leaders and their affiliated groups, who received unwavering support from across the border and terrorist organisations. He stated that this climate of fear deterred individuals from coming forward to provide statements, hindering the progress of the investigations.

129. In his cross-examination, the witness stated that he is the fourth Investigating Officer in the aforesaid FIR. He admitted that he has not sent any report to any authority for JeI-J&K to be declared as an Unlawful Association. He stated that as per his knowledge, JeI-J&K has been declared unlawful sometime in 1975, 1990, and in 2019, but he could not recollect the exact dates or the years. He could not state as to whether, post the declaration of JeI-J&K as an Unlawful Association in 2019, its offices were sealed and records were seized, but he stated that he knew of one office in the area of PS Batmaloo being sealed. He admitted that there are no recordings or contemporaneous transcriptions of the alleged speeches made by the accused in FIR no.63/2019. He admitted that there is no statement of any witness stating that the accused instigated him/her or the accused said anything objectionable to such witness. He stated that efforts were made to discern if the name of the accused in the above FIR was there in the register of members of JeI-J&K, however, the register of the Association was not checked. He further stated that the witnesses of the said case mentioned that the accused was the Tehsil Head of the Association, and he was heading Tehsil Parimpora and Bemina for the Association. The witness drew the attention of the Tribunal to Ex.PW8/5 (and Mark PW8/5A), and Ex.PW8/8 (and Mark PW8/8A) of his affidavit in this regard.

130. He stated that in his record, there are other statements and evidence also available which would show that the accused in the FIR 63/2019 was a part of JeI-J&K. He stated that the case is still under investigation. He stated that it was incorrect to suggest that no charge sheet has been filed in this case as there is no material to prosecute the accused.

131. He denied the suggestion that Tariq Ahmad Haroon has no connection with the Association. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in

paragraphs 3 to 6, 11 and 12 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

#### **PW-9**

132. PW-9, Mr. Shafat Mohammad, Deputy Superintendent of Police, Bandipora, appeared and produced his affidavit, exhibited as Ex.PW 9/A. The said witness deposed in respect of FIR no.19/2019 registered at PS Bandipora under Sections 10, and 13 of the Act [Ex.PW9/1] Mark PW 9/1A is the translated copy of the aforesaid FIR.

133. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

134. The witness stated that PS Bandipora received information from reliable sources that a number of persons/individuals associated with banned Association JeI-J&K are carrying out unlawful activities, which are anti-national and prejudicial to the security, territorial integrity, and sovereignty of India, and also cause dis-affection against India, etc. He stated that after receipt of the said information, as the police found commission of cognizable offences, the said FIR No. 19/2019 PS Bandipora was registered. He stated that during the investigation, searches were made at the offices of the JeI-J&K and incriminating material were seized and the statements of witnesses under Section 161 of the Cr.P.C., supporting the case of the prosecution, were recorded, and further, the bank accounts of the accused were also frozen. He stated that after collecting sufficient material against the accused persons in FIR no. 19/2019, which *prima facie* established the commission of the alleged offences, the charge sheet has also been filed in the said case (Ex.PW9/2).

135. In his cross-examination, the witness stated that there has been only one investigating officer in the aforesaid FIR, and he is available with the department. He stated that he did not, personally, make any requisition or request or report to any Authority for JeI-J&K to be declared as an Unlawful Association. He stated that to his recollection, JeI-J&K has been declared as unlawful earlier in 1975, 1990, and in 2019. He stated that, post the 2019 ban on JeI-J&K, all the offices of JeI-J&K were sealed, and the records were also seized. He admitted that there is no statement of any person who attended the “gathering of some people” as referred to in the statement of SGCT Ajaz Ahmad (Ex.PW9/3). He further stated that these meetings are generally hostile and no person comes forward to give statements regarding the same. He admitted that notice under Section 160 of the CrPC was not given to any person to give a statement regarding such a meeting. He volunteered that the area in question is very volatile. He stated that Mohd. Sikandar Malik is a trained militant by Pakistan and he was also absconding for almost nine years when he was in Pakistan Occupied Kashmir. The witness further stated that the said militant came back and headed JeI-J&K at Bandipora District and he was *Ameer-e-Zilla*.

136. He admitted that there is no recording or contemporaneous transcript of the statements made by the accused in FIR No. 19/2019. He volunteered that the accused is notorious of making such speeches and it was incorrect to suggest that there are no recordings or contemporaneous transcripts of the provocative speeches made by him as no such speeches were made. He stated that the accused used to teach in a school and head the prayer meetings where he used to preach the ideologies of the Jamaat which were not in the national interest. He denied the suggestion that Mohd. Sikandar Malik is not a militant trained by Pakistan and that he was not absconding.

137. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 10 and 11 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

#### **PW-10**

138. PW-10, Mr. Zaheer Abbas, Sub-Divisional Police Officer, Nehru Park, Srinagar, appeared and produced his affidavit, exhibited as Ex.PW 10/A. The said witness deposed in respect of FIR no.04/2019 registered at PS Harwan under Sections 10, 11, and 13 of the Act [Ex.PW10/1] Mark PW10/1A is the translated copy of the aforesaid FIR.

139. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

140. The witness stated that PS Harwan received information from reliable sources that despite the ban declared on JeI-J&K by the Government of India, there are several facilities/offices of the said Association located within the

jurisdiction of the said police station, where the members of the banned Association are carrying out unlawful activities and gathering financial assistance. Pursuant to the said information, as the police found commission of cognizable offences, FIR No. 04/2019 PS Harwan was registered and thereafter, during the investigation, the statements of witnesses under Section 161 of the Cr.P.C. supporting the case of the prosecution were recorded (Ex.10/3, Ex.10/4). He stated that the Investigating Officer of the case has also raided the house of the accused persons and seized documents related to JeI-J&K, and bank statement of the said accused persons. He stated that after collecting sufficient material against the Accused persons, which *prima facie* established the commission of the alleged offences, the charge sheet has also been filed in the said case, which is exhibited as Ex.PW10/2.

141. In his cross-examination, the witness stated that there has been only one Investigating Officer in the aforesaid FIR, and he is still in service. He stated that he did not, personally, make any requisition or request or report to any Authority asking JeI-J&K to be declared as an Unlawful Association. He stated that the Charge Sheet in FIR No.04/2019 had been filed prior to his joining as the SDPO, Nehru Park, Srinagar. He stated that charges have been framed, and 25 out of 29 prosecution witnesses have already been examined.

142. He stated that as per his knowledge, JeI-J&K has been declared as Unlawful earlier in 2019, and now in 2024. He admitted that on JeI-J&K being declared as an Unlawful Association in 2019, its offices were sealed and records were seized. He stated that as the Charge Sheet already stands filed, there are no further documents to show any funds being raised for JeI-J&K post 28<sup>th</sup> February, 2019. He denied the suggestion that there is no material to show that *Ijtema* was conducted by either of the persons accused in FIR No.04/2019, or that there is no material to show that funds were ever used by the Association to propagate against the Government or for criminal activities.

143. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 10 and 11 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

#### **PW-11**

144. PW-11, Mr. Hilal Ahmad, Sub-Divisional Police Officer, Rafiabad, Kashmir, appeared and produced his affidavit exhibited as Ex.PW11/A. The said witness deposed in respect of FIR no.22/2019 registered at PS Dangiawacha under Sections 10 and 13 of the Act [Ex.PW11/1]. Mark PW11/1A is the translated copy of the aforesaid FIR.

145. The witness in his evidence by way of affidavit has stated about the formation, ideology, and illegal activities carried out by the banned Association, JeI-J&K, and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

146. The witness stated that PS Dangiawacha received information from reliable sources that some members of the banned Association JeI-J&K are actively engaging the youth of the area for militant activities and are raising slogans against the sovereignty and integrity of the nation, and habitants of the area are also harassed to do the same. He stated that the information also disclosed that the members are also involved in anti-national and anti-government activities and are provoking people against the nation and the security forces and are boosting terrorism in the area and the Kashmir valley. He stated that as the police found commission of cognizable offences, the said FIR No. 22/2019 PS Dangiawacha was registered. Thereafter, during the investigation, the statements of witnesses under Section 161 of the Cr.P.C. supporting the case of the prosecution were recorded (Ex.PW11/2, Ex.PW11/3, Ex.PW11/4, Ex.PW11/5). He stated that the investigation conducted till date *prima facie* established the commission of the alleged offences, and the charge sheet is likely to be filed soon. He also reiterated the significant challenges due to the volatile situation in the Valley, due to which the investigation took time to conclude.

147. In his cross-examination, the witness stated that there have been 7 to 8 Investigating Officers in FIR No. 22/2018, and they are still working with the department; but they may be posted at different locations now. He stated that he has personally not made any request, requisition or report to any authority asking for JeI-J&K to be declared as an Unlawful Association. He stated that to his knowledge, JeI-J&K has been declared as an Unlawful Association twice and that he is unable to recollect the year in which it was so declared, it may be 2019. He stated that as at the relevant time, he was working in VIP security, he could not say if the offices of the JeI-J&K and its records were sealed/seized when it was for the first time declared as an Unlawful Association. He admitted that there is no recording or transcript of what the accused in FIR No. 22/2018 said. He, however, volunteered that there are independent witnesses who had testified as to what the accused said. He Stated that there are statements of Lambardar and Chowkidar who are well aware of what the accused said, though, there is no witness deposing to what the accused verbatim said. He denied the suggestion that there are no details of when the accused allegedly conducted secret



meetings or anti-national activities or instigated persons against the police. He admitted that charge sheet has not been filed in FIR No.22/2019 till date and that the case is under investigation.

148. On being questioned if was any effort made to find out whether the names of the accused in the above FIR also appear in the membership register of JeI-J&K, he answered that effort was made to make such an inquiry, however, on being declared as an Unlawful Association, all records of the Association have been clandestinely removed by the Association and are not available. He stated that to his knowledge, no FIR was registered against the clandestine removal of the record of the Association. He stated that he does not have the knowledge as to whether any notice was issued to any person calling upon them to produce the register of members of the Association. He stated that it may have been issued by the earlier Investigating Officer. He denied the suggestion that the records of the Association have always been available with the police and that no effort was made to verify, whether the persons accused in FIR No.22/2019 are registered as members of the Association, because they have never been associated with the association in any manner. He also denied the suggestion that no charge sheet has been filed in the present case as there is no material to prosecute the accused. He denied the suggestion that the persons mentioned in FIR No.22/2019, that is, Haji Gh. Nabi Dar and Safi Ullah, have no connection with the Association.

149. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 11 and 12 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

#### **PW-12**

150. PW-12, Mr. Imtiyaz Ahmad, Station House Officer, PS Budgam, appeared and produced his affidavit, exhibited as Ex.PW 12/A. The said witness deposed in respect of FIR no.42/2019 registered at PS Budgam under Sections 10, 11, and 13 of the Act [Ex.PW12/1]; Mark PW 12/1A is the translated copy of the aforesaid FIR.

151. The witness in his evidence by way of affidavit has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K, and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

152. The witness stated that PS Budgam received information from reliable sources that despite being declared as an Unlawful Association, the offices of the said banned Association JeI-J&K, which are located within the jurisdiction of the said Police Station, were being accessed. He stated that the members and leaders of JeI-J&K were utilizing the resources kept in the offices to continue their anti-national and anti-government activities. He stated that in the said information, it was also disclosed that they are actively engaged in carrying out illegal activities, and instigating the general public against the Government of India and J&K, which is detrimental to the integrity and sovereignty of India. He stated that as the police found commission of cognizable offences, the said FIR No. 42/2019 PS Budgam was registered. During the investigation, the statements of witnesses under Sections 161 and 164 of the Cr.P.C. supporting the case of the prosecution were recorded [Ex.PW 12/3 and Ex.PW12/4]. He stated that the IO also seized some articles from the office of the JeI-J&K situated at Wadipora, Budgam and prepared a Seizure Memo [Ex.PW12/5] for the same. He stated that after collecting sufficient material against the Accused persons in FIR no. 42/2019, which prima facie established the commission of the alleged offences, the charge sheet has also been filed in the said case, which is exhibited as Ex.PW12/2.

153. In his cross-examination, the witness stated that there has been only one Investigating Officer in the aforesaid FIR and he is still in service and is presently posted as the DSP, CID-CIK, Anantnag. He stated that he did not, personally, make any requisition or request or report to any authority asking JeI-J&K to be declared as an Unlawful Association. He stated that as per his recollection JeI-J&K was earlier declared as an Unlawful Association in 2019. He stated that the office of JeI-J&K was sealed by the Executive Magistrate and the SHO in FIR No.42/2019 on the orders of the District Magistrate. On being asked that was the membership register of JeI-J&K seized from the office which was sealed, he answered that the Seizure Memo Ex.PW12/5 and Mark PW12/5A, shows the documents that were seized in the investigation and it does not mention the membership register being seized. He denied the suggestion that the Seizure Memo is a false and fabricated document and concealed the fact that the membership register of the Association was also seized during the investigation of FIR no.42/2019.

154. He admitted that there is no recording or contemporaneous transcript of the objectionable speech or statement allegedly made by the accused in the above FIR. He stated that though there is no witness deposing to what the accused exactly stated, there are public witnesses whose statements are recorded during the investigation of the above FIR. He stated that charges have been framed and prosecution evidence is being recorded in the case arising out of the aforesaid FIR.

155. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 10 and 11 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

### **PW-13**

156. PW-13, Mr. Gh. Hassan, Superintendent of Police, HQs Ganderbal, appeared and produced his affidavit exhibited as Ex.PW 13/A. The said witness deposed in respect of FIR no.32/2019 registered at PS Ganderbal under Sections 10 and 13 of the Act [Ex.PW13/1]; Mark PW 13/1A is the translated copy of the aforesaid FIR.

157. The witness in his evidence by way of affidavit has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

158. The witness stated that PS Ganderbal received information from reliable sources that even after JeI-J&K had been declared unlawful by the Government of India, the said Association was still working secretly against the sovereignty of India by inciting the youth of Jammu & Kashmir to raise anti-national slogans and undertake strikes and stone pelting in order to disrupt the peace and tranquility of the nation. He stated that after the said information, as the police found commission of cognizable offences, the said FIR 32/2019 was registered and, during the investigation, the statements of witnesses under Section 161 of the Cr.P.C. supporting the case of the prosecution were recorded. He has produced the Statement of Shahid Ahmad Mir as Ex.PW13/3, and the Statement of Parvaiz Ahmad Dar as Ex.PW13/4.

159. He stated that the Investigating Officer of the case also sealed one office of the JeI, J&K at Towheed Chowk Ganderbal in the presence of the Executive Magistrate Ganderbal, and prepared Seizure Memos dated 16.06.2019, 21.01.2020, 24.01.2020 and 22.12.2021 which are exhibited as ExPW13/4 to 13/8. He stated that after collecting sufficient material against the Accused persons in FIR no. 32/2019, which *prima facie* established the commission of the alleged offences, the charge sheet has also been filed in the said case, which is exhibited as Ex.PW13/2.

160. In his cross-examination, the witness stated that as per his recollection, there have been two Investigating Officers in the aforesaid FIR and they are still in service. On being asked if the witness had personally made any request, requisition or report to any authority asking for JeI-J&K to be declared as an Unlawful Association, the witness answered that they regularly submit reports/inputs to their senior formations about all the illegal activities of various associations including JeI-J&K and he is personally not supposed to submit any requisition for the association to be declared as unlawful. He stated that for the said purpose, there is a prosecution wing.

161. He stated that the office of the Association was sealed during the investigation of the FIR in question and during the sealing process, Police was accompanied by the Magistrate of the area. He stated that he could not say if the offices of the Association in other districts were also sealed. He stated that he could depose only about the present case from the record. He stated that the register of members of the Association was not found and therefore, not seized in the present case.

162. He admitted that there is no recording or contemporaneous transcript of what the accused had said. He, however, volunteered that Police has statements of multiple independent witnesses who have deposed about what the accused said, and the witnesses have stated about the accused conducting various meetings. To the question that do the witnesses state exactly what the accused said in such alleged meetings, he answered in the negative. The witness on checking the record available with him, later stated that there is no witness who has attended such alleged meetings.

163. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 11 and 12 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

**PW-14**

164. PW-14, Mr. Mohammad Muzaffar, Sub-Divisional Police Officer, Kangan, appeared and produced his affidavit, exhibited as Ex.PW 14/A. The said witness deposed in respect of FIR no.14/2019 registered at PS Kangan under Sections 10 of the Act [Ex.PW14/1]; Mark PW14/1A is the translated copy of the aforesaid FIR.

165. The witness in his evidence by way of affidavit has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

166. The witness stated that PS Kangan received information from reliable sources that some members affiliated with the banned association JeI-J&K are conducting secret meetings wherein they are instigating people to carry out processions to achieve their anti-national agenda which is against the unity/sovereignty of India. He stated that on receipt of the information, as the police found commission of cognizable offences, the said FIR 14/2019 PS Kangan was registered. During the investigation, the statements of witnesses under Section 161 of the Cr.P.C. supporting the case of the prosecution were recorded. He has annexed the statements of Naseer Ahmad Bhatt recorded under Section 161 of the Cr.P.C. as Ex.PW 14/3, and its translated copy as Mark 14/3A as well as the statement of Mr. Ajaz Ahmad Rather recorded under Section 161 of the Cr.P.C. as Ex.PW14/4 and its translated copy as Mark PW14/4A.

167. He stated that after collecting sufficient material against the Accused persons in FIR no. 14/2019 which prima facie established the commission of the alleged offences, the charge sheet has also been filed in the said case, which is exhibited as Ex.PW14/2.

168. In his cross-examination, the witness stated that there have been five Investigating Officers in the aforesaid FIR and they are still in service, however, are posted at different places. He stated that he has not personally made any request, requisition, or report to any authority asking for the JeI-J&K to be declared as an Unlawful Association. He stated that the Investigating Officer at that time may have made such a request, requisition, or report and presently, he does not have any such record. He denied the suggestion that the statements produced along with his affidavit are purely in the nature of hearsay. He denied the suggestion that the statements provide no details of how the accused allegedly continued to remain affiliated with the association after it was declared unlawful. He denied the suggestion that the statements have been fabricated to keep the accused locked in litigation and to support the case of the Central Government.

169. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 11 and 12 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

**PW-15**

170. PW-15, Mr.Kuldeep Raj, Deputy Superintendent of Police, HQs Anantnag, appeared and produced his affidavit, exhibited as Ex.PW15/A. The said witness deposed in respect of FIR no.18/2019 registered at PS Anantnag under Sections 10, 11, and 13 of the Act [Ex.PW15/1]; Mark PW 15/1A is the translated copy of the aforesaid FIR.

171. The witness in his evidence by way of affidavit has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

172. The witness stated that PS Anantnag received information from reliable sources that the banned Association JeI-J&K is running its other sub-offices within the jurisdiction of the said Police Station, in addition to its Head Office situated at General Bus Stand, for implementing its anti-national agenda. He stated that the said information further disclosed that the members of the banned Association are undertaking anti-national activities through these additional outlets which are aimed to harm the national integrity and sovereignty of India. He stated that as the police found commission of cognizable offences, the said FIR No. 18/2019 PS Anantnag was registered. During the investigation, the statements of witnesses under Section 161 of the Cr.P.C. supporting the case of the prosecution were recorded. He has annexed the statement of ASI Abdul Rehman Mir recorded under Section 161 of the Cr.P.C. as Ex.PW15/3 and its translated copy as Mark PW15/3A; as well as the statement of Mohammad Shafi Bhat recorded under Section 161 of the Cr.P.C. as Ex.PW15/4 and its translated copy as Mark PW15/4A.

173. He stated that a search was conducted by the Investigating Officer at JeI-J&K Head Office situated at General Bus Stand Anantnag wherein a total of 143 items of Posters, flags, books, receipt books, Cards, etc., have been seized on the spot against proper Seizure Memo [Ex.PW15/5, and its translated copy as Mark PW15/5A] and the Executive Magistrate 1st Class Anantnag has sealed the JeI-J&K Office and one more building of JeI-J&K. He stated

that after collecting sufficient material against the Accused persons in FIR no. 18/2019, which prima facie established the commission of the alleged offences, the charge sheet has also been filed in the said case, which is exhibited as Ex.PW15/2.

174. In his cross-examination, the witness stated that there have been two Investigating Officers in the aforesaid FIR and they are still in service. He stated that he has not personally not made any request, requisition, or report to any authority asking for JeI-J&K to be declared as an Unlawful Association. He stated that the office of JeI-J&K was sealed in compliance with the order passed by the Deputy Commissioner.

175. On being asked if there is any recording of the statements made by the accused, he admitted that there is no exact transcript of what was said by the accused. He stated that ASI Abdul Rehman Mir was the Beat Officer of the area, and he had reported about the activities of the accused to the SHO, who then recorded his statement.

176. He admitted that JeI-J&K office which was sealed pursuant to the FIR remains sealed till date. He stated that it was sealed on the date of the registration of the FIR.

177. He stated that to his knowledge, statement of any public witnesses of the alleged speeches or statements made by the accused is not recorded.

178. On a question that, was any effort made to verify if the names of the accused appear in the register of members of the association, he answered that the names of the accused have been added as being members of JeI-J&K only after proper verification by the IO from various agencies, however, not from the register of members of the Association. He denied the suggestion that the persons accused do not have any connection with JeI-J&K. On being confronted, he admitted that the persons accused have not been arrested from the office of JeI-J&K, and they were arrested on 22<sup>nd</sup> March, 2019 from the Bus Stand near the sealed premises. He admitted that there might have been some mistake in the recording of the statement as the office already stood sealed earlier. He admitted that the Bus Stand is a busy area. He stated that he is not aware if any notice under Section 160 of the Cr.P.C. was issued to any person asking such person to provide information regarding the case.

179. He denied the suggestion that the persons mentioned in FIR No.18/2019 PS Anantnag, that is, Mohammad Yaseen Reshi, Mohammad Maqbool Bhat, and Mohammad Amin Tantray, have no connection with the Association.

180. He denied the suggestion that his testimony is hearsay. He denied that persons who can testify on the basis of personal knowledge about the FIRs are not being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 11 and 12 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

#### **PW-16**

181. PW-16, Santosh Kumar Singh, Inspector, National Investigating Agency, appeared and produced his affidavit, exhibited as Ex.PW 16/A. The said witness deposed in respect of case no.RC-07/2022/NIA/JMU registered at PS NIA, Jammu, under Sections 10, 13, and 22C of the Act and Sections 120B and 153A of the Indian Penal Code, 1860. [Ex.PW16/1].

182. In his evidence by way of affidavit, the witness stated about the information received by the NIA and the investigation carried out on the same. He stated that on 02.09.2022, the Ministry of Home Affairs in exercise of its powers under Section 6 (5) read with Section 8 of the National Investigating Agency Act, 2008, *vide* its Order bearing No. 11011/76/2022, exhibited as Ex.PW16/2, directed the registration of a *Suo-motto* case and take up the investigation of the same as credible information was received that the JeI-J&K was raising funds through its cadres and through its various entities/organization, such as, the Al Huda Educational Trust (AHET) even after the declaration of it being an Unlawful Association. He stated that the funds so raised were used to harm the sovereignty, territorial integrity and cause disaffection against the Indian Government, while also making attempt to radicalize the gullible Muslim youth of the State of Jammu & Kashmir and to provoke enmity between different groups of people, based on the religion and region etc. to follow the ideology of JeI-J&K.

183. He stated that the investigation further revealed that JeI-J&K was a separatist association, operating from Jammu & Kashmir and was furthering the intention of secessionist ideology while having close ties with the *HuM*. He states that investigation revealed that JeI-J&K remained involved in terrorist activities in J&K.

184. He further stated that on 11.10.2022, Ameer Mohd. Shamshi, Chief Executive of the AHET, and on 06.02.2023, Abdul Hamid Ganai of the JeI-J&K, were arrested as investigation revealed they were continuing to carry forward the unlawful activities of the Association post the ban. Ex.PW16/3 and Ex.PW16/4 are their Arrest Memos.

185. He stated that the accused Amir Mohd. Shamsi was appointed as the Rukun (initial member) of JeI-J&K by one Nazir Ahmad Kasani, who was the then Amir-E-Jamaat of JeI-J&K, in the year 2005. He stated that the accused Amir Mohd. Shamsi and Nazir Ahmad Kasani also formed a trust namely, 'Al-Huda Educational Trust' having six other members. He further stated that six members of the JeI-J&K namely, (i) Gulam Qadir Wani, (ii) Dr. Abdul Hamid Fayaz, (iii) Mir Gulam Nabi, (iv) Zahid Ali Lone (Advocate), (v) Faqardin, and (iv) Gulam Rasool Bhat, were also made Trustees in the AHET. He placed on record the Disclosure Memo of the Accused Amir Mohd. Shamsi dated 15.10.2022 (Ex.PW16/5) in this regard.

186. He stated that the accused Amir Mohd Shamsi, on instructions from *HuM* terrorists, namely Mushtaq Ahmed Mir and Mohd Hussain Khateeb, organised a meeting in D.S. High School, Rajouri in the year 2019 so as to propagate the ideology of HM. In the meeting, he preached about freedom of J&K and motivated people to follow the ideology of JeI-J&K and to instigate them to further the activities of HM, a terrorist organization.

187. The witness further stated that funds to the tune of Rs.1,80,000/- were received by the accused Amir Mohd Shamsi from the accused Mushtaq Ahmed Mir, through his brother Ashfaq Ahmad Mir and another unknown person. He stated that out of the said amount, Rs.1,00,000/- was given by the accused Amir Mohd Shamsi to the accused Abdil Hamid Ganai, through one Nazir Ahmad Raina for furthering the activities of JeI-J&K. The witness produced the Supplementary Disclosure Memo dated 20.10.2022 of Amir Mohd. Shamshi [Ex.PW16/6]; and Statement of PW Nazir Ahmad Raina [Ex.PW16/7].

188. He stated that the criminal antecedents of accused Mushtaq Ahmad Mir are annexed as Ex.PW 16/8 along with its translated copy marked as Mark PW16/8A, which show that the accused Mushtaq Ahmad Mir is at present residing in Pakistan and is an active member of the HM since 1995, and that the referred organisation has been involved in multiple terrorists acts carried out in Jammu & Kashmir.

189. He also produced the Trust Deeds dated 06.12.2005 and 05.05.2011 of AHET, Ex.PW16/9 and Ex.PW16/10, received from the District and Sessions Court, Rajouri, to show that the AHET was formed by the JeI-J&K on 06.12.2005. He stated that the Trust Deed showed that land measuring two kanal and 18 marlas at Narsing Garh Tehsil, Batmaloo, Srinagar, was donated by Mohd. Abdullah Wani, one of the trustees to construct an educational institute and a mosque. He stated that the accused Amir Mohd Shamsi is designated as the Nazimi-Ala of the Trust and is the Chief Executive of the same which was corroborated by another trust deed received from the District Court of Rajouri. He stated that a bank account was opened in the name if the Trust in 2011 so as to raise funds for the JeI-J&K.

190. The witness produced the Disclosure Memo of the accused Abdul Hamid Ganai [Ex.PW16/13] to show that he was the Amir of JeI-J&K and also the Patron of the Trust, thereby making him responsible for the activities carried out by the AHET. He stated that the Trust Deed mentions that *Amir* of the Trust will be the ex-officio patron of JeI-J&K. Accused Amir Mohd. Shamsi used to operate all the functions of AHET on the directions of Abdul Hamid Ganai, specifically for collection of funds to further the activities of the declared unlawful Association, JeI-J&K. He raised funds through AHET from different persons in J&K in the name of charity for furtherance of activities of JeI-J&K. He produced a copy of the Bank Statement of AHET opened by Amir Mohd. Shamshi and the Security Report of the said Bank Statement, as Ex.PW16/14 and Ex.PW16/15.

191. He further stated that the members of the JeI-J&K were instrumental to the formation of the AHET, and that accused Mushtaq Ahmad Mir, supporter of JeI-J&K used to provide funds to members of JeI-J&K along with other members of the *HuM* terrorist organisation had created many WhatsApp groups which were used to motivate the youth in the arms struggle to secede the UT of J&K and radicalize the youth of the region.

192. He stated that accused Mushtaq Ahmad Mir was in constant touch with accused Amir Mohd. Shamshi through WhatsApp and various Public Meetings to run anti-Indian activities, radicalize and motivate people to join the freedom movement in the UT of J&K. He produced copy of the Security Report related to Mobile Data and WhatsApp Chat of accused Amir Mohd. Shamshi and copy of Search and Seizure Memo of the Mobile Phone of the accused Amir Mohd. Shamshi as Ex.PW16/16.

193. He stated that upon completion of investigation, charge-sheet was filed against four accused, namely, Amir Mohd Shamsi, Abdul Hamid Ganai @ Abdul Hamid Fayaz, Mushtaq Ahmad Mir @ Mushtaq Ahmad Zargar, and the Al-Huda- Education Trust. He stated that the role of the aforementioned accused can be seen from the statement of several witnesses which have been recorded under Sections 161 and 164 of the Cr.P.C. He further stated that an FIR had been registered at PS Darhal against the accused Mushtaq Ahmad Mir for crossing the Line of Control and going to Pakistan and joining HM. He produced copies of statements of PWs as Ex.PW16/20 to Ex.PW16/27.

194. In his cross-examination, the witness stated he was the third Investigating Officer (IO) of the case, and that the prior two officers have since been repatriated to their parent organisations and are, therefore, not in service of the NIA. He stated that on 25/26.03.2024, he became the IO of the case.

195. He stated that he made no personal report or requisition to the Government/Authorities to declare the JeI-J&K unlawful. He stated that no recovery was made pursuant to Ex.PW16/5, Ex.PW16/6 and Ex.PW16/13. Upon

being asked if any effort was made to record the confession of the accused no.1 or accused no.2 under Section 164 of the Cr.P.C., he stated that he cannot recall, but as per the record, the confession of the accused no.1 or accused no.2 under Section 164 of the Cr.P.C. is not recorded.

196. The witness denied the suggestion that there was no material to show that funds were transferred for any purpose linked with the JeI-J&K. He also denied that he was not producing the accused no.1 and/or accused no.2 as witness in these proceedings as neither of the accused made the statements that are Ex.PW16/5, Ex.PW16/6 and Ex.PW16/13. He denied that he had intentionally not filed the bank statements of the accused no.1. He denied that in order to prejudice the Tribunal, he had filed incomplete documents. He denied that there is no material to indicate that the accused no.1 or the accused no.3 had any connection with the JeI-J&K. He denied that his testimony is entirely hearsay and not based on his personal knowledge. He denied that his testimony is based on prejudice or that his testimony is irrelevant to the proceedings. He also denied that he has not produced any material to support the contents of the paragraphs 3, 5 and 18-19 of his affidavit.

#### **PW17**

197. PW-17, Prabhat Kumar Bajpai, Deputy Superintendent of Police, National Investigating Agency appeared and produced his affidavit, exhibited as Ex.PW 17/A. The said witness deposed regarding Case FIR no.RC-03/2021/NIA/DLI [Ex.PW17/1] registered at PS NIA, Delhi under Sections 10, 13, and 39 of the Act and Sections 120B and 124-A of the IPC.

198. The witness in his evidence by way of affidavit, has stated that he is conversant with the facts of the case based on his knowledge derived from the relevant records of the case. He further stated that Union Government while exercising its powers under Section 3 of the Act declared the JeI-J&K as an unlawful Association *vide* notification number S.O. 924 (E) dated 27.02.2024. He stated that there is ample evidence to establish that JeI-J&K has indulged in Anti-National Activities in the Country. He stated the present case shows the involvement of the member(s) of the JeI-J&K in illegal activities even after its ban on 28.02.2019, *vide* Notification S.O. 1069 (E) passed by the Central Government.

199. He stated that credible information was received that the members and cadres of the JeI-J&K are involved in separatist and secessionist activities in Jammu and Kashmir even after its declaration as an unlawful Association on 28.02.2019. He stated that the Association was collecting funds domestically as well as internationally, disguised as charity fund in the form of *Zakat*, *Mowda* and *Bait-ul-Mal* but the same were being used to encourage violent and secessionist activities. He further stated that JeI-J&K had been conducting secret meetings in a clandestine manner to raise funds for its activities and these funds were used by active members and cadres of *HuM*, *Lashkar-e-Taiba* and other terrorist organisations through a well-established network of cadres. He further stated that these cadres would organise violent protests, create public unrest and communal disharmony, thereby creating a sense of fear and insecurity in Jammu and Kashmir and in turn all over the Country.

200. He stated that the NIA, under the directions of the Government of India, Ministry of Home Affairs, *vide* order no. 11011/11/2021/NIA dated 04.02.2021, registered the above mentioned FIR basis credible information.

201. The witness stated that the investigation revealed that JeI was formed in Lahore in the year 1941 by one *Moulana Abil Alla Madoodi*, and after partition, JeI Hind established its headquarters in Rampur, Uttar Pradesh. He stated that JeI-J&K established its Jammu & Kashmir chapter in 1945 with one *Pir Saad-ud-Din* as its *Amir*. He stated that prior to the accession of the State with India, JeI-J&K would propagate Islamic teachings and creation of an Islamic state based on the Shariat way of life, but thereafter started propagating ideas of JeI, Pakistan which questioned the accession of the State of Jammu & Kashmir with India.

202. He stated that investigation has revealed that JeI-J&K has been patronising the *HuM*, which is a proscribed terrorist organisation, and was constituted in the last quarter of 1989. He further stated that the militant outfit (*HuM*) has been indulging in armed violence for over two decades and is the biggest subversive group promoting the current secessionist movement in the valley, with Pak/POK support in the form of arms training, supply of arms and ammunition and guidance. He stated that HM and JeI-J&K are attempting to increase their influence by vicious means, including merger of smaller militant groups with it.

203. He further stated that the investigation conducted so far has revealed the Constitution of JeI-J&K which has helped understand functioning of the JeI-J&K. He stated that JeI-J&K works on an organisation level which is comprised of Central, Provincial, Tehsil and local units. He stated that the functioning is consultative in nature thereby meaning that the appointment of the *Amir-e-Jamaat* and members of the Central Advisory Council will be effected through the opinion of members of the Council of representatives and that the affairs of the organisation shall be run according to the injunctions of Islam.

204. He stated that upon investigation by the NIA, chargesheet [Ex.PW 17/3] was filed before the NIA Special Court, New Delhi in RC-03/2021/NIA/DLI against 4 accused members of JeI-J&K, including an active member of JeI-J&K, Javed Ahmed Lone. He stated that Javed Ahmed Lone was chargesheeted for offences under Section 10 and 13 of the Act, Section 25(1)(a), 25 (1)(b) and 29 of the Arms Act read with Section 120B of the IPC, while the case is

being investigated further in terms of Section 173 (8) of the Cr.P.C.. He stated that the chargesheet included other accused persons as well who are associated of the arrested accused that is the member of JeI-J&K and were involved in collection of funds to further the activities of JeI-J&K.

205. He further stated that the accused Javed Ahmed Lone was an active member of the unlawful association and has participated in the activities of JeI-J&K even after its declaration as an unlawful association on 28.02.2019. He stated that the accused Javed Ahmed Lone had prepared a list of persons associated and has solicited contributions for JeI-J&K after 2019.

206. The witness further stated that the accused Javed Ahmed Lone had in the year 2019-2020 conducted various public meetings/conferences/*ijtemas* of the JeI-J&K and collected funds in its name. He stated that the accused Javed Ahmed Lone would organise several meetings in Ganderbal for the youth and make speeches which would include statements such as “We will make *Riyasat-e-Kashmir* an Islamic country”, thereby inciting enmity between different groups on the basis of religion and residence with the intention of disrupting sovereignty and territorial integrity of India.

207. He further stated that the accused Javed Ahmed Lone had conspired to acquire and possess firearms and ammunition from co-accused persons without proper licences to manufacture/sell the same. He stated that digital devices, illegal arms and ammunition along with a document including the sheets titled ‘Tajveed Shada Mowda Arkan Tehsil Law’ which translate to ‘Proposal for collecting Mowda from Tehsil Law’ dating back to the year 2021 were recovered from the house search conducted at Javed Ahmed Lone’s house. The witness has annexed the true copy of the Search cum Seizure Memo as Ex.PW17/5 in support of the same. He further stated that the document so recovered contained the particulars of the amount and names of JeI-J&K from whom money was collected. He stated that the accused Javed Ahmad Lone was arrested on 15.02.2022 and his Arrest Memo is annexed as Ex.PW17/6.

208. The witness in his cross-examination stated that he was appointed in January 2023 as the Investigating Officer, and was the second Investigating Officer of the case. He stated that the previous IO was no longer an IO and was working with a different department of the NIA.

209. The witness stated that he had not sent any letter/requisition personally requesting the Government to ban JeI-J&K.

210. The witness upon being asked if the entire records of JeI-J&K were seized when it was first declared as an Unlawful Association, the witness stated that he could not say about the same and was possessing knowledge only from the date he was appointed as the IO.

211. He stated that the statement of the witnesses to the Seizure exhibited as PW-17/5 under Section 161 of the Cr.P.C. was taken, whereafter he again said that he was not sure if such statements were taken.

212. He admitted that the accused no.1 was out on bail but could not say if the ground for granting bail was that the statement of the witnesses under Section 161 of the Cr.P.C. did not mention anything regarding recovery of arms and ammunition. He further stated that he did not have a copy of the order by which the accused no.1 was granted bail.

213. Upon being asked if the list mentioned in paragraph 9 of his affidavit is an unsigned documents, he stated that he could not say. At this stage, the witness stated that the list was recovered from the House search of the Javaed Ahmad Lone.

214. He stated that on top of the list, there was a caption which read as, ‘Tajveed Shada Mowda Arkan Tehsil Law’ and it contained certain names and amounts as mentioned against the names. He admitted that there is no reference to any association in the list.

215. He further admitted that the cognizance had not been taken against accused no.2 and accused no.3.

216. He denied that there was no material to show that any money was transferred for any purpose linked to JeI-J&K or for JeI-J&K. He denied that there was no material to indicate that any funds were used for the purpose of JeI-J&K. He denied that he has filed incomplete documents to prejudice the Tribunal. He denied that there was no material to indicate that the accused nos. 2,3 and 4 has any connection/association with JeI-J&K. He denied the suggestion that his testimony is entirely hearsay and not based on personal knowledge; his entire testimony is based on prejudice; his testimony is irrelevant to the proceedings. He also denied that he has not produced any material to substantiate opinions in paragraphs 2, 9, and 13-16 of his affidavit.

#### **PW-18**

217. PW-18, Mr. Abdul Raqeeb Malik, Sub-Divisional Police Officer, Achabal, Anantnag, Kashmir appeared and produced his affidavit exhibited as Ex.PW 18/A. The said witness deposed in respect of FIR No.65/2021 [Ex.PW18/1] registered at PS Achabal under Sections 11, 13 and 18 of the Act and Mark PW 18/1A is the English translated copy of the aforesaid FIR.

218. He stated that the above mentioned FIR was registered on 03.07.2021, when credible information was received that 3 hardcore members of the organisation, namely, Shafiq Ahmad Itoo, Imtiyaz Ahmad Lone and Ali Mohd Parray were attempting to organise secret meetings, raise funds and create other logistics for the banned organisation to continue its activities in the form of decimating religious information with the view to indoctrinate people and incite the youth to join the proscribed terrorist outfit, *HuM*, coordinating and supporting the activities of the terrorist outfits and acting in cohorts with the fugitive terrorists operating from the hostile neighbouring country, Pakistan. The accused has resorted to masked activities, including secret crowd funding, diversion of proceeds for normal business activities and even funds collected in the name of religion. He stated that as accused had entered into criminal conspiracy with unidentified individuals and the complaint of the same disclosed commission of a cognizable offence, FIR No. 65/2021 [Ex.PW 18/1] was registered.

219. The witness has also exhibited true copies of the Recovery cum Seizure Memo of the recovery made at the residential house of Ali Mohammad Parray Ex.PW. 18/3 along with its translated copy as Mark PW18/3A, and recovery made from a room situated on the first floor of the residential house of Imtiyaz Ahmad Lone as Ex.PW 18/4 and its translated copy as Mark PW18/4A.

220. The witness states that from the knowledge acquired by him during the course of his service and the case records, he can say that JeI-J&K and its leaders are encouraging and actively advocating cession, secession of territory of J&K from the India; inciting separatist groups; committing acts intended to disrupt the territorial integrity of India; promoting anti-national and separatist sentiments; spearheading secessionist movements; tacitly preaching the Kashmir separatist movement, and he further states that the Association exploited the situation in the valley intensely and actively provoked, incited and lured the youth of Jammu & Kashmir for violence to disrupt the peace in the valley and in order keep the anti-India pot boiling, announced hartal calls and issued protest calendars, leading to riots which resulted in death of several civilians, police and security force personnel.

221. The witness in his cross-examination has stated that prior to him, there was only one Investigating Officer in the said case. He stated that when he became the IO in 2022, he filed the charge-sheet [Ex.PW18/2] though the investigation was completed before that. He stated that the IO before him continues to be an officer with the J&K Police, but was posted elsewhere.

222. He further stated that he had personally not presented any report/requisition to the Government or Authorities asking for JeI-J&K to be banned. He stated that previously, and to his knowledge, JeI-J&K was declared unlawful in the year 2019, and several FIRs in that regard were lodged. He further states that in 2019 he was not posted in the relevant office, and therefore, did not know of the actions that were taken by the Police against the members or the Association. He further stated that due to the same reason, he was unable to tell whether the offices of the Association were sealed and its records seized.

223. Upon perusing Ex.PW18/3, PW18/4 and PW18/7, which are the seizure memos, he stated that he was not the IO when the seizure was made but upon checking the material he stated that the same pertains to a period before 2019.

224. He further stated that being a Police Officer, he was aware of the JeI-J&K being declared as unlawful and that it used several publications including Momin. He further stated he was not aware if the JeI-J&K had been declared as unlawful previously, or if the publications of the Association were neither confiscated nor declared unlawful under law.

225. The witness upon being asked about the arrest of the accused stated that he would not be able to comment upon the same without checking the records. He further stated that they were arrested on 04.07.2021, however, at this stage the witness referred to the records brought by him and stated that he had not brought the Arrest Memo. He then stated that the disclosure/confession of the accused is of the same day, 04.07.2021, and per his knowledge, was made before the Police. He stated that he does not think any application was made under Section 164 of the Cr.P.C. to record the confession of the accused. He further stated that as per the record he was carrying, he could not tell the date of the accused being released on bail.

226. Upon being questioned regarding the quantum of funds, manner of collection of funds and the date of when the funds were allegedly collected for the JeI-J&K, the witness stated that as per the FIR, the funds were collected through crowd funding. The witness was then asked about the material available to show when and where congregations of the JeI-J&K were organised, to which, he stated that such congregations were held at the village, tehsil and district level and the same was evident from confession statement. The witness was then asked regarding the specific places or time of such congregation being held, to which he stated that as per the confessions, there was no specific mention of when the congregation was held, but it was held regularly.

227. The witness was further asked if there was statement of any person stating that he/she were instigated by the accused to join JeI-J&K, to which the witness stated that as per the charge-sheet, there are public witnesses who state that the accused used to instigate others to join JeI-J&K. At this stage, the attention of the witness is drawn to Ex.PW18/2, which is the only charge-sheet annexed in his affidavit. He then stated that as per the charge-sheet, there is no public witness cited.



228. The witness denied the suggestion that the accused were being produced before the Tribunal as they had never made any confession. He denied the suggestion that the accused were not being produced as they were not members of JeI-J&K, and were rather being falsely implicated.

229. He denied the suggestion that the persons being named as accused in the charge-sheet in relation to FIR No.65/2021 have no connection with the Association. He denied that his testimony is hearsay; or that those who could testify based on personal knowledge have not done so, so as to prevent cross-examination and scrutiny. He denied that his testimony is prejudiced or that it is irrelevant to the proceedings. He further denied that he has not provided any material to show that the opinion in paragraphs 3 to 6, 12, and 13 of his affidavit stand. He denied that he deliberately not brought the entire record of the cases so as to put forth a prejudiced and incomplete case. He further denied that he had deposed falsely and that he produced an incomplete and incorrect translation of the documents so as to prejudice the Tribunal.

### **PW-19**

230. PW-19, Mr. Mohd Nawaz Khandey, Deputy Superintendent of Police Headquarters, Pulwama, Kashmir appeared and produced his affidavit exhibited as Ex.PW 19/A. The said witness deposed in respect of FIR no.25/2019 registered at PS Pulwama, under Sections 10, 11, and 13 of the Act [Ex.PW19/1] and Mark PW 19/1A is its English Translation.

231. The witness in his evidence by way of affidavit has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

232. He stated that JeI-J&K was declared as anti-national Association under Section 3 of the Act and it was learnt through reliable sources that the said Association is running its different offices through their representatives/members within the jurisdiction of the PS Pulwama resulting in harm to the national sovereignty, based on this information, FIR No.25/2019 was registered and investigation was set in motion.

233. The witness also produced statement of the witness HC Mohd. Rafiq [Ex.PW19/2] recorded under Section 161 of the Cr.P.C. and its translated copy [Ex.PW19/2A], which disclosed that on 01.03.2019, information was received from beat koil that one person namely Manzoor Ahmed Ghanie is still an active member of the banned outfit JeI-J&K and is collecting funds from various areas of the jurisdiction. He also stated that the accused has been associated with the said banned Association for years and collects funds for it since a long time.

234. He stated that the investigation conducted till date *prima facie* establishes commission of offences, but the investigation is yet to be concluded as it is at the fag end and charge-sheet is likely to be filed soon.

235. He states that the investigations have faced significant challenges due to reorganization of the State of Jammu & Kashmir and then, subsequently, due to Covid-19 and the restrictions that were imposed as a result thereof. He also attributes delay in investigation to the environment of fear which has been created by the Association and other separatist organizations that deter people from coming forward to provide statements, which in turn, hinders the progress of the investigation, and any attempt to probe these separatist organizations and their leaders triggers widespread unrest and turmoil in the affected regions which again causes delay in concluding the investigation.

236. The witness states that from the knowledge acquired by him during the course of his service and the case records, he can say that JeI-J&K and its leaders are encouraging and actively advocating cession, secession of territory of J&K from the India; inciting separatist groups; committing acts intended to disrupt the territorial integrity of India; promoting anti-national and separatist sentiments; spearheading secessionist movements; tacitly preaching the Kashmir separatist movement and he further states that the association exploited the situation in the valley intensely and actively provoked, incited and lured the youth of Jammu & Kashmir for violence to disrupt the peace in the valley and in order keep the anti-India pot boiling, announced hartal calls and issued protest calendars, leading to riots, which resulted in death of several civilians, police and security force personnel.

237. The witness in his cross-examination has stated that including the present SHO of PS Pulwama there have been 10 Investigating Officers in the said case.

238. He stated that the change of IOs is attributable to the transfer of the SHO of the concerned Police Station. He stated that as per his knowledge some of the IOs continue to be in service with the J&K Police while some may have retired.

239. The witness upon being asked if he had personally presented any report/requisition to the Government or Authorities asking for JeI-J&K to be banned, stated that he had not directly made any such request but as being in field he had reported on the activities of JeI-J&K. He further stated that he was not carrying any such report(s) with him.

240. Upon being asked if he could present any reports made by him regarding JeI-J&K, he stated that these reports were confidential in nature and they therefore, do not keep copies of the same. He further stated that the mode of

making such reports is both oral and written. At this stage, the witness denied the suggestion that he has never made any written or oral report about the activities of JeI-J&K and for the same reason, no such report is being reported before the Tribunal nor can such report be presented or summoned before the Tribunal.

241. The witness was then questioned regarding Ex.PW19/1, that is FIR No.25/2019, where it was noted that after the date, time from and time to, there is a blank. For the above question, the witness stated that the time of commission of offence and its conclusion was not mentioned as the information was received from reliable sources. At this stage, the witness consulted his records and stated that he does not have anything further to add.

242. He stated that he is not aware exactly how many times the Association was banned, but it was banned several times. He further stated that the organisation was banned in 2019. He stated that at the time of the ban in 2019, he was posted as SDPO, Gandoh, Doda where JeI-J&K was not that active but he was aware of the crackdowns and FIRs registered against JeI-J&K. He states that although he does not know exactly, the offices of the Association must have been sealed and records seized. He admits that no chargesheet has been filed.

243. The witness is asked if pursuant to the investigation of the above FIR, was any material available on record to indicate the flow of funds for activities connected with JeI-J&K, to which, in response the witness stated that at present, there are only statements available but the investigation is still underway.

244. He denied that there is no relation between the Association and the persons mentioned in the above FIR. He denied that the chargesheet has not been filed due to lack of material to implicate the accused. He denied that his testimony is hearsay. He further denied that persons who can testify based on personal knowledge have not deposed to prevent cross-examination and scrutiny. He denied that his testimony is based on prejudice and that his testimony is irrelevant to the present proceedings. He further denied that he has not produced any material to substantiate the opinion in paragraphs 3 to 6, 12 and 13 of his affidavit. He denied that he has deliberately not produced the entire case record so as to prejudice the Tribunal. He denied that he has falsely deposed. He further denied that he has produced an incomplete and incorrect translation of documents to prejudice the Tribunal.

#### **PW-20**

245. PW-20, Mr. Gh. Jeelani Bhat, Station House Officer, Police Station, Shopian, Kashmir appeared and produced his affidavit exhibited as Ex.PW 20/A. The said witness deposed in respect of FIR no.27/2019 [Ex.PW 20/1] and its translated copy [Mark PW20/1A] registered at PS Shopian under Sections 10, 11 and 13 of the Act.

246. The witness in his evidence by way of affidavit has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

247. The witness has stated that the above-mentioned FIR was registered on 01.03.2019, basis information received that members of the banned organisation JeI-J&K were raising funds from different sources and using those funds to propagate ideas that would harm the integrity and sovereignty of India. He stated that the members of the banned organisation were provoking the general public in District Shopian by using hate speech and slogans.

248. He produced the statement of witness Bilal Ahmad Ganaie [Ex.PW20/2] under Section 161 of the Cr.P.C. along with its vernacular copy [Mark 20/2A] in support of the same. In the statement he has disclosed that 'as per order of DM Shopian vide no. DMS/PA/19-09-12 dated 01.03.2019, he along with other officers and officials of Revenue Department were directed to raid the office of JeI-J&K situated at Alyalpura Kanipora Shopian, and in compliance of the said orders raid was conducted and some objectionable documents/items were recovered and the same were seized. He also stated that JeI-J&K was using the said building to carry out illegal deeds.

249. He stated that the investigation conducted till date *prima facie* establishes commission of offences, but the investigation is yet to be concluded as it is at the fag end and charge-sheet is likely to be filed soon.

250. He stated that the investigations have faced significant challenges due to reorganization of the State of Jammu & Kashmir and then, subsequently, due to Covid-19 and the restrictions that were imposed as a result thereof. He also attributes delay in investigation to the environment of fear which has been created by the Association and other separatist organizations that deter people from coming forward to provide statements, which in turn hinders the progress of the investigation, and any attempt to probe these separatist organizations and their leaders triggers widespread unrest and turmoil in the affected regions which again causes delay in concluding the investigation.

251. The witness stated that from the knowledge acquired by him during the course of his service and the case records, he can say that JeI-J&K and its leaders are encouraging and actively advocating cession, secession of territory of J&K from the India; inciting separatist groups; committing acts intended to disrupt the territorial integrity of India; promoting anti-national and separatist sentiments; spearheading secessionist movements; tacitly preaching the Kashmir separatist movement and he further states that the association exploited the situation in the valley intensely and actively provoked, incited and lured the youth of Jammu & Kashmir for violence to disrupt the peace in the valley and in order keep the anti-India pot boiling, announced hartal calls and issued protest calendars, leading to riots which resulted in death of several civilians, police and security force personnel.

252. The witness in his cross-examination stated that there have been 7 Investigating Officers in FIR No.27/2019. He further named the present IO and stated that previous 7 IOs are still in service of the J&K Police, out of which he is not sure about one.

253. He stated that he has personally not made any report/requisition asking the Government/Authorities to ban the unlawful association. He stated that the Association was previously banned on 28.02.2019 and that after such ban all the offices of JeI-J&K were sealed and documents seized.

254. The witness was then asked if in 2019, when the Association was declared as unlawful, any membership register was seized. The witness answered that around 40 documents were seized which included the arrival register, stock register, slip pads and account registered in relation to FIR No. 27/2019. At this stage, the witness went through the records brought by him and stated that while no membership register was seized, one razkarana file was seized. He stated that such file contained the name of the persons helping the organizations.

255. The witness stated that there is only 1 Seizure Memo comprising of three pages. At this stage, he was shown the Seizure Memo [Ex.PW20/5] which is a single page, the witness then stated that the same does not bear his signature and Seizure Memo runs into 3 pages. He thereafter handed over 3 pages which are exhibited as Ex.PW20/6/X, Ex.PW20/7/X and Ex.PW20/8/X.

256. The witness was then asked if the 3 pages supplied by him are not a part of Ex.PW20/5 but rather separate documents, to which he stated that he made an error in his previous answer and these are in fact 4 different Seizure Memos.

257. He then admits that, Ex.PW20/6/X, Ex.PW20/7/X and Ex.PW20/8/X all bear the same date and are also of the same location.

258. Upon being asked if there are more Seizure Memos in the investigation, he stated that he was not aware of the same as he was not carrying the complete record with him.

259. The witness was then asked specifically if Point 'X to X' on Ex.PW20/8/X read as 'membership form with account numbers (213) forms', to which he answered in the affirmative.

260. The witness then stated that he was unable to confirm if there was any recording of the alleged speeches/slogans in the investigation of the FIR; any statement of any witness having heard the speeches/slogans or participated in the secret meetings of JeI-J&K; and if the investigation mentions any date, place and time of the alleged meeting as he was not carrying the entire case record with him.

261. The witness then stated that he was unable to state if any members of JeI-J&K were present at the location mentioned in the Seizure Memos exhibited as Ex.PW20/6/X, Ex.PW20/7/X and Ex.PW20/8/X. At this stage the witness volunteered and stated that the same would be a matter of case records which he does not have at the moment.

262. The witness further stated that he would not be able to state whether the material recovered during the course of investigation shows flow of funds to JeI-J&K as the same is a matter of investigation records which he is not carrying. The witness volunteered and stated that being SHO of several police stations and from his personal knowledge, he is aware that the Association was raising funds and using it for anti-national activities.

263. He denied the suggestion that Md. Imran Wani has no connection with JeI-J&K. He denied that the charge-sheet has not been filed as there is lack of material to launch a prosecution. He denied that his testimony is hearsay and that persons who can testify based on personal knowledge have not deposed so as to prevent cross-examination and scrutiny. He denied that his testimony is based on prejudice. He denied that his testimony is irrelevant to the present proceedings. He further denied that he has not produced any material to substantiate the opinion in paragraphs 3 to 6, 12 and 13 of his affidavit. He further denied that he has not brought the complete record so as to present an incomplete and prejudicial case to the Tribunal. He denied that he has deposed falsely and that he has produced an incomplete and incorrect translation of the documents to prejudice the Tribunal.

### **PW-21**

264. PW-21, Mr. Rashid Younis, Additional Superintendent of Police, PD Awantipora, appeared and produced his affidavit exhibited as Ex.PW 21/A. The said witness deposed in respect of FIR no.25/2019 registered at PS Awantipora under Sections 10, 11, and 13 of the Act [Ex.PW21/1] and FIR no. 05/2019 registered at PS Pampore Sections 10, 11, and 13 of the Act [Ex.PW21/5]. Mark PW 21/1A and PW21/5A are the translated copies of the aforesaid FIRs.

265. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and has also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

266. The witness stated that the concerned police station received information from reliable sources that despite the ban on JeI-J&K by the Government of India, some activists of JeI-J&K who are residing within the jurisdiction of

PS Awantipora having common interests, are planning to separate J&K from the Union of India and are carrying out illegal activities through their offices. He stated that information also disclosed that some offices and assets of banned Association JeI-J&K are existing within its jurisdiction wherefrom activities of JeI-J&K are being carried out by way of collection and transaction of funds among the JeI cadre to fulfil its aims and objectives which are prejudicial to the unity and integrity of India.

267. He stated that after the said information, as the police found commission of cognizable offences, the said FIR No. 25/2019 PS Awantipora and FIR No. 05/2019 PS Pampore were registered and thereafter, during the investigation, the statements of witnesses under Section 161 of the Cr.P.C. supporting the case of the prosecution were recorded. He stated that the concerned police officials visited Awantipora near Islamic University Road where a JeI-J&K office (02 storied under construction) was functioning and accordingly, the said office was sealed by the Tehsildar Awantipora and the revenue extracts of same were collected from the concerned Patwari Halqa and were seized. He also stated that some articles were seized by the Investigating Officer from the office of the banned JeI-J&K Association situated at Reshi Complex Namblabal Pampore in the presence of the Executive Magistrate 1st Class Pampore and accordingly, seizure memo was prepared. He stated that after collecting sufficient material against the Accused persons in FIR no. 25/2019 and FIR No. 05/2019, which *prima facie* established the commission of the alleged offences, the charge-sheets have also been filed in the said cases, which are exhibited as Ex.PW21/2 and Ex.PW21/6.

268. In his cross-examination, the witness stated that he could not say exactly how many Investigating Officers have investigated the aforesaid FIRs. He stated that the incumbent SHOs of the police stations are appointed as the Investigating Officers of the said FIRs. He stated that he is not carrying the records of the FIRs and, therefore, he could not say exactly how many Investigating Officers have so far investigated these cases. He stated that the previous Investigating Officers in these cases are still with J&K Police and that he is the supervisory officer. He stated that he has not personally made any request, requisition, or report to any authority asking for JeI-J&K to be declared as an Unlawful Association.

269. He stated that to his understanding, JeI-J&K was earlier declared as Unlawful Association in 2019 and on being declared an Unlawful Association, the offices of the JeI-J&K were sealed throughout Kashmir, however, as there are large numbers of police stations in J&K, he could not say for all. He admitted that the documents and registers of the Association were also seized when the offices were sealed. He stated that he does not know if the membership register of the Association was also seized. He denied the suggestion that persons mentioned in FIR No. 25/2019, PS Awantipora and FIR No. 05/2019, PS Pampore, except Mr. Gh. Mohammad Ganie, have no connection with the Association.

270. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 14 and 16 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

## **PW-22**

271. PW-22, Mr. Altaf Ahmad, Deputy Superintendent of Police, HQs Baramulla, appeared and produced his affidavit exhibited as Ex.PW 22/A. The said witness deposed in respect of FIR no.68/2022 registered at PS Baramulla under Sections 10 and 11 of the Act [Ex.PW 22/1]. Mark PW 22/1A is the translated copy of the aforesaid FIR.

272. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

273. The witness stated that a written complaint was received by the PS Baramulla from a Company Commander, disclosing that credible input was received that an individual is collecting monies on behalf of the banned Association JeI-J&K on a scooty in Baramulla market. He stated that a joint operation was conducted on the basis of the said information and the Accused was apprehended from the Baramulla Market and apart from other incriminating materials, 3 receipt books of JeI-J&K receipt of money given on the letterhead of JeI-J&K and cash of Rs. 1,59,000/- were seized from his possession. He stated that after the said information, as the police found commission of cognizable offences, the said FIR No. 68/2022 PS Baramulla was registered and thereafter, during the investigation, the statements of witnesses under Section 161 of the Cr.P.C. supporting the case of the prosecution were recorded. He stated that the investigation concluded till date *prima facie* establishes the commission of the alleged offences and the same is at the fag end and the charge sheet is also likely to be filed soon.

274. In his cross-examination, the witness stated that there have been three Investigating Officers in the aforesaid FIR, including the present one and all three of them are still in the J&K police. He stated that he has not personally made any request, requisition, or report to any authority asking for JeI-J&K to be declared as an Unlawful Association. He stated that JeI-J&K has been banned in 2019, and now in 2024. He further stated that after it was declared unlawful in 2019 some leaders of JeI-J&K were arrested, land was confiscated, and some institutions were banned. He stated that he came to know from the media that some offices of JeI-J&K were also sealed. He stated that he was at CID at that time and, therefore, he does not have any personal knowledge of any office of JeI-J&K being sealed.

275. On being asked about whether any attempt was made to check the records/membership register of the Association to establish whether the accused Md. Amim Ganie was mentioned in the membership register, he answered that the then Investigating Officer must have made such an effort, but there is nothing in the records to indicate what efforts were made. He admitted that there is nothing on record to show that the accused in the FIR gave money to JeI-J&K, however, he stated that the accused was a member of JeI-J&K. On being asked that there is no material to show that money allegedly collected by the accused was used for JeI-J&K activities, he answered that as the accused was a member of JeI-J&K, the money collected by him must have been used for the activities of JeI-J&K.

276. He was then asked about the effort that was made to verify whether the letter-pads allegedly seized in the investigation of FIR No. 68/2022 were the official letter-pads of the Association JeI-J&K, he answered that efforts were made; he stated that the letter-pads were sent to the FSL and the FSL report came back with some observations and the letter-pads have been sent for further examination by FSL. On being asked about the effort made to verify whether receipt books allegedly seized in the investigation of the FIR No. 68/2022 were the official receipt books of the Association JeI-J&K, he answered that the name of the Association was written on the receipt books and the receipt books also have the stamp of the Association. He stated that they were also sent to the FSL for verifying whether they were the official receipt books of the Association. He again stated that they were sent for verifying if they were in the handwriting of the accused. He admitted that they were not sent to verify if they were the official receipt books of the Association. He further admitted that even the letter-pads were not sent to the FSL for the purpose of verifying whether they were the official letter-pads of the Association. He stated that they were also sent to verify whether they contained the handwriting of the accused.

277. He denied the suggestion that the person mentioned in the FIR No. 68/2022, PS Baramulla has no connection with the Association. He denied the suggestion that no charge-sheet has been filed against the accused since there is no material for prosecution. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 9 and 10 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

### **PW-23**

278. PW-23, Mr. Waseem, Station House Officer, PS Kralgund, appeared and produced his affidavit exhibited as Ex.PW 23/A. The said witness deposed in respect of FIR no.10/2019 registered at PS Kralgund under Sections 10, and 13 of the Act [Ex.PW 23/1]. Mark PW 23/1A is the translated copy of the aforesaid FIR.

279. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

280. The witness stated that PS Kralgund received a letter dated 01.03.2019 from the District Police Office, Handwara disclosing that on 28.02.2019, JeI-J&K has been declared as an unlawful association and has been banned from carrying out activities, however, it has been learnt that some members of JeI-J&K residing within the jurisdiction of PS Kralgund are carrying out activities of the Association.

281. He stated that after the said information, as the police found commission of cognizable offences, the said FIR No. 10/2019 PS Kralgund was registered and thereafter during the investigation, accused person Ghulam Qadir Lone was arrested on 08.03.2019 at village Ananwan and 03 letter pads (posters) of JeI-J&K Association were recovered from his possession which were used for carrying the election boycott campaign and destabilizing the peaceful atmosphere in the area and to mislead the general public and youth and therefore arrest memo and seizure memo to that effect were prepared on spot. He stated that thereafter the statements of witnesses under Sections 161 and 164 of the Cr.P.C. supporting the case of the prosecution were recorded. He stated that after collecting sufficient material against the Accused persons in FIR no. 10/2019 which *prima facie* established the commission of the alleged offences, the charge sheet has also been filed in the said case which is exhibited as Ex.PW 23/2.

282. In his cross-examination, the witness stated that there have been two investigating officers in the aforesaid FIR prior to the present one and the earlier Investigating Officers are still in the J&K police. He stated that he has not personally made any request, requisition, or report to any authority asking for JeI-J&K to be declared as an Unlawful Association. He stated that the Association was first declared unlawful on 28.02.2019. He stated that after it was declared unlawful if any person was found still carrying out activities for the Association, FIRs were registered against such person. He stated that he could not say whether the offices of JeI-J&K were sealed when it was declared unlawful in 2019 and that as far as the present FIR is concerned, no such office was sealed. He admitted that there is no recording of any speech by the accused in the case.

283. He denied the suggestion that there is also no statement of any person regarding the speech of the accused. He volunteered that there are statements of witnesses who have stated that the accused was associated with JeI-J&K and used to work for the same. He stated that the accused was also the General Secretary of the Association. He admitted that there is no statement of any person who has stated about having heard any speech or statement made by the accused in this FIR.

284. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 5, 11 and 12 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

#### **PW-24**

285. PW-24, Mr. Owais Ahmad Wani, Sub-Divisional Police Officer, Charar-I-Sharief, appeared and produced his affidavit exhibited as Ex.PW 24/A. The said witness deposed in respect of FIR no.05/2019 registered at PS Charar-I-Shrief under Sections 10, 11, and 13 of the Act [Ex.PW 24/1] and FIR no.33/2019 registered at PS Chadoora under Sections 10, 11, and 13 of the Act [Ex.PW 24/2]. Mark PW 24/1A and PW 24/2A are the translated copies of the aforesaid FIRs.

286. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

287. The witness stated that the concerned police stations received credible information from reliable sources about the clandestine activities of the proscribed radical Association JeI-J&K. He stated that the information further disclosed that members/organizers of this banned association are carrying their activities despite the ban, which threatens the integrity and sovereignty of India.

288. He stated that after the said information, as the police found commission of cognizable offences, the said FIR No. 05/2019 PS Charar-i-Sharif and FIR No. 33/2019 PS Chadoora were registered and thereafter during the investigation, the statements of witnesses under Section 161 of the Cr.P.C. supporting the case of the prosecution were recorded. He stated that after collecting sufficient material against the Accused persons in FIR No. 33/2019 which *prima facie* established the commission of the alleged offences, the charge sheet has also been filed in the said case which is exhibited as Ex.PW 24/3. He stated that a charge sheet is also likely to be filed soon in FIR no.05/2019 PS Charar-i-Sharif.

289. In his cross-examination, the witness stated that there have been two Investigating Officers so far in the FIR 05/2019 PS Charar-i-Sharif and the first Investigating Officer is still with the J&K Police but is posted elsewhere. On being asked about any report or requisition personally given by him to the Government or the authorities asking for the JeI-J&K to be declared as an Unlawful Association, he answered that they do keep giving reports on the clandestine operations of the Association, however, it is not in his jurisdiction to give a personal report or requisition to the Government or the authorities asking for JeI-J&K to be declared as an Unlawful Association. He stated that there have been a couple of reports, even as recently as the last month, however, they are covered by the Official Secrets Act.

290. He denied the suggestion that he has not presented any report about the alleged “clandestine operations of the Association” and that his testimony in this regard is only to prejudice this Tribunal. On being asked about the earlier declaration of JeI-J&K as an Unlawful Association, he stated that there was an FIR registered about a month ago and it is presently under investigation. He stated that he remembers that the Association was, even before 2024, declared as an Unlawful Association, however, he does not remember when. He stated that he is aware that when the Association was declared unlawful earlier, many FIRs were registered, however, no FIR was registered in his jurisdiction and, therefore, he stated that he did not know what action was taken pursuant to the declaration of the Association as unlawful.

291. He stated that he was not carrying with himself, on the day his statement was recorded before this Tribunal for the first time, the FIR that was registered about a month back against the Association and about which he had spoken therein. He denied the suggestion that he had not brought the said FIR because there is no such FIR. On being asked about the recording of speeches allegedly made by the accused in FIR no.33/2019, PS Chadoora, in the investigation, the witness answered that though there is no recording of what the accused stated, however, there are seven eye-witnesses in the case and, at least, two of them are not official witnesses. He stated that they are Mr.Naseer Ahmed Bhat and Mr.Mohd. Ashraf Mir, the Lambardars of two Villages.

292. Thereafter, the attention of the witness was drawn to Ex.PW24/3 (page 16 of his affidavit) and Mark PW 24/3A (page 18 of his affidavit). He admitted that as per these documents, there are only seven witnesses in the challan filed in FIR No. 33/2019. He also admitted that Mr.Mohd. Ashraf Mir is not a witness cited in the said case. He denied the suggestion that he has deliberately wrongly claimed that there were two public witnesses listed in the charge-sheet filed after the investigation in FIR No. 33/2019, though both were witnesses in the investigation, only one was cited in the charge sheet. He stated that he could not say why. He stated that Village Lambardar is a village elder, who is usually present at large gatherings of the village and in the present case also, the Village Lambardar was also present in the gathering. He stated that he could not say if a Village Lambardar is appointed by the Government. He stated that even if it is so, it must be done by the Civil Administration.

293. He denied the suggestion that he is deliberately being evasive about the fact that the Village Lambardars and Chowkidars are appointed by and serve at the pleasure of the State Government. He admitted that the statement of Mr.Naseer Ahmed Bhat, Village Lambardar of Chadoora, has not been filed with his evidence by way of affidavit, however, he stated that he was carrying it with him on the day when his statement was being recorded before this Tribunal for the first time. Thereafter, the witness on the asking of the learned counsel for the Objectors produced a copy of the statement of Mr.Naseer Ahmed Bhat, Village Lambardar of Chadoora and the same was exhibited as Ex.PW24/5X. He stated that he presumed that what was produced by him on that day was a translated copy of the statement made, which might have been in the vernacular. Thereafter, the witness on checking his record produces the said statement recorded in the vernacular of Mr.Naseer Ahmed Bhat, Village Lambardar of Chadoora and the same was exhibited as Ex.PW24/6X.

294. The attention of the witness was then drawn to Ex.PW24/5X and Ex.PW24/6X. On being asked whether the words "*I am Numberdar of Village Namtahal Chadoora since year 2007*" as found in Ex.PW24/5X are not there in EX.PW24/6X, he answered that at point X to X of Ex.PW24/6X are the words "*mai do saal se hoon*" what goes before and after that is not legible, therefore, he was not sure if the above words are mentioned there. On being asked whether the words "*residing as next door neighbor of Mohd. Ashrif Wani*" as found in Ex.PW24/5X are not there in Ex.PW24/6X, he answered that in Ex.PW 24/6X it is stated that "*aur mai illaqa haza mey aksar hone wale haalat ya wakiyat se kuch kadar waakif bhi hota hoon*" (which were marked as Y to Y).

295. He was then asked whether the words "*is affiliated with JEI since many years and during year 2015-16*" as found in Ex.PW24/5X are not there in Ex.PW24/6X, he stated that in Ex.PW24/6X there are words "*illage mey jamat-e-islami keamir-e-tehsil Chadoora*" (which was marked as Z to Z) found, however, 2015-16 is not mentioned. He was then asked whether the words "*during morning walk, the said Mohd. Ashraf also stated me that I am posted as Ammeer tehsil (A) of Chadoora and while as the Bilal Ahmad Mir S/O Late Gh. Hassan Mir R/O Hanjoora is also Ameer tehsil of Chadoora (B)*" as found in Ex.PW24/5X are not there in EX.PW24/6X. At this stage, the witness stated that Ex.PW24/6X is the statement of Marfat Ahmad. He further stated that he had earlier, by mistake, handed it over as the statement of Mr.Naseer Ahmed Bhat, Village Lambardar of Chadoora in the vernacular. The witness then produced Ex.PW24/7X, as the statement of Mr.Naseer Ahmed Bhat, Village Lambardar of Chadoora in the vernacular. The witness was then recalled for further cross-examination in New Delhi.

296. In his further cross-examination, the witness admitted that in the charge-sheet filed in the FIR no.33/2019, there are no transcripts of the alleged speeches made by the accused. He volunteered that as already stated before, there are seven eye-witnesses. On being asked that is it correct that nowhere in the charge-sheet or materials collected in the investigation is there a mention of when and where the alleged speeches were made by the accused persons, he answered that it is mentioned in the FIR. He was then asked that is it correct that nowhere in the charge sheet or materials collected in the investigation are there statements of persons who claimed to be present when the alleged speeches were made by the accused persons, he stated that he could not say as he does not remember the statements of the seven witnesses mentioned by him therein. He stated that he was, at the time his statement was being recorded before this Tribunal, carrying only the statements of Mr.Naseer Ahmed Bhat and Mr.Mohd. Ashraf Mir. The witness then went through the statements and confirmed that these two witnesses have not stated that they were present when the alleged speeches were made by the accused persons.

297. On being asked whether nowhere in the charge-sheet or materials collected in the investigation, are there any statements of persons who alleged that they were intimidated or threatened by the accused persons, he answered that he could not say as he does not remember the statements of the witnesses in the charge sheet. He stated that he was, at the time his statement was being recorded before this Tribunal, carrying only the statements of Mr.Naseer Ahmed Bhat and Mr.Mohd. Ashraf Mir. The witness then went through the statements and confirmed that these two witnesses

have not stated that they were threatened or intimidated by the accused persons. He was then asked whether, in the charge-sheet or materials collected in the investigation, there is no material to indicate the flow of funds either to JeI-J&K or to any activities associated with JeI-J&K, he stated that he does not remember the final charge-sheet, therefore, he cannot say.

298. He denied the suggestion that there is no material in FIR No. 05/2019, PS Charar-I-Sharief, to launch a prosecution and that is why no charge-sheet has been filed. He denied the suggestion that he had deliberately not brought the records on the day when his statement was being recorded before this Tribunal, in order to avoid cross-examination. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 12 and 14 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

#### **PW-25**

299. PW-25, Mr. Lov Karan Taneja, Deputy Superintendent of Police, JIC Jammu, appeared and produced his affidavit exhibited as Ex.PW 25/A. The said witness deposed in respect of FIR no.02/2023 registered at PS CID Counter Intelligence Jammu under Sections 10, 11, 12, 13, and 39 of the Act [Ex.PW 25/1].

300. In his evidence by way of Affidavit, the witness has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by the other witnesses in their evidence by way of affidavit in relation to the same.

301. The witness stated that PS CID Counter Intelligence Jammu received information from reliable sources that despite the ban declared on JeI-J&K Association by the Government of India, there are certain individuals within the territory of Jammu zone, who have been members of JeI-J&K and are associated with its sympathizers/supporters (*Hamdarad/Rafeeq*). He stated that it was further disclosed from the said information that these members are continuing with their membership of, and /or support for JeI-J&K by actively conducting, coordinating, arranging and participating in meetings on behalf of the banned Association, collecting financial aid in the form of “*Zakaat*”, “*Ushur*” and other forms of charities in order to further the activities of the banned Association. He stated that it was also disclosed that these members are further managing the properties either owned by, or held in the name of the banned Association which include but are not limited to commercial establishments, residential places and vacant land etc. which are being used for unlawful activities by the banned Association. He stated that it was further informed that several members of the banned Association are continuing to deal with money, funds, securities, properties, etc., which are used or intended to be used for the activities of the banned Association, in violation of law and order of the State. He stated that these members continue to be in close touch with terrorist outfits and are supporting extremism and terrorism in various districts of Jammu province including Jammu, Rajouri and Doda and they are making all efforts to make State of J&K secede from the Union of India and are supporting anti-India agenda of terrorists and separatist groups engaged in this.

302. He stated that after the said information, as the police found commission of cognizable offences, the said FIR No. 02/2023 PS CID Counter Intelligence Jammu was registered and the investigation in the said FIR is still in progress and is likely to be completed soon. He also reiterated the significant challenges due to the volatile situation in the valley, because of which the investigation took time to conclude.

303. In his cross-examination, the witness stated that before him, there was only one investigating officer in the aforesaid FIR, and he was appointed as the Investigating Officer of the case sometime end of last year. He stated that the earlier Investigating Officer has since retired and he could not say whether he presently would be available. He stated that he did not present any report or requisition to the Government or the authorities asking for JeI-J&K to be declared as an Unlawful Association. He stated that, however, he has gone through confidential reports that are sent to the government/authorities in this regard. He stated that he had not brought any such report on the day when his statement was being recorded before this Tribunal with him as they are confidential in nature. He stated as per his knowledge, the Association was first declared unlawful sometime in 1990's, thereafter in 2019, and now in 2024. He stated that he has heard from sources in service that some FIRs were registered and some action taken when the Association was declared unlawful in 2019. He stated that however, he does not have any personal knowledge of the same.

304. He denied the suggestion that no charge-sheet has been filed in this case because there is no material to launch a prosecution. He denied the suggestion that there is no material to show that the members of JeI-J&K have continued to function despite the Association being declared unlawful in February 2019. He denied the suggestion that his testimony is hearsay. He denied that no persons, who can testify on the basis of personal knowledge about the



FIRs, are being deposed in order to prevent cross-examination and scrutiny. He further denied the suggestion that he had not produced the entire record of the case in order to present an incomplete and prejudicial case before this Tribunal and that his testimony is based on prejudice. He denied the suggestion that his testimony is irrelevant to these proceedings. He denied the suggestion that he had produced no material at all for his opinion in paragraphs 3 to 6, 9 to 11 of his affidavit and that he had not produced the entire record of the cases in order to present an incomplete and prejudicial case to the Tribunal. He denied the suggestion that he had deposed falsely. He denied the suggestion that he had produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

### **PW-26**

305. PW-26, Mr.Devinder Singh, Sub-Divisional Police Officer, City Jammu appeared and produced his affidavit exhibited as Ex.PW 26/A. The said witness deposed in respect of FIR No. 27/2022 registered at PS Peermitha under Sections 10 and 13 and 39 of the Act [Ex.PW26/1].

306. The witness in his evidence by way of affidavit has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by other witnesses in their evidence by way of affidavit in relation to the same.

307. The witness stated that regarding FIR No.27/2022, Constable Gulshan Kumar had produced a written docket, on behalf of Shri Rahul Nagar, Dy. SDPO, City West, Jammu Camp, Talab Khalikan indicating that he had obtained search warrants from the concerned court for Case FIR No. 01/2007. Pursuant to this, he and his team, in the presence of the Executive Magistrate Shri Prithavi Pal, Naib Tehsildar of Nagrota, conducted a search at the private office "*Reh-e-Manzil*" located at Talab Khatikan, Jammu. Azhar Sharief, the property owner, was present during the search, and in his presence, they discovered objectionable material, including letter pads and documents of the banned outfit JeI-J&K. Azhar Sharief could not provide a satisfactory explanation for the incriminating material, which was seized on the spot through a separate seizure memo. He stated that during investigation, hand written statement of Shri Rahul Nagar was recorded under Section 161 of the Cr.P.C., which is exhibited as Ex.PW26/3 and the same corroborated the contents of the written complaint. After collecting sufficient material against the accused persons which established their *prima facie* guilt, the chargesheet was filed, which is exhibited as Ex.PW26/3.

308. In his cross-examination, the witness has stated that he became the Investigating Officer of FIR No. 27/2022 on 06.02.2024 and before him, there was one Investigating Officer in the said FIR, who is still with the J&K Police. He denied personally sending or presenting any report or requisition to the government or authorities asking for JeI-J&K to be declared as an Unlawful Association. He mentioned that some confidential reports from the department have been sent regarding the activities of the Association to higher authorities of the police. He did not know how many times in the past the Association was declared unlawful, but he mentioned that he was aware of the Association being declared unlawful in 2019. He stated that at the district in which he was posted as DYSP PC, Kishtwar in 2019, at that time, the Association was declared unlawful and the FIR was registered at PS Kishtwar. He stated that he was not aware if the office of the Association was sealed after the 2019 declaration. He affirmed that the records of the Association were seized by the police, post the 2019 declaration. He was not aware if in the records that were seized, there was a membership register of the Association.

309. He stated that he was not aware of *Tehreek-e-Hurriyat*, but stated that he had heard of *Hurriyat*, but it was possible that *Hurriyat* and *Tehreek-e-Hurriyat* were the same organization, as he generally referred to an organization called *Hurriyat*. He admitted to having heard of one late Syed Ali Shah Geelani, who used to be associated with the *Hurriyat* and he was one of the leaders of the *Hurriyat*. But, he did not know whether late Syed Ali Shah Geelani was associated with JeI-J&K. He was not aware whether JeI-J&K permitted having membership of another association at the same time. He stated that he did not know how many members JeI-J&K had ousted, between 2002 and 2006 on account of having memberships of other Associations.

310. He admitted to having heard of Saidullah Tantry, but at the time was unable to recollect who the said person was, and due to the same reason, he was unable to confirm or deny whether he was removed by JeI-J&K from its membership in 2002.

311. He could not say if any effort was made to find out if the accused in above FIR was a member of JeI-J&K or if any effort was made to record the statement of the accused under Section 164 of the Cr.P.C and he would have to check the records for the same. Upon being asked to check the records and verify the same, he answered that the chargesheet in the case has been filed and the record is in the concerned court. Despite that, a police file (Shadow File) is also maintained but the same was in Jammu. The witness offered that if required, he can look into the file and answer the above question. Mr. Jawahar Raja, learned counsel for the objectors, asked the witness to look into the file and answer the question. The witness, by way of a telephonic communication, got a confirmation that in the Police File, there is no record of any effort being made to record the statement of the accused under Section 164 of the Cr.P.C.

312. He denied the suggestions that, the persons mentioned as accused in charge-sheet filed in FIR No. 27/2022 of PS Peermitha, Jammu, have no connection with the Association. He denied that his testimony was hearsay, based on prejudice, and was irrelevant to the present proceedings. He denied that the persons who can testify have not been

deposed in order to prevent cross examination and further scrutiny. He further denied that he has not produced any material at all for supporting the contents of the para nos. 3 to 6, 10 and 11 of his affidavit. He denies that he has deposed falsely or he has produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

### **PW-27**

313. PW-27, Mr.Saheel Iqbal, Deputy Superintendent of Police, PS CIK/SIA, Kashmir, appeared and produced his affidavit exhibited as Ex.PW 27/A. The said witness deposed in respect of FIR no.14/2021 registered at PS CIK-SIA under Sections 497, 468, 120B of the IPC and Sections 13 and 38 of the Act [Ex.PW27/1] and its English translation is Marked as Mark 27/1A.

314. The witness in his evidence by way of affidavit has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by other witnesses in their evidence by way of affidavit in relation to the same.

315. The witness stated that regarding FIR NO.14/2021, on 09.12.2021, PS CIK-SIA, Srinagar, information was received regarding managing body of “*Jamiat-us-Sulihat*” Marhama (Institution) with several other members under a criminal conspiracy with officials of Revenue Department, have manipulated and forged revenue records, by which, a piece of land Kahchariae admeasuring 35 Kanals under a survey no 4683-min, situated at *Marhama, tehsil Bijbehra* was illegally and fraudulently transferred to “*Jamiat-us-Sulihat*” with dishonest intention of bestowing proprietary right to the institution, despite law on the subject specifically prohibiting it. “*Jamiat-us-Sulihat*” has been disclosed to be a proxy-institution of JeI-J&K, the Association was banned under the Act. JeI-J&K has already constructed a three-story building over the said land and two more buildings were in construction. The institution is imparting education to over 350 students with boarding and lodging facilities.

316. He mentions of further information being received, revealing that after establishment of this institution, a large area around *Marhama* village witnessed a rise in the terrorism and secessionism related agitation, arson and other unlawful/terrorist activities. With the active support of terrorist associations and members of JeI-J&K, the managing body of the institution have been covertly instigating and motivating local youth and students of the institution to support the ongoing secessionist cum terrorist programme with the institution. Pursuant to this information, FIR No. 14/2021 was registered at PS CIK SIA, Srinagar on 09.12.2021.

317. The witness stated that during investigation, statements of relevant witnesses were recorded under Section 161 of the Cr.P.C, which are exhibited as Ex.PW27/3, which corroborated the contents of the complaint. In pursuance of the complaint, a search was conducted, during which the Investigating Officer seized some records and articles, for which, seizure memos were prepared and are exhibited as Ex.PW27/4 and Ex.PW27/5.

318. In his cross-examination, the witness stated that he was the third Investigating Officer in FIR No.14/2021 PS CIK SIA, Srinagar, and upon being questioned about previous Investigating Officers, he stated that he has become the Investigating Officer of this FIR 4 months ago, and is not aware if the earlier Investigating Officers are still with J&K Police. He denied personally sending or presenting any report or requisition to the government or authorities asking for JeI-J&K to be declared as an Unlawful Association. He admitted to knowing that JeI-J&K had been declared an Unlawful Association in 2019, but denied knowing of any action that was taken on the Association being declared Unlawful in 2019.

319. Upon being questioned if he was aware whether the bye-laws of the *Jamiat-us-Sulihat Marhama* were seized during the investigation of the above FIR, the witness checked the records and answered that the bye laws were seized but the same were not filed along with his affidavit. He was further questioned regarding the said bye-laws, as to whether they reflected any connection between the *Jamiat-us-Sulihat* and JeI-J&K. The witness answered that as the investigation was ongoing, he cannot say anything about the same.

320. The witness stated that the *Lumberdar* is a civilian and is a part of the village. He did not know whether *Lumberdar* is appointed under the Jammu & Kashmir Lumberdari Act, 1972, or if he receives remuneration from the Government or holds office at the pleasure of the Government. The witness stated that the Chowkidar is a civilian and is a part of the village. He did not know whether Chowkidar is appointed under the Jammu & Kashmir Chowkidari Act, 1956, or if he receives remuneration from the Government or holds office at the pleasure of the Government. He further said he had no knowledge if either Lumbardar or Chowkidar are Public Servants.

321. The witness admitted that there was no document that would explicitly show that the persons named in the FIR were members of JeI-J&K, and he mentioned that the said case is under investigation.

322. The witness was asked if any effort was made to verify if the accused persons were members of JeI-J&K, to which he stated that the case is under investigation and they were trying to verify the same and he further mentioned that no membership register was recovered. Further, he admitted that it was correct that in the material produced before the Tribunal, there was no material to show the flow of funds to JeI-J&K and the case was still under investigation.

323. He denied the suggestions that, the persons mentioned as accused in FIR No. 14/2022 have no connection with the Association. He states that it is incorrect to suggest that chargesheet in this case has not been filed as there is no material to launch a prosecution. He denied that his testimony was hearsay, based on prejudice, and was irrelevant to the present proceedings. He denied that the persons who can testify have not been deposed in order to prevent cross-examination and further scrutiny. He further denied that he has not produced any material at all for supporting the contents of the para nos. 3 to 6, 10 and 11 of his affidavit. He denies that he has deposed falsely or he has produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

#### **PW-28**

324. PW-28, Mr.Mir Gulzar, Deputy Superintendent of Police, CID Counter Intelligence, Kashmir, appeared and produced his affidavit exhibited as Ex.PW 28/A. The said witness deposed in respect of FIR no.04/2023 registered at PS CID Counter Intelligence, Kashmir under Sections 11, 12, 13 and 39 of the Act [Ex.PW28/1] and its English translation is Marked as Mark 28/1A.

325. The witness his evidence by way of affidavit has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and has also reiterated the statements made by other witnesses in their evidence by way of affidavit in relation to the same.

326. The witness has stated that regarding the FIR No.4/2023, on 12.06.2023, PS CID Counter Intelligence received information from reliable sources that despite the ban declared on JeI-J&K by Government of India in 2019, there were certain individuals within the territory of Kashmir Zone who have been members of the JeI-J&K and are associated with its sympathizers and supporters, and these members are continuing their membership and are actively conducting, coordinating arranging and participating in the meetings called on behalf of JeI-J&K, for collecting financial aid, in form of 'Zakaat', 'Ushur' and various other forms of charities for the purpose of furthering the activities of JeI-J&K, and assisting in allied operations of JeI-J&K. The members were also managing properties owned by/held in the name of JeI-J&K, including but not limited to commercial establishments, residential places and vacant lands, etc., which are being used for Unlawful Activities by JeI-J&K.

327. The witness stated that during investigation, statement of material witnesses were recorded under Section 161 of the Cr.P.C and a mobile phone was seized by the Investigating Officer, for which a seizure memo was also prepared and is exhibited as Ex-PW28/4. The witness stated that the statements under Section 161 of the Cr.P.C. were also recorded, which are exhibited as Ex.PW28/2 and Ex.PW28/3.

328. In his cross-examination, the witness has stated that he has been the only Investigating Officer in the FIR No. 04/2023 from the beginning and he denied presenting any report or requisition to the Government of India asking for JeI-J&K to be declared as an Unlawful Association. He stated that the association was declared unlawful on 28.02.2019, and further stated that many FIRs were lodged in different districts but since he was not posted in the concerned department, he is not aware of any action that was taken against the Association post its declaration as unlawful.

329. On the suggestion being put to him that there was no material on record to show that members of the Association JeI-J&K have continued to function as an Association despite its declaration as an Unlawful Association, he denied the same and stated that the suggestion is incorrect. He admitted the fact that there was no material to show the collection of funds for or on behalf of JeI-J&K.

330. He further stated that it was incorrect to suggest that no chargesheet was filed in the FIR as there was no material to launch a prosecution. He denied that his testimony was hearsay, based on prejudice, and was irrelevant to the present proceedings. He denied that the persons who can testify have not been deposed in order to prevent cross-examination and further scrutiny. He further denied that he has not produced any material at all for supporting the contents of pages 2 to 4 and 6 to 8, Marked as Mark X to X and Mark Y to Y respectively. He denies that he has deposed falsely or he has produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

#### **PW-29**

331. PW-29, Mr.Sheikh Manzoor Qadir, Deputy Superintendent of Police, SIA Kashmir, appeared and produced his affidavit exhibited as Ex.PW 29/A. The said witness deposed in respect of FIR no.17/2019 registered at PS Batmaloo Counter Intelligence, Kashmir under Sections 11, 12, 13 and 39 of the Act [Ex.PW29/1] and its English translation is Marked as Mark 29/1A.

332. The witness in his evidence by way of affidavit has stated about the formation, ideology, and illegal activities carried out by the banned Association JeI-J&K and have also reiterated the statements made by the other witness in their evidence by way of affidavit in relation to the same.

333. The witness stated that regarding FIR No.17/2019, information was received on 01.03.2019, PS Batmaloo, Srinagar, from reliable sources that despite the ban being declared on JeI-J&K by the Government of India in 2019, there are several facilities/offices of the Association located within the jurisdiction of the said Police Station, where

members of the banned Association are carrying out unlawful activities and gathering financial assistance. Upon receipt of this information, the witness stated that the complaint was filed.

334. The witness stated that during investigation, statements of material witnesses were recorded under Section 161 of the Cr.P.C, which are marked as Ex.PW29/2 and Ex.PW29/3, which corroborate the contents of the complaint. In pursuance of the complaint, a search was conducted and the Investigating Officer of the case, seized some inventory from the office building of JeI-J&K along with some records, for which seizure memos were prepared and are exhibited as Ex.PW29/4. It is stated that the charge-sheet was filed in the said FIR before the competent Court, which is exhibited as Ex.PW29/5.

335. The witness stated that from the knowledge acquired by him during the course of his service and the case records, he can say that JeI-J&K and its leaders are encouraging and actively advocating cession, secession of territory of J&K from the India; inciting separatist groups; committing acts intended to disrupt the territorial integrity of India; promoting anti-national and separatist sentiments; spearheading secessionist movements; tacitly preaching the Kashmir separatist movement and he further stated that the Association had *Halqa* units in every locality, which collected donations in their respective Masjids/areas in the name of *Zakat/Sadka* and then deposit the amount so collected in the account in the name of *Baitul Maal* and out of the frozen accounts, one of the major accounts frozen, contained a balance of about 30.60 Lacs on 13.05.2019, that is, when it was frozen.

336. The witness further deposed that on the basis of oral and documentary evidence, a *prima facie* case for commission of offence punishable under Section 10 of the Act is made out against the 2 accused persons, namely (1) Ab. Salam Dagga (2) Mohd. Shafi Dar, against whom, chargesheet has been filed before NIA Court, Srinagar on 28.07.2023, exhibited as Ex.PW29/6.

337. In his cross-examination, the witness has stated that around three or four Investigating Officers have been assigned to this case, including him, but he was not sure whether the earlier Investigating Officers were still with the J&K Police. He stated that he has not personally presented any report or requisition to the Government of India asking for JeI-J&K to be declared as an Unlawful Association. He stated that he knew that the Association had been banned in 2019, but he was not aware if it was banned before 2019.

338. He admitted that it was correct that all material seized in the investigation of the said FIR was of a period prior to 28.02.2019. He stated that since he was not associated with the investigation around March 2019, so he cannot say if any member of the Association was present at the spot when the seizure under the seizure memo dated 07.03.2019 (Ex.PW29/4) was effected.

339. The witness admitted that it is correct that there is no material produced before the Tribunal in his affidavit which shows when and how the alleged subversive activities were carried out by the accused.

340. The attention of the witness was drawn to Mark PW29/1A and Ex.PW29/1 and regarding the same, he was questioned whether it was correct that Mark Ex.29/1 was not a true typed copy of Ex.PW29/1 to which the witness answered that it was correct. The witness was questioned whether it was correct that Ex.PW29/2 and Ex.PW29/3 did not bear a date, to which again the witness stated that it was correct that the above Exhibits were not bearing a date. The witness further admitted that it was correct that the statement of these two witnesses were not recorded under Section 164A of the Cr.P.C, as was then applicable in the State of J&K.

341. The witness was then questioned on whether it was correct that in Ex.PW29/5, there were various documents that found mention, which were not there in Ex.PW29/4, to which the witness answered that Ex.PW29/4 showed items like chairs, tables, etc., which were seized whereas, Ex.PW29/5 mentions the documents that were seized.

342. Upon being questioned about the seizure memos, the witness stated that he did not know if there were any seizure memos other than Ex.PW29/4 and Ex.PW29/5 in the investigation of the above FIR. The witness admitted that Ex.PW29/5 showed the documents taken from ASI Farooq Ahmad Mir, however, he could not say if there is a separate seizure memo by which ASI Farooq Ahmad Mir seized the said documents.

343. He denied that his testimony was hearsay, based on prejudice, and was irrelevant to the present proceedings. He denied that the persons who can testify have not been deposed in order to prevent cross examination and further scrutiny. He further denied that he has not produced any material at all for supporting the contents of the para nos. 3 to 6, 9 to 11 of his affidavit. He denies that he has deposed falsely or he has produced an incomplete and incorrect translation of the documents in order to prejudice the Tribunal.

### **PW-30**

344. PW-30, Mr. Rajesh Kumar Gupta, presently posted as Director (CT) in the Government of India, Ministry of Home Affairs, and produced evidence by way of Affidavit on behalf of the Central Government.

345. In his evidence by way of affidavit, he stated that the Notification No.S.O.924(E) dated 28<sup>th</sup> February, 2024 was issued by the Central Government based on information and material received from the Central Intelligence Agency, National Investigation Agency and Government of Union Territory of Jammu & Kashmir, regarding the

unlawful Activities of JeI-J&K. Based on the information by the same sources, a note was prepared for the consideration of the Cabinet Committee on Security (CCS) and along with it, a draft notification was also annexed and sent to Cabinet Secretariat. This was the position in the official records and was verified by him personally. After considering the same, the CCS took the decision and approved the proposal contained in the above note on 21<sup>st</sup> February, 2024 in a meeting, and a declaration to this effect was made accordingly, and published by the aforesaid Notification. He stated that this Tribunal was constituted as per the Act, and the Background Note was submitted to it in terms of Rule 5 of the Rules vide a letter dated 26.03.2024.

346. He stated that earlier as well, on the basis of unlawful Activities of JeI-J&K, the Central Government had declared JeI-J&K as an 'Unlawful Association' for 5 years on 28th February, 2019, *vide* Notification No. S.O. 1069(E) and the Unlawful Activities (Prevention) Tribunal that had been constituted to adjudicate if there was sufficient case for this declaration, also confirmed the Notification by its order dated 27th August 2019, which was published in the Gazette of India Notification No. S.O.3155(E) on 30<sup>th</sup> August, 2019.

347. He stated that there are various cases that have been registered by J&K Police and NIA which throw light on the unlawful and subversive Activities of JeI-J&K, and the same are already on record before this Tribunal. Moreover, in addition to the same, there are various intelligence inputs that show that JeI-J&K is continuing its unlawful activities, which include it being continuously indulging in activities of separation of J&K from the Union of India, and the same are prejudicial to the security and the interests of the country. It was only after considering all these facts, circumstances and evidences brought forth, JeI-J&K was banned under the Act. He further prayed that the ban may be affirmed by this Tribunal.

348. He states that all the intelligence reports/inputs as mentioned by him in his evidence by way of affidavit, are in the original file and the same is being submitted only for the perusal of this tribunal.

349. The Central Government sought privilege over the original file by relying on Section 123 of the Indian Evidence Act, 1872 read with Rule 3(2) and proviso to Rule 5 of the Rules, as the contents of the file are privileged and confidential in nature and disclosing the same to the banned Association or any third party would be against the Public Interest.

350. The learned counsel for the Objectors had raised an objection to the witness producing documents in the sealed cover. By relying on the Judgments in *Indira Nehru Gandhi v. Raj Narain & Anr.*, 1975 Supp SCC 1, *S.P. Gupta v. Union of India & Anr.* 1981 Supp SCC 87, *Madhyamam Broadcasting Ltd. v. Union of India*, 2023 SCC OnLine SC 366, as well as Rule 3 of Rules and Sections 3 and 4 of the Act, he submits that if the witness produces documents in a sealed cover, the tribunal also cannot rely on the same as it is violative of principle of natural justice. The learned counsel for the Central Government submitted that since the locus of the objector is yet to be decided by the Tribunal, the aforementioned issue cannot be agitated by the Objectors at the present stage.

351. This Tribunal after having a cursory reading of the two files produced in the sealed cover, decided that the said objection of the Objectors shall be dealt with at the stage of final adjudication.

352. He, PW-30, further stated that on the basis of cogent and irrefutable evidences that have been adduced by the Central Government till now, JeI-J&K is continuously encouraging terrorist activities and inciting people to bring about a secession of a part of the Indian territory from the Union. He further stated that the acts of JeI-J&K are intended to disrupt territorial integrity of India, promoting anti-national and separatist sentiments prejudicial to territorial integrity and sovereignty of India.

353. In his cross-examination, the witness stated that he is a Bachelor in Engineering and has been posted as the Director (CT), Ministry of Home Affairs, since October 2023 and prior to this, he was posted as OSD to Secretary, Telecom in the Department of Telecom, Ministry of Communication.

354. He stated that the note as was mentioned in paragraph 3 of his evidence by way of affidavit was prepared by his Section, and it includes his junior, Assistant Director and there are many officers senior to him in the Ministry. As the Director (CT), his function was to see that the Background Note and the Note for the Cabinet Committee on Security are properly prepared. Upon being asked what all constituted and accompanied the Note for Cabinet Committee on Security, he answered that he cannot divulge into the same fully, but can say that it included inputs from Intelligence and Investigation Agencies, from Government of UT of J&K and the draft notification, etc. He stated that in the hierarchy, at the relevant time, the positions senior to him were Additional Secretary (CTCR), Home Secretary and the Hon'ble Minister.

355. Upon being questioned about the note for CCS and all documents submitted therewith, the witness answered and admitted that it was correct that the abovesaid documents have already been submitted before this Tribunal in a sealed cover, and whatever material that could have been shared with the Objectors out of the material submitted to the CCS, has already been shared with the objectors as a part of the Background Note to the Reference.

356. The witness stated that there is no difference between the draft notification submitted to the CCS and the final Notification that is published.

357. As for the opinion of the Central Government regarding certain issues in the evidence by affidavit, the witness stated that the portion marked Y to Y is the opinion of the Central Government on why the Association be declared unlawful, and within Y to Y, was X to Y along with portion marked Z to Z, which represented the opinion of the Central Government on as to why the declaration should take immediate effect. He further added that A to A is also the opinion of the Central Government on the above. Other than these marked portions, there were Intelligence inputs and material received from NIA and Government of UT of J&K.

358. PW-30 further stated that, *inter alia*, grounds for declaring the Association as unlawful are marked as B to B and to give it immediate effect are marked from X to Y and A to A, which have already been marked in Ex.PW30/1.

359. Upon being questioned about whether the witness could provide the material received from the Government of Union Territory of J&K, the witness answered that it is a part of the sealed cover filed before this Tribunal, and whatever material that could be supplied to the Objectors, already forms a part of the Background Note. The witness stated that it was incorrect to suggest that the conclusions of facts on which the opinion is based are not contained in the Notification and it was also incorrect that from reading the Notification, one would be unable to understand the grounds on which the Government has formed its opinion.

360. The witness was questioned about the value of an FIR in law, to which he answered that it is in terms of the provisions of the Cr.P.C.. Further, he was questioned which precedents of the Supreme Court guided his discretion in preparing the Background Note and the Note for CCS, to which the witness answered that the Background Note was prepared in accordance with the provisions of Rule 5 of the Rules and the Note for CCS had been prepared as per the procedure. The said procedure was prescribed in a handbook which prescribes the procedure for preparation of Note for the Cabinet and Cabinet Committees. He further admitted that the said handbook prescribes the procedure for preparing any note, and is not just specifically confined to Note prepared under the Act, that goes to the Cabinet Committee.

361. Upon being questioned, what efforts were made to verify that the persons named in cases mentioned from B to B in the Background Note, were in any manner associated with JeI-J&K, to which the witness answered that this was as per the information received from the NIA and Government of UT of J&K.

362. The witness stated that he was aware that the Association has been declared unlawful in 2019 and even prior thereto. After the Association had been declared Unlawful in 2019, there were a number of criminal cases registered against the Association, the same are listed in the Notification. The witness stated that as he was not in the concerned department in 2019, he could not say if the Association's offices were sealed or if the records of the Association were seized post the Notification of 2019. The witness further stated that he was not aware if any offices of JeI-J&K were sealed post him taking charge as the Director (CT). He further mentions that if any action was taken, it must have been taken by the Government of UT of J&K. The witness could not say if any register of members of JeI-J&K was seized.

363. The witness stated that the Note was considered by CCS on 21.02.2024, and he was not the part of the meeting when CCS considered the Note. Further the witness stated that he could not say if any query was put by the Committee and, in fact, CCS had approved the proposal put up in the Note on the same day.

364. Upon being questioned if any cases mentioned from point B to B in the Background Note had resulted in the conviction of the accused persons therein, the witness had answered that in most of the cases, the chargesheet had been filed and they are pending trial; in around 30 of these cases, chargesheet was filed. Upon being questioned again regarding the cases mentioned from Point B to B, as to whether any person testified that he was a member of the Association committing an Unlawful Act, the witness answered that the officers concerned from NIA and the J&K Police have already deposed before this Tribunal and the records of the same are before this Tribunal.

365. The witness stated that in the first week of December 2023, they sought information from the Government of UT of J&K and other relevant Intelligence and Investigating Agencies regarding the activities of JeI-J&K amongst other things, post the earlier Notification, and the concerned communications form a part of the sealed cover.

366. The witness stated that it was incorrect to suggest that there was no material with the Central Government to indicate that any persons who were members of JeI-J&K had committed any unlawful activities. He denied that his testimony was hearsay, based on prejudice, and was irrelevant to the present proceedings. He denied that the persons who can testify have not been deposed in order to prevent cross-examination and further scrutiny. He further denied that he has not produced any material at all to support the contents of the para nos. 7 and 8, 12 to 14 of his affidavit.

## **ii. WITNESSES OF THE OBJECTORS**

### **RW1**

367. RW-1, Mr. Ghulam Qadir Lone, stated that he was a full-time member of the JeI-J&K since 1970, and was a member until it was declared unlawful on 28<sup>th</sup> February 2019. His affidavit of evidence is exhibited as Ex.RW1/A.

368. In his evidence by way of affidavit, he stated that he was appointed as *Ameer-e-Tehsil* of District Kupwara and Handwara in May 1970 and after that, he served as *Ameer-e-Tehsil*, Bandipora from April 1971 to April 1972, and

then served as *Ameer-e-Tehsil*, Sopore from May 1972 till it was declared unlawful in 1975. Post lifting of the declaration of being Unlawful, he was appointed as *Ameer-e-Tehsil*, Handwara and he remained so until 1982. Thereafter, he was appointed as *Ameer-e-Zilla* for district Kupwara. In December 1998, he joined the *Markaz* in Srinagar as Assistant General Secretary and retired in August 2018 as General Secretary. He stated that he was also a member of *Majlis-e-Shoora*, which was a Central Consultative body of the JeI-J&K. He was a candidate for Langate Constituency in the State Legislative Assembly Elections of 1982 as also 1987.

369. He states that he was aware that Mohammad Ramzan Naik, who was the General Secretary of JeI-J&K in 2019, had authorized Mr. Asad Ullah Mir to resist the declaration of the Association as unlawful by the Central Government by its Notification No. S.O. 1069(E) on 28.02.2019. He had also authorized Mr. Asad Ullah Mir, as attorney for JeI-J&K, to prosecute and/or defend proceedings before the High Court of Delhi or the Supreme Court in relation to the abovementioned declaration.

370. He further mentions executing a *Vakalatnama*, exhibited as Ex.RW1/1, as well as a power of attorney dated 03.08.2024 authorizing counsels to represent him in the proceedings before this Tribunal, exhibited as, Ex.RW1/2.

371. He stated being aware of Mr. Asad Ullah Mir, Mr. Gul Mohammad War, Mr. Shamim Ahmad Thokar, Mr. Shoaib Ahmad Chzor, Mr. Riyaz Ahmad Magray, Mr. Ghulam Mohammad Bhat, Mr. Mohammad Adbullah Wani and Mr. Sheikh Ghulam Hassan, having executed Special Power of Attorneys, as well as *vakalatnamas* in favour of counsels to appear before this Tribunal.

372. The Power of Attorneys executed by Mr. Sheikh Ghulam Hassan, Mr. Shoaib Ahmad Chzor, Mr. Riyaz Ahmad Magray, Mr. Ghulam Mohammad Bhat, Mr. Mohammad Adbullah Wani and Mr. Shamim Ahmad Thokar in favour of Mr. Asad Ullah Mir are exhibited as Ex.RW1/13 to Ex.RW1/18, respectively.

373. He states that Mr. Mir filed Objections/reply to the Show Cause Notice and on behalf of all the abovementioned persons who were members of the Association till it was declared unlawful in 2019, which is exhibited as Ex.RW1/3.

374. He states that JeI-J&K, since its inception in 1953 was set up only to spread the word of Islam, guided by its Constitution, exhibited as Ex.RW1/4, which has never supported violence, and moreover the Association has also participated in the democratic process, as it participated in Municipal, Panchayat and Lok Sabha elections, securing over 1 lac votes. In 1972, five members of the Association were elected as members of Legislative Assembly, in 1977 one member was elected to the Legislative Assembly, and thereafter, the members of Association have continued to contest the elections. The Association was initially declared unlawful after the emergency in 1975 as the Chief Minister of J&K, at that time, had the Central Government declared the Association unlawful as it was the only serious rival. After the election with the formation of the Government, the declaration was lifted.

375. He states that the elections to the State Legislature Assembly in 1987 were rigged, and goes on to say that it was only after 1987, the Association decided not to contest elections until there was a guarantee of free and fair elections. He stated that the notion that the Association supported militancy was completely unfounded and was a creation of persons with vested interests; and it was only due to this misconception that the Association was declared unlawful in March 1990. He states that at that time, the Association had not received any notice of having been declared unlawful or even a notice of Tribunal hearing, rather many of its members, including the witness, were placed in Preventive Detention. In 1997, the Preventive Detention order was quashed by High Court of J&K.

376. He states that the Association could not re-open its offices until 1997, that is, long after the declaration should have been expired, due to being victims of unawareness that the declaration, with time, expires. Due to the same, the Association was also subject to violence, owing to which they lost a few thousand of its members; and it was only in 1997, a few colleagues under the guidance of Ghulam Mohammed Bhat, began to revive the Association by creating awareness that the said declaration had expired.

377. On the Association resuming functioning in 1997, when Ghulam Mohammed Bhat was elected as *Ameer-e-Jamat*, it cleared its stand that the Association did not support violence, and he, on 14<sup>th</sup> November 1998, addressed a press conference along with other members of the Association, only to reiterate its commitment to democracy and that they had nothing to do with militancy or underground work. Ghulam Mohammed Bhat gave an interview to Srinagar News wherein he clarified that the Association had never been associated with *HuM*, let alone it being the Association's militant wing, the same is exhibited as Ex.RW1/5; and some senior party leaders have also been quoted saying that the party had a Constitution of its own which did not approve of terrorism or underground activities, the newspaper article whereof is exhibited as Ex.RW1/6.

378. He stated that in December 1998, he was appointed and took office as Assistant General Secretary of the Association. In and around that time, there was a rift between Mr. Syed Ali Shah Geelani, and Mr. Mohammad Ashraf Khan alias Sehrai, on one side, and the rest of the Association on the other side. A news article about the same titled 'JeI Splits, Sehrai challenges Ameer's decision' has been exhibited as Ex.RW1/7 and Ex.1/7A is the English translation thereof. The rift continued to grow and the aforesaid two members along with others, who shared their

ideologies, were suspended. The news article covering the suspension of these members is exhibited as Ex.RW1/8, and Ex.1/8A is the English translation thereof.

379. He stated that in 2002, there was a complete overhaul of the membership of the Association to separate the persons who might support militancy, extremism or other Constitutional means, and for this purpose, members were asked to sign an undertaking as well, which specifically bound themselves to certain clauses of the Constitution of the Association, the said undertaking is exhibited as Ex.RW1/9 and Ex.1/9A is the translation thereof.

380. He stated that in 2004, Mr.Geelani and Mr. Sehrai set up their own Association, being *Tehreek-e-Hurriyat*, and thereafter, the two were never associated with JeI-J&K. Thereafter, they have criticized the Association at every opportunity for not following their perspective. In 2006, before elections of the Association, JeI-J&K resolved that only the persons who were not a part of any other Association would be eligible to contest for elections. The circular of the Central Advisory Council JeI-J&K dated 08.04.2006 had been published in the newspaper Moomin in this regard; it is exhibited as Ex.RW1/10 and Ex.RW1/10A is the English translation thereof.

381. He stated that 1997 onwards, the office bearers of the Association had been in regular interaction with NHRC and also met with persons of importance, that is the Chairman of NHRC, and two Chief Justices. These continuous interactions resulted in a change in the perception of the Association among the Indian Government. He stated that though the leadership of the Association changed, but there was no change in their position with respect to it being a peaceful Association having no Association or relations with any militant groups, and not being in support of militancy, extremism or any other kind of unlawful activity.

382. He stated that what the Central Government had produced before this Tribunal, claiming as evidence against the Association, are just cases against entities that have no connection with the Association; the Central Government had rather tendered affidavits of persons fabricating and making conjectures against the Association; and further, no person has personal knowledge of any evidence that could actually implicate the Association.

383. He stated that FIR 10/2019 that was registered at Police Station Kralgund, under Sections 10, 13 of the Act was lodged against him on 04.03.2019, and the same is a completely false and fabricated case. He denied having committed any such acts, and mentions that he was granted bail in this case on 24.04.2019. He states that the Association ceased to exist post its declaration as unlawful. But he was preventively detained vide order dated 02.07.2017 and a dossier was given to his son after he was detained. The said dossier is exhibited as Ex.RW1/11. The said detention order was quashed by the J&K High Court vide its judgment dated 20.02.2020 passed in W.P.(Crl) 231/2109 titled *Ghulam Qadir Lone v. State of J&K and Anr.* The said judgment is exhibited as Ex.RW1/12.

384. In his cross-examination, upon being questioned about the status of his membership post the banning of the Association, he stated that there was no need to cancel his membership of the Association as it automatically stood dissolved. He stated that it was not possible for him to produce any document to show his membership since 1970, but having been detained by the Government twice under the Public Safety Act, claiming that he is a member of JeI-J&K, establishes the fact that Government knows that he had been a member of JeI-J&K.

385. Upon being questioned about the office bearers of JeI-J&K as on 28.02.2019, he stated that Mr.Abdul Hameed Fayaz was the Ameer-e-Jamaat; Mr.Mohd. Ramzan Naik, Secretary; Mr.Basheer Ahmed, Clerk; Mr.Farook Ahmed, Peon; and Mr.Mayoonudeen Ghazi, helper of Mr.Naik, and other than these, there were no other office bearers of JeI-J&K.

386. He stated that he was aware that the Notification banning JeI-J&K in 2019 was challenged, and Mr. Naik had given a power of attorney to Mr. Asad Ullah Mir, who had in turn gave the *Vakalatnama* to the counsel. He admitted that he did not file any objection against the Notification of 2019, but denied the suggestion that he did not have any objection against the Notification of 2019. He stated that as the Notification had been challenged by the Association, he did not deem it proper to challenge the same.

387. He stated that there was no formal communication from JeI-J&K about its ban to its members. He stated that the information about the ban became widely known through media channels.

388. He admitted that he did not witness Mr. Naik execute the power of attorney, but was informed by Ghulam Mohammad Bhat about the power of attorney being issued in favour of Mr. Asad Ullah Mir. The witness denied the suggestion that no such power of attorney existed and that is why the same was not produced by him.

389. The witness stated that post the ban in 2019, no membership drive happened.

390. The witness confirms that the special power of attorney documents mentioned in his affidavit were executed to challenge the ban, and that some signatures were made before him, while others were appended in front of Mr. Asad Ullah Mir, who was present in court at the time of this cross examination. The witness stated that he had also executed the Special Power of Attorney in favour of Mr.Asad Ullah Mir to represent him before the Tribunal, and it was signed the same day as with the persons mentioned in paragraphs 10 and 11 of the witnesses' affidavit. The witness did not remember the date of execution of the Power of Attorney.



391. He stated that Ghulam Mohammad Bhat, and Mohammad Abdullah Wani are residents of Srinagar. He stated that he was visiting Srinagar when they signed the Special Power of Attorney(s) together. The remaining Special power of attorney(s) were executed by Mr.Asad Ullah Mir, but not in the presence of the witness. The witness denied having signed the SPA executed by Ghulam Mohammad Bhat and Mohammad Abdullah Wani.

392. The witness affirmed that he had given his power of attorney in favour of Mr.Asad Ullah Mir on 03.08.2024, and Ghulam Mohammad Bhat and Mohammad Abdullah Wani had not signed their SPA(s) on the same date. The witness was shown his affidavit, but could not find the said document in it. The witness denied the suggestion that it was executed by him along with Ghulam Mohammad Bhat and Mohammad Abdullah Wani and that is why the same was not produced, or details thereof he could not recall.

393. Upon being asked who else apart from Ghulam Mohammad Bhat and Mohammad Abdullah Wani was with him when the SPA(s) were executed by them, he answered that Ghulam Mohammad Bhat and Mohammad Abdullah Wani were not together when the SPA(s) were signed; he first had gone to Ghulam Mohammad Bhat's house where, he signed his SPA, where, apart from him, only his son was present. Thereafter, he went to Mohammad Abdullah Wani's house where he signed his SPA, where, apart from him, only his daughter-in-law was present.

394. As the witness had first stated that he had executed his SPA in presence of Ghulam Mohammad Bhat and Mohammad Abdullah Wani, and later stated that they were not present at the same place together, he was questioned before whom did he execute his SPA, to which he answered that he had signed his SPA before Ghulam Mohammad Bhat, and thereafter carried the same to the house of Mohammad Abdullah Wani, to whom he informed of its execution, and later admitted that neither Ghulam Mohammad Bhat nor Mohammad Abdullah Wani had signed on the SPA. The witness denied the suggestion that his SPA did not bear the signatures of Ghulam Mohammad Bhat and Mohammad Abdullah Wani as it was not signed in front of them. The witness stated that he was carrying two pages each for SPA of Ghulam Mohammad Bhat and Mohammad Abdullah Wani, the said papers were prepared by Mr.Asad Ullah Mir, but the witness did not remember the date as to when Mr.Asad Ullah Mir called him to get signatures of Ghulam Mohammad Bhat and Mohammad Abdullah Wani on their SPA. The witness stated that after getting the signatures, he handed them to Mr.Asad Ullah Mir on the next day. The witness stated that he did not have a copy of the SPA dated 27.01.2020, which is mentioned in paragraph 7 of his affidavit.

395. The witness stated that the reply to the Show Cause Notice was filed by Mr.Asad Ullah Mir under his instruction, which was to engage a counsel. He denied having filed any opposition in his name. He stated that it was better to file the same in the name of the advocate. He stated that the objections filed were not signed by him. He admitted the suggestion that he had not authorized Mr.Asad Ullah Mir to file the objection.

396. Upon being questioned about the translation of the Constitution of JeI-J&K, he answered that they had a Constitution in both, Urdu and English. The witness stated that the Constitution of JeI-J&K professes the principles of *Iqamat-e-Deen*, which emphasizes righteousness without implying an Islamic governance system in India. He stated that while parts of Islamic principles are reflected in Indian law, such as the recent abolition of triple talaq, the Indian Constitution does not fully incorporate an Islamic system of governance. The witness was asked about the meaning of the word '*Jahiliyat*'. The witness describes '*Jahiliyat*' as something not aligned with any religion. It was pointed out that in the JeI-J&K Constitution, '*Jahiliya*' refers to un-Islamic practices without mentioning other religions explicitly, to which he admitted and stated that not everything needs to be written in the Constitution. He stated that it is correct that as per the Constitution, the decision of the Association is to be taken as per holy Quran and Sunnah, but further stated that as far as Muslims are concerned, the decisions will be taken as mentioned above, but in case of non-Muslims, others' wishes are taken into account. The witness was questioned where in the Constitution the same stated, to which he answered, there is no such Article about the same, but the Constitution gives certain guidelines, according to which the Majlis-e-Shoora decides, like in the Parliament. The witness was asked about the meaning of word '*Da'wah*', which he answered stating that in Arabic language it meant communicating one's thoughts to others. It was pointed out to him that in the Constitution of JeI-J&K, it was described as an invitation to Islam, to which the witness responded by stating that it means that 'I tell everyone to come to Islam, others also can say the same. He states that in the Constitution, there is no mention of a religion other than Islam'. He acknowledges that JeI-J&K Constitution advocates avoiding un-Islamic courts for internal disputes.

397. He stated that between September 2015 and August 2018, during his tenure as General Secretary, the Association was engaged in various charitable activities, including financial support for weddings, education, and disaster relief. He admitted that there were 145 FIRs against the Association in this time period, he, however, despite several FIRs registered against members during this period. The witness maintained these allegations were false or fabricated, with one FIR against him registered in 1994 and being dismissed by the court in 2002. He admitted that there was one other FIR registered in 2019 which is presently pending in Court.

398. The witness recounted that the funds raised by the Association, estimated to be around Rs.2 lakhs during his tenure, were used for charitable purposes, including for support of families in need. He stated that the distribution of funds was managed through district offices based on assessed requirements.

399. On being questioned if there was any clause showing that JeI-J&K treats all religions, sects, castes equally; the witness answered that in the Constitution of JeI-J&K, there is no such provision which is contrary to the Constitution of India. The attention of the witness was drawn to Article 4 of the Constitution of JeI-J&K, to which he stated that members of the Association shall recognize only Allah. The witness admitted that members of JeI-J&K shall follow and recognize only Allah.

400. The witness admitted that it was correct that a member of JeI-J&K cannot be a member of any other Association. On being asked if any person was removed from the membership of the Association for being a member of other Association, he answered that Syed Ali Shah Geelani, formed a separate Association, namely '*Tehreek-e-Hurriyat*', and along with him four to five other persons were also removed from the membership. The witness did not remember the year in which they were removed; he stated it could have been between 2003-2006. The witness stated that post their removal from being members, they were informed in writing but no conference in this regard was held. He stated that a press conference could not be held as Abdul Razak Mir, who was a member of the Association, had refused to resign from the assembly in spite of a call by Mr. Geelani for the same, and he was later shot. The witness admitted that apart from writing a letter to Mr. Geelani, no other action was taken to show that he was no longer a member of JeI-J&K. He stated that the removal of Mr. Geelani was communicated to other members of the Association by word of mouth, as also in writing. The witness stated that once Mr. Geelani had formed his own Association, the Association had no dealings or connection with him.

401. On being questioned about other members of the Association formed by Mr. Geelani, the witness answered that there was one Mr. Mohammad Ashraf Khan Sehra, and Advocate Hasamuddin; he did not remember the others.

402. The witness was confronted with photocopy of Notification dated 19.12.2022 issued by the Distt. Magistrate, Srinagar [Mark RW1/X].

403. It was put to the witness that till 2022, the Association's property was registered in the name of Mr. Geelani, and it was suggested that the statement of witness regarding not having any connection post 2003-2006 was false. The witness answered that when Mr. Geelani was associated with the Association, certain properties were bought in his name, and after his removal, he was asked to transfer the properties in the Association's name, but Mr. Geelani refused.

404. The witness stated that the only qualification for being appointed as Secretary of the Association is that the President of the Association must be of the opinion that such person can work with him, and the agreement of the *Majlis-e-Shoora* is required.

405. The witness could not remember the clause of the Constitution of the Association wherein it was stated that a member shall be removed in case he joined another Association. He stated that any member of JeI-J&K can work with another Association with the permission of JeI-J&K, provided such other Association is doing good work. The witness admitted that the same was not mentioned in the Association's membership form or the Constitution. He states that mentioning everything in the Constitution would make it very lengthy.

406. The attention of witness was drawn to Ex.RW1/7, Ex.RW1/7A, Ex.RW1/8 and Ex.RW/18A (News articles), and was asked that as he had previously stated that no press conference or press statement was held/issued regarding removal Mr. Geelani and Mr. Sehrai, but the said exhibits show to the contrary. The witness reconciled by stating that his previous statement was only regarding Mr. Geelani, whereas the articles exhibited are about Mr. Sehrai and Mr. Hisam-ud-din.

407. The witness stated that it was correct that he did not have any record of membership of Mr. Asad Ullah Mir in the JeI-J&K. He further stated that Mr. Asad Ullah Mir has represented the Association before NHRC and has also remained in jail in the name of the Association and he has been a member for many years. The witness stated that in 2019, Mr. Asad Ullah Mir was authorized by General Secretary of the Association, and for 2024, the witness has authorized Mr. Asad Ullah Mir to challenge the Notification.

408. The witness was asked if he was in contact with Mr. Abdul Hameed Fayaz, Mr. Mohammad Ramzan Naik, Mr. Farooq Ahmed, Mr. Mayoodeen Ghazi, Mr. Farooq Ahmed Shah, Mr. Mukhtar Ahmed Waza, Mr. Mohammad Yaseen Dar or Mr. Abdul Rasheed Malik, to which the witness said he was not, and that he was in contact with Mr. Basheer Ahmed. The witness was also questioned whether he knew Mr. Abdul Jabbar, resident of Kupwara, to which he answered in negative, although he stated that he knew one Abdul Jabbar, who was a resident of Shumnag.

409. The witness stated that persons belonging to other religions can also take membership of the Association, provided that they must subscribe to the core values of the Association. The witness stated that the Association did not provide any legal support to any of the persons who were accused in the FIRs registered between 2016-2018, being the members of the Association. He stated that he has not continued with the objectives of the Association post its ban in 2019.

**RW-02**

410. RW-02, Mohammad Ashraf Wani, resident of Namithal Chadoora, Budgam, Kashmir produced his evidence by way of affidavit, exhibited as Ex.RW2/A, and stated that he was a member of JeI-J&K till it was declared unlawful on 28.02.2019. He stated that, he received a notice on 05.05.2024, stating that the Central Government has again declared JeI-J&K as an unlawful Association *vide* Notification dated 27.02.2024.

411. He further states that he had executed an SPA dated 15.05.2024, authorizing Mr.Asad Ullah Mir, who was a member of JeI-J&K until it was declared unlawful and was 'Incharge of Legal Cell of JeI-J&K from 1998 to 2008', to represent him in these proceedings. The same was executed before Gousia Jan, Advocate and Notary Public in Jammu and Kashmir High Court, Srinagar in presence of witnesses.

412. He stated that he submitted an affidavit in support of the Statement of objections/reply filed on behalf of Mr.Asad Ullah Mir and other members of the JeI-J&K dated 11.06.2024, and also executed a *Vakalatnama* appointing counsels to represent him and other objectors before this Tribunal, both of which were executed before Gh.Qadir Rather, Advocate and Notary Public. He ratifies all steps taken by Mr.Asad Ullah Mir in the present proceedings.

413. In his cross-examination, he stated the phone number that he was using and denied using any email. He stated that he came to know of the notification on 05.05.2024, when his brother received a notice with the notification attached and informed him.

414. He stated that he does not remember as to when he came to know of the Constitution of this Tribunal. He admitted to knowing about the hearings of this Tribunal being held at Srinagar, but does not remember the dates thereof. He further states that he doesn't know where the hearings of this Tribunal were held at Srinagar. He stated that he does not know if the authority of Mr.Asad Ullah Mir to challenge the Notification was challenged by the Central Government before this Tribunal. He denied that he had signed all the documents only thereafter. He stated that upon receiving the notice, he met Mr. Asad Ullah Mir and gave him the power of attorney.

**RW-03**

415. RW-03, Gul Mohammad War, resident of Manigam Lar Ganderbal, Kashmir, produced his evidence by way of affidavit, exhibited as Ex.RW3/A, and stated that that he was a member of JeI-J&K till it was declared unlawful on 28.02.2019. He stated that he received a notice on 05.05.2024 that the Central Government has again declared JeI-J&K as an Unlawful Association *vide* Notification dated 27.02.2024.

416. He further stated that he had executed an SPA dated 15.05.2024, authorizing Mr.Asad Ullah Mir, who was a member of JeI-J&K until it was declared unlawful and was 'Incharge of Legal Cell of JeI-J&K from 1998 to 2008', to represent him in these proceedings. He states that the same was executed before Gousia Jan, Advocate and Notary Public in Jammu and Kashmir High Court, Srinagar in presence of witnesses.

417. He further stated that he submitted an affidavit in support of the Statement of objections/reply filed on behalf of Mr.Asad Ullah Mir and other members of the JeI-J&K, dated 11.06.2024, and also executed a *Vakalatnama* appointing counsels to represent him and other objectors before this Tribunal, both of which were executed before Sofia Muzamil, Advocate and Notary Public. He ratifies all steps taken by Mr.Asad Ullah Mir in the present proceedings.

418. In his cross examination, he stated his mobile number and denied having any email account. He stated that he was running a garment shop and did not have any connection with Hotel Glacier. He further stated that he does not have any membership card or any other document with him to evidence that he was a member of JeI-J&K, but he relied on the fact that he received a notice issued for the ban and stated that this showed that he was a member of the banned Association. He stated that he received the notice on 05.05.2024, and he came to know of the extension of the ban only through the notice, which was pasted on the wall of his house by the police. He stated that the notice was of only one page, and he does not remember if the details of the Tribunal were given in the notice; he only remembered that the Tribunal will sit at Delhi. He further stated that he came to know about the constitution of this Tribunal through the said notice. He admitted to knowing that the Tribunal held its hearings at Srinagar, but not when or where were the said hearings held. He stated that he does not know if Mohammed Ashraf Wani (RW2) has attended any hearing of the Tribunal before today. He stated that he has studied till matriculation and can read a write a little bit of English, and had instructed Mr. Ghousia Jan, Advocate to prepare the affidavit.

**RW-04**

419. RW-04, Shoaib Ahmad Chzor, resident of Sangri Colony, Baramulla, Kashmir, produced his evidence by way of affidavit, exhibited as Ex.RW4/A, and stated that he was a member of JeI-J&K till it was declared unlawful on 28.02.2019 and that he received a notice on 05.05.2024 that the Central Government has again declared JeI-J&K as an Unlawful Association *vide* Notification dated 27.02.2024.

420. He further stated that he had executed an SPA dated 10.06.2024, authorizing Mr.Asad Ullah Mir, who was a member of JeI-J&K until it was declared unlawful and was 'Incharge of Legal Cell of JeI-J&K from 1998 to 2008', to

represent him in these proceedings. The same was executed before Abdul Wadood Mir, Advocate and Notary Public, District Baramulla, Kashmir, in presence of witnesses.

421. He further stated that he submitted an affidavit in support of the Statement of objections/reply filed on behalf of Mr.Asad Ullah Mir and other members of the JeI-J&K, dated 11.06.2024, and also executed a *Vakalatnama* appointing counsels to represent him and other objectors before this Tribunal, both of which were executed before Abdul Wadood Mir, Advocate and Notary Public, District Baramulla, Kashmir. He ratifies all steps taken by Mr.Asad Ullah Mir in the present proceedings.

422. In his cross examination, he stated his mobile number and two email addresses. He stated that he runs a tea shop at Baramulla and is presently pursuing M.A in Islamic Studies. He stated that the police came to his shop on 05.05.2024 and gave a notice to his brother informing him that JeI-J&K was banned and that they had the option to initiate proceedings against the same, if so desired. He stated that he was not sure how many pages were in the notice; he estimated, there must have been 2-3 pages. He admitted that apart from the notice, he had not seen any other document regarding the ban. He stated that he does not remember when he came to know of this Tribunal being constituted. He admitted that he had personally not gone to the Tribunal constituted pursuant to the ban of JeI-J&K in 2019.

423. The witness was asked what was the difference between the ban imposed on JeI-J&K in 2019 and the one imposed in 2024, which forced him to come to the Tribunal. The witness answered that he had come to the Tribunal to state that he had authorized Mr.Asad Ullah Mir to represent him in the Tribunal.

424. He admits to knowing that the Tribunal has had sittings in Srinagar, however, he does not know when or where these proceedings were held or what transpired in these hearings.

425. The witness stated that the notice was received by him on 05.05.2024 and the Power of Attorney was given by him on 10.06.2024, which was sent to Mr.Shamim, who in turn gave it to Mr. Asad Ullah Mir.

426. He stated that his evidence by way of affidavit was prepared in the Delhi High Court premises, on his instructions. The Aadhaar card of the witness was produced on the asking of the learned counsel for the Central Government and a copy thereof was marked as Mark RW4/X.

427. He admitted that it was correct to say that he had not appeared before the Tribunal hearing challenging the ban of 2019 as no one had challenged the authority of Mr.Asad Ullah Mir. He stated that he had not seen membership card or any other document showing Mr.Asad Ullah Mir to be a member of JeI-J&K.

#### **RW-05**

428. Shamim Ahmed Thoker, resident of Thokerpara Pulwama, Kashmir, produced his evidence by way of affidavit, exhibited as Ex.RW5/A, and stated that he was a member of JeI-J&K till it was declared unlawful on 28.02.2019 and that he received a notice on 25.05.2024 that the Central Government has again declared JeI-J&K as an Unlawful Association vide Notification dated 27.02.2024.

429. He further stated that he had executed an SPA dated 10.06.2024, authorizing Mr.Asad Ullah Mir, who was a member of JeI-J&K until it was declared unlawful, and was 'Incharge of Legal Cell of JeI-J&K from 1998 to 2008', to represent him in these proceedings. The same was executed before Mir Shakeel, Advocate and Notary Public, Pulwama, Kashmir.

430. He further stated that he submitted an affidavit in support of the Statement of objections/reply filed on behalf of Mr.Asad Ullah Mir and other members of the JeI-J&K, dated 11.06.2024, and also executed a *Vakalatnama* appointing counsels to represent him and other objectors before this Tribunal, both of which were executed before Mir Shakeel, Advocate and Notary Public, Pulwama, Kashmir. He ratifies all steps taken by Mr.Asad Ullah Mir in the present proceedings.

431. In his cross examination, the witness mentioned the mobile number and the email account that he is using. He stated that he has done B.Ed and his last posting was that of a teacher at GUPS at Thokerpura, Pulwama, from where he resigned on 12.04.2024.

432. He stated that he learnt of the ban on JeI-J&K from social media and thereafter, he received a notice regarding the same. He clarified that he did not receive a notice personally, but police gave the notice to his uncle on 25.04.2024, clicked a picture of them handing the notice, and took it away, and for this reason, he could not state how many pages were in the notice. The police just mentioned that JeI-J&K has been banned and they can challenge the same before the court. He stated that he tried to enquire about the Tribunal's proceedings as he knew that a similar Tribunal had been constituted regarding the ban of the Association in 2019. He stated that though there was no embargo on him personally appearing before this Tribunal, he appointed Mr.Asad Ullah Mir to appear, as Mr.Mir had earlier also appeared before the Tribunal and he knew how to proceed in these matters.

433. On being asked where the witness' affidavit was prepared, he answered, after taking considerable time that the same was prepared in the High Court of Delhi. He stated that the affidavit was got prepared by him, and he went

through the affidavit before signing it. He stated that he has signed only at two places on his affidavit and nowhere else.

434. With the above, the learned counsel for the Central Government and the learned counsel for the Objectors submitted that they do not wish to lead any further evidence. Therefore, the final hearing of their submissions was commenced.

## V. SUBMISSIONS OF THE PARTIES

### Submissions of Ms.Aishwarya Bhati, Learned ASG for the Central Government

435. Ms.Aishwarya Bhati, the learned ASG, at the outset, submits that the following FIRs that find mention in the Annexure-II to the Brief Background Note, are not being relied upon in support of the Notification in question:

S.NO	<u>FIR Nos. dropped from the Background Note</u>	<u>Police Station</u>
1.	31/2019	Baramulla
2.	14/2019	Tral
3.	19/2019	Banihal
4.	91/2019	Rajouri
5.	27/2019	Kishtwar
6.	27/2022	Peermitha

436. The learned ASG challenges the locus of the objectors to file the objections to the subject Notification. She submits that the statement of the objections/reply to notice to show cause has been filed by Mr.Asad Ullah Mir. Mr.Asad Ullah Mir has, however, not deposed before this Tribunal. She submits that though Mr.Asad Ullah Mir states that he had joined JeI-J&K in 1980 and remained a member thereof till it was declared unlawful in 2019, he has also not filed any documents in support of the said assertion. She submits that, in fact, while challenging the earlier Notification of 2019, he had claimed his authority to file a Writ Petition challenging the confirmation of the ban on the Association, through a purported authority of a purported General Secretary of the Association, Mr.Mohammed Ramzan Naik. The same was challenged by the Central Government even at that stage and the said challenge is pending adjudication before the High Court in Writ Petition filed by Mr.Asad Ullah Mir. She submits that it is only later, in the present proceedings, that the affidavits on behalf of the other persons, claiming themselves to be members of the Association, were filed by the Objectors. She submits that the same can also not be considered by this Tribunal as these persons did not file their affidavits in support of the objections. The verification statement is also not by them. There is, therefore, non-compliance with provision of Order VI Rule 15 of the Code of Civil Procedure, 1908 (in short, 'CPC'). She submits that therefore, objections filed to the Notification cannot be considered by this Tribunal.

437. She submits that the very entry of Mr.Asad Ullah Mir in the present proceedings is fraudulent, as he had first represented that he is entering appearance only on his own behalf and as a member of the Association. It is only later that he claimed to be only an attorney of others. She submits that once the foundation goes, the consequential proceedings must fail. She places reliance on the judgments in *Nazir Ahmad v. King Emperor*, AIR 1936 PC 253 and *State of Punjab v. Davinder Pal Singh Bhullar*, (2011) 14 SCC 770.

438. Placing reliance on Section 3 of the Act, she submits that where the Central Government is of the opinion that any Association is, or has become an "Unlawful Association", it may declare such Association to be unlawful. The term "Unlawful Association" has been defined in Section 2(1)(o) of the Act and means any action taken by an individual or Association which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of Union of India, or which incites any individual or group of individuals to bring about such cession or secession or which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India.

439. She submits that Section 2(1)(p) of the Act defines the terms of unlawful Association as an Association which has, for its object, any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity or which has for its object, any activity which is punishable under Section 153A or Section 153B of the IPC or which encourages or aids persons to undertake any such activity, or of which the members undertake such activity. She submits that by virtue of Clause 2(5) of the Jammu and Kashmir Reorganisation (Removal of Difficulties) Order, 2019, Section 2(p)(ii) of the Act shall also be applicable in the UT of J&K.

440. She makes extensive reference to the Brief Background Note and the history of the Association, its earlier ban, and the steps taken by the Central Government, including receiving inputs from Intelligence Agencies regarding activities of JeI-J&K, and preparation of note for consideration of the Cabinet Committee on Security, the decision of CCS, etc.

441. She submits that in the present case, in the Brief Background Note attached to the Notification, reference was made to 47 FIRs/criminal cases against the members of JeI-J&K. Out of these six have been dropped, while FIR No.30/2019, PS Handwara was added after strict scrutiny and verification. She states that in 29 cases, charge-sheet stands filed before the Competent Court. In 2 cases, charges have also been framed and trial has begun. Till date, in none of the FIRs that have been relied upon, the accused have been discharged or acquitted. Some of the witnesses who have deposed on behalf of the Objectors are, in fact, also named in some of the FIRs as an accused. She submits that these criminal cases would show that the Association and its members have indulged in unlawful activities as defined in the Act and therefore, the Association has rightly been declared as an Unlawful Association. She submits that the Central Government has produced 30 witnesses in support of its claim that JeI-J&K has been rightly declared as an Unlawful Association. The witnesses produced by the Central Government, the documents and materials seized in the investigation, and the statements of the witnesses recorded during the course of the investigation of these FIRs, all support the imposition of ban on JeI-J&K. She gives a gist of the evidence so produced in the form of a chart which, for ready reference, is reproduced herein below:

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
1.	<b>PW-01</b> <b>Sh. Mohammad Aftab Awam, Sub Divisional Police Officer, Magam</b>	<i>On 01.03.2019, Police Station Magam received a reliable information that local offices and institutions of the banned organization are located in the jurisdiction of Police station Magam where the members are utilizing resources to carry out illegal activities which are harmful to the integrity and sovereignty of the nation.</i>	<i>FIR No. 17/2019 dated 01.03.2019 under section 10, 11 &amp; 13 of UA(P) Act, PS Magam</i>	<b>PW-1/A-</b> Copy of affidavit of evidence.  <b>PW-1/X</b> Authority letter dated 19.06.2024  <b>PW-1/I</b> Copy of FIR No 17/2019  <b>PW-1/2 to 1/4 –</b> Copies of statements of three witnesses recorded under Section 161 Cr.P.C  <b>PW-1/1A to 1/4A – Translated</b> Copy of FIR no. 17/2019, copies of statements of witnesses recorded under Section 161 Cr.P.C	Statements of witnesses recorded u/s 161 Cr.P.C.	Under Investigation
		<i>On 01.03.2019, Police Station Beerwa received a reliable information that local offices and institutions of the banned organization are located in the jurisdiction of Police station Beerwah, where the members are utilizing resources to carry out illegal activities which are harmful to the integrity and sovereignty of the nation.</i>	<i>FIR No. 24/2019 dated 01.03.2019 Under section 10, 11 &amp; 13 of UAPA P.S. Beerwah</i>	<b>PW-1/5</b> Copy of FIR No 24/2019  <b>PW-1/6 to 1/10 –</b> Copy of Charge Sheet, copies of statements of witnesses recorded under Section 161 Cr.P.C and copy of Seizure Memo dated 01.03.2019	Statements of witnesses recorded u/s 161 and 164 Cr.P.C	Under Trial- at evidence stage

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
				<u>PW-1/5A to 1/10A – Translated</u> Copy of FIR no. 24/2019 Copy of Charge Sheet, copies of statements of witnesses recorded under Section 161 Cr.P.C and copy of Seizure Memo dated 01.03.2019		
		on 01.03.2019, Police Station Khag received a reliable information that local offices and institutions of the banned organization are located in the jurisdiction of Police station Khag, where the members are utilizing resources to carry out illegal activities which are harmful to the integrity and sovereignty of the nation.	FIR No. 09/2019 dated 01.03.2019 under Section 10, 11 & 13 of UA (P) Act, PS Khag.	<u>PW-1/11</u> Copy of FIR No 09/2019  <u>PW-1/12 to 1/16 –</u> Copies of statements of five witnesses recorded under Section 161/164A Cr.P.C  <u>PW-1/11A to 1/16A – Translated</u> Copy of FIR no. 17/2019 and copies of statements of witnesses recorded under Section 161/164-A Cr.P.C	Statements of witnesses recorded u/s 161/164A Cr.P.C	Under Investigation
2.	<b>PW-02</b> <b>Sh. Sajad Ahmad,</b> Sub-Divisional Police Officer, Qazigund	The members of banned organisation Jamaat-e-Islami namely (1) Sajad Ahmad Naikoo S/o Habibullah and (2) Mohd Yusuf Tantray S/o Mond Jabar, both residents of R/o KarlooKundare in close contact with terrorist organisations and providing assistance to them. These members affiliated with JEI are causing disaffection among the youth of the area against Govt. of India/J&K and are inciting them to continue so called struggle for freedom and these members of Jel have organised and conducted special meetings in the area where under they have managed collection of funds for advancing terrorist activities in the area and they are also utilising these funds for advancing terrorist and for publication of joint advertisements with respect to banned terrorist organisation HM and unlawful Association JEI against India through posters and journals etc. It was also disclosed that activities of the members of JEI has disrupted the peace and tranquillity within the jurisdiction of the said Police Station.	FIR No. 03/2019 dated 01.03.2019 under Section 10 and 13 of UA (P) Act, PS Kund	<u>PW-2/X</u> Authority letter dated 19.06.2024  <u>PW-2/A-</u> copy of affidavit of evidence.  <u>PW-2/1-</u> Copy of FIR No. 03/2019  <u>PW-2/2 to PW-2/4-</u> Copy of the chargesheet,, statements recorded u/s 161 Cr.P.C.  <u>PW-2/1A to 2/4A-</u> Translated Copy of the FIR, chargesheet, statements of two witnesses recorded u/s 161 Cr.P.C.,	Statement recorded under u/s 161 Cr.P.C. of witnesses	Under Trial- at evidence stage



<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposited by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
		That on 01.03.2019, Police Station Devsar received reliable information to the effect that members of banned organization Jamaat-e-Islami namely (1) Mohammad Akram Baba S/o Gh Mohd Baba R/o Devsar (2) Mohammad Jamal Wagay S/o Mohd Ismail Wagay R/o Malwan and (3) Mohd Hussain Sheikh S/o Mohd Ahsan Sheikh R/o Chandergee are in touch with the terrorist organisation Hizb-ul-Mujahedeen outfit and providing them financial and logistical help. These members are provoking the youth of the area to work for secession of Jammu & Kashmir from the Union of India and encouraging them to undertake anti-national activities which poses a threat to the integrity and sovereignty of India. It was also disclosed in the information that these members of Jel are organizing various meetings to collect funds to provide support to the terrorist organization Hizb-ul-Mujahedeen outfit and providing them financial and logistical help.	FIR No. 12/2019 dated 01.03.2019 under Section 10 and 13 of UA (P) Act, PS Devsaron	.  <u>PW-2/5</u> -Copy of FIR No. 03/2019  <u>PW-2/6 to PW-2/8</u> - Copy of the chargesheet, statements recorded u/s 161 Cr.P.C.  <u>PW-2/5A to 2/8A</u> - Translated Copy of the FIR, chargesheet, statements of two witnesses recorded u/s 161 Cr.P.C.,	Statement recorded under u/s 161 Cr.P.C. of witnesses	Under Trial- at evidence stage
		That on 01.03.2019, Police Station Qazigund received reliable information disclosing that in the jurisdiction of the said Police Station, some activists of banned organization Jamaat-e-Islami namely (1) Mohammad Shaban Shah S/o Mohammad Ramazan Shah R/o Babapora and (2) Sajad Ahmad Mir S/o Bashir Ahmad Mir R/o Bahama have connections with militants and aiding them. These members are advising the youth of the area against the integrity and sovereignty of India and motivating them to continue their propaganda of freedom against the Govt of India/ UT of J&K and these members of Jel are organizing special meetings for the purpose of collecting funds to provide support to the terrorist organization Hizb-ul-Mujahedeen outfit and using these funds for illegal activities.	FIR No. 27/2019 dated 01.03.2019 under Section 10 and 13 of UA (P) Act, PS Qazigund	<u>PW-2/9</u> -Copy of FIR No. 03/2019  <u>PW-2/10 to PW-2/12</u> - Copy of the chargesheet, statements of two witnesses recorded u/s 161 Cr.P.C.  <u>PW-2/9A to 2/12A</u> -Translated Copy of the FIR, copy of the chargesheet, statements of two witnesses recorded u/s 161 Cr.P.C.	Statement recorded under u/s 161 Cr.P.C. of witnesses	Under Trial- at evidence stage
3.	<b>PW-3</b> <b>Sh. Daljeet Singh, Sub-Divisional Police Officer, DH Pora</b>	That on 01.03.2019, Police Station Manzgam received reliable information disclosing that long standing members of banned organization Jamaat-e-Islami namely (1) Zeenat-ul-Islam Magray S/o Ab Waheed Magray R/o Watoo (2) Imtiyaz Ahmad Parray S/o Gh Mohiuddin Parray R/o KB Pora and (3) Mohd Sikander Lone S/o Ab Gani Lone R/o Mirwani are in close contact with terrorist organisations and providing assistance to them. These members affiliated with JEL are holding meetings, majalis and are indulging in activities which disrupt the peace and tranquillity of the area. These members are also provoking the youth of the area against	FIR No. 04/2019 dated 01.03.2019 under Section 10 and 13 of UA (P) Act, PS Manzgam	<u>PW-3/X</u> - Authority Letter dated 19.06.2024  <u>PW-3/A</u> - copy of affidavit of evidence.  <u>PW-3/1 to PW3/5</u> - Copy of FIR No. 04/2019, Chargesheet and copies of statements of two witnesses recorded under Section 161/ 164	Statements of witnesses recorded u/s 161/164 Cr.P.C.	Under Trial



<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposited by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
		Govt. of India/ J&K causing disgrace to the national integrity and sovereignty of India.		Cr.P.C  <b>PW-3/1A to PW3/5A</b> – Translated copy of FIR No. 04/2019, Chargesheet and copies of statements of two witnesses recorded under Section 161/164 Cr.P.C		
		That on 01.03.2019, Police Station D.H. received information from reliable sources that some members of banned organization Jamaat-e-Islami namely (1) Fayaz Ahmad Itoo S/o Gh Nabi Itoo R/o Pombay and (2) Reyaz Ahamd Naik S/o Ab Khalik Naik R/o Chimmer in collaboration with terrorist organisation are providing logistic help to the terrorists. These members of banned organization are spreading hatred among the youth of the area against the Govt. of India/J&K and inciting the common masses to struggle hard for Azadi. It was also disclosed in the information that these members of Jel are organizing various meetings within the jurisdiction of the said police station to prepare and execute anti-national propaganda and collecting funds to provide support to the terrorist organization Hizb-ul-Mujahadeen outfit.	FIR No. 09/2019 dated 01.03.2019 under Sections 10 & 10 of 13 of the UA (P) Act. PS D.H. Pora	<b>PW-3/6 to PW3/10</b> - Copy of FIR No. 09/2019, Chargesheet and copies of statements of two witnesses recorded under Section 161/164A Cr.P.C  <b>PW-3/6A to PW3/10A</b> – Translated copy of FIR No. 09/2019, Chargesheet and copies of statements of two witnesses recorded under Section 161/164A Cr.P.C	Statement recorded under u/s 161 & 164 Cr.P.C. of witnesses	Under Trial- on charges
4.	<b>PW-4 Sh. Satish Kumar</b> , Sub-Divisional Police Officer, Handwara	That on 01.03.2019, Police Station Handwara received a letter from DPO Handwara vide no. CRB/ULA(P) / 19-3479-83 which revealed that despite the ban on Jel and restrictions being imposed on its activities, one significant member of Jel namely Gh Rasool War S/o Assadullah War R/o Kulangam is undertaking activities which are prejudicial to the unity and integrity of India and the State of J&K.	FIR No. 29/2019 dated 02.03.2019 under Section 10 & 13 of the UA (P) Act PS Handwara	<b>PW- 4/X</b> Authority Letter dated 19.06.2024 <b>PW-4/A</b> –Affidavit of evidence  <b>PW-4/1</b> -Copy of FIR No. 29/2019 dated 02.03.2019 <b>PW-4/2</b> copy of statement of ASI Gh. Mohammad dated 25.03.2019 recorded under Section 161/162 Cr.P.C  <b>PW-4/1A to 4/2A</b> Translation Copy of FIR No. 29/2019 and copy of statement of ASI Gh. Mohammad dated 25.03.2019 recorded under	Statements of witnesses recorded u/s 161/162/164A Cr.P.C.	Under Investigation

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
				Section 161/162 Cr.P.C		
		That on 04.03.2019, Police Station Handwara received information that a ban has been imposed upon Jel vide Govt of India notification no. SO-1069(E) and Endst. No. 140/7/5/2019-Ni-III dated 28.02.2019 and accordingly, the restrictions were imposed on the activities of the members of Jel as the same were detrimental to the integrity and sovereignty of the nation.	FIR No. 31/2019 dated 04.03.2019 under Section 10 & 13 UA (P) Act PS Handwara	<p><b>PW-4/8</b>-Copy of FIR No. 31/2019 dated 04.03.2019</p> <p><b>PW-4/9 to 4/14</b> copy of charge sheet, copy of statement of two witnesses recorded under Section 161/162 Cr.P.C and two Seizure Memo dated 10.05.2019 &amp; 14.06.2019 and Arrest Memo dated 14.06.2019</p> <p><b>PW-4/9A to 4/14A</b> Translated copy of charge sheet, copy of statement of two witnesses recorded under Section 161/162 Cr.P.C and two Seizure Memo dated 10.05.2019 &amp; 14.06.2019 and Arrest Memo dated 14.06.2019</p>	Statement recorded under u/s 161 Cr.P.C. of witnesses	Challaned
5.	<b>PW-5</b> <b>Sh. Sarfaraz Bashir</b> , Sub-Divisional Police Officer, Sopore	That on 01.03.2019, Police Station Bomai received information that activists of banned Association JEI are carrying out anti-national activities such by provoking local public for secession of J&K from Union of India	FIR No. 11/2019 dated 01.03.2019 under Section 10 & 13 UA (P) Act PS Bomai	<p><b>PW- 5/X</b> Authority Letter dated 19.06.2024</p> <p><b>PW-5/A</b>—Affidavit of evidence</p> <p><b>PW-5/1</b>-Copy of FIR No. 11/2019 dated 01.03.2019</p> <p><b>PW-5/2</b> copy of charge sheet,</p> <p><b>PW-5/3</b> copy of statement of Ct. Mohammad Altaf Khatana recorded under Section 164 Cr.P.C</p> <p><b>PW-5/4 to 5/5</b> copy of statement of two witnesses recorded under Section 161Cr.P.C</p> <p><b>PW-5/1A to 5/5A</b> Translation Copy of FIR No.</p>	Statements under Section 161/164 Cr.P.C	Under Trial- at prosecution evidence stage

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
				11/2019, charge sheet, statement of Ct. Mohammad Altaf Khatana and copy of statement of two witnesses recorded under Section 161 Cr.P.C		
		That on 01.03.2019 at 130 PS. Sopore received information through reliable sources that the activities of banned Associations of JeI are carrying out anti-national activities by provoking local population to carry out agitation for secession of J&K from Union of India.	FIR No. 41/2019 dated 01.03.2019 under Section 10 & 13 UA (P) Act PS Sopore	<p><b>PW-5/6</b>-Copy of FIR No. 41/2019 dated 01.03.2019</p> <p><b>PW-5/7 to 5/12</b> copy of charge sheet, copies of statements of three witnesses under section 161 CrPC, Seizure Memo and Arrest memo.</p> <p><b>PW-5/6A to 5/12A</b> Translation Copy of FIR No. 41/2019 charge sheet, copies of statements of three witnesses under section 161 CrPC Seizure Memo and Arrest memo.</p>	Statement recorded under u/s 161 Cr.P.C. of witnesses	Chargesheet filed.
6.	<b>PW-6</b> <b>Sh. Bahar Ahmad khan,</b> Station House Officer, PS Khansahib	That on 04.03.2019, Police Station Handwara received information that a ban has been imposed upon Jel vide Govt of India notification no. SO-1069(E) and Endst. No. 140/7/5/2019-Ni-III dated 28.02.2019 and accordingly, the restrictions were imposed on the activities of the members of Jel as the same were detrimental to the integrity and sovereignty of the nation.	FIR No. 20/2019 dated 01.03.2019 under Section 10., 11 & 13 UA (P) Act PS. Khansahib	<p><b>PW- 6/X</b> Authority Letter dated 19.06.2024</p> <p><b>PW-6/A</b> –Affidavit of evidence</p> <p><b>PW-6/1</b>-Copy of FIR No. 20/2019 dated 01.03.2019</p> <p><b>PW-6/2</b> copy of charge sheet,</p> <p><b>PW-6/3</b> copy of statement of Head constable GhMohi-Ud-Din recorded under Section 161 Cr.P.C</p> <p><b>PW-6/4</b> copy of statement of Constable Javid Ahmad recorded under Section 161 Cr.P.C</p>	Statements under Section 161 and 164	Under Trial-at evidence stage

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
				<b>PW-6/1A to 6/4A</b> Translation Copy of FIR No. 20/2019, charge sheet, statement of Head constable GhMohi-Ud-Din and copy of statement of Constable Javid Ahmad recorded under Section 161 Cr.P.C		
7.	<b>PW-7</b> <b>Sh. Tanweer Ahmad,</b> Additional Superintendent of Police, kulgam	That on 01.03.2019, police station Kulgam received reliable information disclosing that banned organization Jamaat-e-Islami is operating school at village Chattabalkulgam, where the members of the said organisation conduct special meetings to instigate the participants against the sovereignty and integrity of the nation and collect donations which are used to provide economic assistance to terrorist's outfit.	FIR NO. 18/2019 dated 01.03.2019 under Section 10 & 13 of UA (P) Act, PS Kulgam	<b>PW-7/X</b> copy of Authority Letter dated 19.06.2024  <b>PW-7/A-</b> copy of affidavit of evidence  <b>PW 7/1 to PW 7/5</b> – copy of FIR No. 18/2019, charge sheet, copies of statements of two witnesses recorded under Section 161 Cr.P.C and Seizure Memo.  <b>PW 7/1A to PW 7/5A</b> – Translated copy of FIR No. 18/2019, charge sheet, copies of statements of two witnesses recorded under Section 161 Cr.P.C and Seizure Memo.	Statements of witnesses recorded u/s 161	On Charges
		That on 01.03.2019, Police Station Qaimoh received reliable information to the effect that some associates of banned organization Jamaat-e-Islami have conducted a meeting at the residence of Mohd Shaban Dar S/o Ab Gani Dar R/o Wanpora to collect funds for providing logistic and financial support to terrorist organisation Hizb-ul-Mujahedeenoutfit and these members are spreading hatred among the youth of the area and inciting them to get freedom from the Govt. of India/J&K which poses a threat to the integrity and sovereignty of India.	FIR No. 11/2019 dated 01.03.2019 under Section 10 & 13 of UA (P) Act, PS Qaimoh	<b>PW 7/6 to PW 7/8</b> – copy of FIR No. 11/2019, charge sheet, copy of statement of Constable Ishtiyah Ahmad No 761 KGM recorded under Section 161 Cr.P.C  <b>PW 7/6A to PW 7/8A</b> – Translated copy of FIR No. 11/2019, charge sheet, copy of statement of Constable Ishtiyah Ahmad No 761 KGM	Statement recorded under u/s 161 Cr.P.C. of witnesses	Under Trial-at evidence stage

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposited by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
				recorded under Section 161 Cr.P.C		
		That on 01.03.2019, Police Station Yaripora received reliable information disclosing that in the jurisdiction of the said Police Station, some members and workers of banned organization Jamaat-e-Islami are causing disaffection among the youth of the area and inciting them to continue their propaganda of freedom against the Govt of India/ UT of J&K and these members of Jel hold special meetings for the purpose of collecting funds for advancing terrorist activities in the area. Further, this banned organization has many offices in the jurisdiction of this police station where they plan to carry out activities which are detrimental to the national interest.	FIR No. 12/2019 dated 01.03.2019 under Section 10 & 13 of UA (P) Act, PS Yaripora	<p><b>PW 7/9 to PW 7/13</b> – copy of FIR No. 12/2019, charge sheet, copy of statements of two witnesses recorded under Section 161 Cr.P.C and Seizure Memo.</p> <p><b>PW 7/14</b> Arrest Memo of Accused Ab. Rashid Shah</p> <p><b>PW 7/15</b> Arrest Memo of Accused Nazir Ahmad Parray</p> <p><b>PW 7/16</b> Arrest Memo of Accused Ab. Rehman Dar</p> <p><b>PW 7/17</b> Arrest Memo of Accused Mohd. Ayoub Padder</p> <p><b>PW 7/18</b> Arrest Memo of Accused Mohd. Maqbool Mir</p> <p><b>PW 7/19</b> Arrest Memo of Accused Mohd. Maqbool Mir</p> <p><b>PW 7/20</b> Arrest Memo of Accused Ghulam MohiUdin Bhat</p> <p><b>PW 7/9A to PW 7/20A</b> – Translated copy of FIR No. 12/2019, charge sheet, copy of statements of two witnesses recorded under Section 161 Cr.P.C, Seizure Memo and Arrest Memos.</p>	Statement recorded under u/s 161 Cr.P.C. of witnesses	On Charges
8.	<b>PW-8 Sh. Majad Mehboob, Sub-</b>	That on 01.03.2019, Police Station Parimpura received a DD Report vide No. 28 dated 01.03.2019 from Incharge	FIR No. 63/2019 under Section 10, 11	<b>PW-8/X</b> copy of authority letter dated 19.06.2024	Statements of witnesses	Under Investigation

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
	Divisional Police office, West Bemina, Srinagar, Kashmir	Police Post Bemina disclosing that around 21:30 hours, some reliable sources informed that some workers and members of banned organization Jamaat-e-Islami are actively engaged in anti-national and anti-government activities in the jurisdiction of this police post. It was also disclosed that they are engaged in recruiting youth for terrorist outfits and in order to cause damage to the sovereignty, they are involved in raising anti-national slogans which has caused terror among general public in the Jurisdiction of Police Post Bemina and the members and workers of the banned organization of Jel are trying to incite people against the lawful government and its forces and are active in encouraging terrorism.	& 13 UA (P) PS Parimpora	<p><b>PW-8/A-</b> Copy of the affidavit of evidence.</p> <p><b>PW 8/1</b> copies of FIR No. 63/2019</p> <p><b>PW 8/2</b> Copy of statement of ASI Abdul Rashid U/s 161 CrPC</p> <p><b>PW 8/3</b> Copy of statement of Sh. Nazir Ahmad U/s 161 CrPC</p> <p><b>PW 8/4</b> Copy of statement of Sh. Mohammad shafi Vani U/s 161 CrPC</p> <p><b>PW 8/5</b> Copy of statement of Sh. Parvaiz Ahmad Bhat U/s 161 CrPC</p> <p><b>PW 8/6</b> Copy of statement of Sh. Shakir Ahmad Haroon U/s 161 CrPC</p> <p><b>PW 8/7</b> Copy of statement of Sh. Wasim Ahmad Mando U/s 161 CrPC</p> <p><b>PW 8/8</b> Copy of statement of Sh. SGCT Junaid Mushtaq Ahamd U/s 161 CrPC</p> <p><b>PW 8/9</b> Copy of statement of Sh. ASI Abdul Rashid U/s 164 CrPC</p> <p><b>PW 8/1A to PW 8/9A</b> – Translated copies of FIR No. 63/2019 and copy of statements under Section 161/164 CrPC</p>	recorded u/s 161/164 CrPC	
9.	<b>PW-9 Sh. Shafat Mohammad,</b> Deputy Superintendent of	On 01.03.2019, Police Station Bandipora received reliable information that number of persons/ individuals associated with banned organization Jamaat-e-Islami are carrying out unlawful activities which are	FIR No. 19/2019 dated 01.03.2019 under Section 10 & 13 UA	<b>PW-9/X-</b> copy of authority letter dated 19.06.2024	Statements under Section 161 and 164 A Cr.P.C	Undertrial-at prosecution evidence stage.

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
	Police, Bandipora	anti-national and pre-judicial to the security, territorial integrity and sovereignty of India and also causes disaffection against India etc.	(P) PS Bandipora	<p><b>PW-9/A-</b> Copy of the affidavit of evidence.</p> <p><b>PW 9/1</b> copies of FIR No. 19/2019</p> <p><b>PW 9/2</b> copies of Charge sheet in FIR No. 19/2019</p> <p><b>PW 9/3 to 9/4</b> Copy of statement of SGCT Ajaz Ahamd and Mr Ali Mohd. Gada recorded U/s 161 CrPC</p> <p><b>PW 9/5</b> Copy of statement of Constable Majid Ali recorded U/s 164A CrPC</p> <p><b>PW 9/6 to 9/7</b> copies of two Seizure Memos in FIR No. 19/2019</p> <p><b>PW 9/8 to 9/9</b> copies of two Seizure Memos in FIR No. 19/2019</p> <p><b>PW 9/10 to 9/11</b> copies of two Seizure Memos in FIR No. 19/2019</p> <p><b>PW 9/1A to PW 9/11A</b> – Translated copies of FIR No. 19/2019, Charge sheet and copy of statements under Section 161/164A CrPC and copies of Seizure Memos in FIR No. 19/2019</p>		
10.	<b>PW-10</b> <b>Sh. Zaheer Abbas</b> , Sub-Divisional Police Officer, Nehru Park, Srinagar, Kashmir	That on 04.03.2019, Police Station Harwan received information from reliable sources that despite the ban declared on Jamaat-e-Islami organisation by the Govt of India vide notification no. SO-1069(E) dated 28.02.2019, there are several facilities offices of the said organisation located within the jurisdiction of the Harwan police station where the members of the banned organisation are carrying out unlawful activities and gathering financial assistance.	FIR NO. 04/2019 dated 04.03.2019 under Section 10, 11 & 13 UA (P) Act PS Harwan	<p><b>PW-10/X</b> copy of Authority Letter dated 19.06.2024</p> <p><b>PW-10/A-</b> Affidavit of evidence</p> <p><b>PW 10/1 to PW 10/6</b> – Copy of FIR 158/2011, chargesheet dated 14.11.2019,</p>	Statements of witnesses recorded u/s 161 Cr.P.C.	Charges have been framed and 25 out of 29 prosecution witnesses have been examined

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposited by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
				statements of two witnesses under Section 161 of Cr.PC, two seizure Memos dated 16.05.2019 and 10.04.2019.  <b>PW 10/1A to PW 10/6A</b> – Translated Copy of FIR 158/2011, chargesheet dated 14.11.2019, statements of two witnesses under Section 161 of Cr.PC, two seizure Memos dated 16.05.2019 and 10.04.2019.		
11.	PW-11  <b>Shri Hilal Ahmad, SDPO, Rafiabad, Kashmir</b>	<p>The chargesheet has not been filed in FIR No. 22/2019 and the case is under investigation.</p> <p>There is no recording or transcript of what the accused said in the investigation of FIR No. 22/2019. However, there are statements of independent witnesses who had testified to what the accused said. Efforts were made to find out whether the names of the accused in the FIR also appear in the membership register of JEL, J&amp;K. However, all records of the Association have been clandestinely removed by the Association. No FIR has been filed for the act of removal of documents.</p>	FIR No. 22/2019 dated 01.03.2019 under section 10 & 13 of UAPA P.S. Dangiwachha.	<p><b>PW-11/X-</b> Copy of Authority letter given by the Inspector General of Jammu and Kashmir Police.</p> <p><b>PW-11/A-</b> Copy of affidavit of evidence</p> <p><b>PW-11/1 to 11/5-</b> Copy of FIR No. 22/2019, copy of statements of witness recorded u/s 161 of CrPC.</p> <p><b><u>PW-11/1A to 11/5A</u></b> – Translated Copy of FIR no. 22/2019, copy of statements of witnesses recorded under Section 161 Cr.P.C</p>	Statements of witnesses recorded u/s 161 Cr.P.C.	Under Investigation
12.	PW-12  <b>Shri Imtiyaz Ahmad, Station House Officer, PS Budgam</b>	<p>The office of JEL, J&amp;K was sealed by the Executive Magistrate and the SHO on the orders of the District Magistrate.</p> <p>The documents seized in the investigation do not mention the membership register in the seizure memo.</p> <p>There is no recording of any objectionable speech or statement made by the accused in the FIR. However, there are public witnesses whose statements have been recorded.</p>	FIR No. 42/2019 dated 01.03.2019 u/s 10,11 & 13 of the UA(P) Act P.S. Budgam	<p><b>PW-12/X-</b> Copy of Authority letter given by the Inspector General of Jammu and Kashmir Police.</p> <p><b>PW-12/A-</b> Copy of affidavit of evidence</p> <p><b>PW-12/1 to 12/5-</b> Copy of FIR No. 42/2019, copy of chargesheet, copy</p>	Statement recorded under u/s 161 Cr.P.C. of witnesses	Chargesheet filed, charges framed and prosecution evidence is being recorded.



<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
				<p>of statements of witness recorded u/s 161 of CrPC, copy of seizure memo in FIR No. 42/2019.</p> <p><b><u>PW-11/1A to 11/5A –</u></b> Translated Copy of FIR no. 22/2019, copy of chargesheet, copy of statements of witnesses recorded under Section 161 Cr.P.C, copy of seizure memo in FIR No. 42/2019.</p>		
13.	<p>PW-13</p> <p><b>Shri GH. Hassan, S.P., HQ Ganderbal</b></p>	<p>Register of members of the Association was not found during the seizure of the office of the Association.</p> <p>There is no recording or transcript of the accused. However, there are statements of multiple independent witnesses stating the accused conducting various meetings with no witness who has attended the meetings.</p>	<p>FIR No. 32/2019 dated 01.03.2019 u/s 10 &amp; 13 of the UA(P) Act P.S. Ganderbal</p>	<p><b>PW-13/X-</b> Copy of Authority letter given by the Inspector General of Jammu and Kashmir Police.</p> <p><b>PW-13/A-</b> Copy of affidavit of evidence</p> <p><b><u>PW-13/1 to 13/8–</u></b> Copy of FIR No. 32/2019, copy of chargesheet dated 13.03.2023, copy of statement of witness recorded u/s 161 of CrPC, copy of seizure memo in FIR No. 32/2019.</p> <p><b><u>PW-13/1A to 13/8A –</u></b> Translated Copy of FIR no. 22/2019, copy of chargesheet, copy of statements of witnesses recorded under Section 161 Cr.P.C, copy of seizure memo in FIR No. 32/2019.</p>	<p>Statements of witnesses recorded u/s 161 Cr.P.C.</p>	<p>Undertrial-at evidence stage.</p>
14.	<p>PW-14</p> <p><b>Shri Mohammad Muzaffar, SDPO, Kangan</b></p>	<p>There has been no personal request made on behalf of PW-14 for the JEL, J&amp;K to be declared unlawful.</p> <p>All suggestions of the statements being hearsay and without any details of the continued affiliation of the accused to the</p>	<p>FIR No. 14/2019 dated 21.03.2019 u/s 10 of UA(P) Act, at P.S. Kangan</p>	<p><b>PW-14/X-</b> Copy of Authority letter given by the Inspector General of Jammu and Kashmir Police.</p>	<p>Statements of witnesses recorded u/s 161 Cr.P.C.</p>	<p>Undertrial-at prosecution evidence stage.</p>

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
		Association have been denied by the PW.		<p><b>PW-14/A-</b> Copy of affidavit of evidence</p> <p><b>PW-14/1 to 14/4-</b> Copy of FIR No. 14/2019, copy of chargesheet dated 22.07.2022, copy of statement of witness recorded u/s 161 of CrPC</p> <p><b><u>PW-14/1A to 14/4A –</u></b> Translated Copy of FIR no. 14/2019, copy of chargesheet, and copy of statements of witnesses recorded u/s 161 Cr.P.C.</p>		
15.	<p>PW-15</p> <p><b>Shri Kuldeep Raj, Dy. S.P, HQ Anantnag</b></p>	<p>The office of Jel, J&amp;K has been sealed in compliance with the order passed by the Dy. Commissioner.</p> <p>There is no exact transcription or recording of the statements made by the accused.</p> <p>The activities of the accused were reported by the Beat Officer of the area whose statement was recorded by the SHO.</p> <p>There is no statement of the public witness of the speeches or statements made by the accused.</p> <p>The names of accused as members of Jel were added after verification by the IO from various agencies but not from the register of members.</p> <p>The accused have not been arrested from the office of Jel but from the Bus Stand near the sealed premises.</p> <p>The PW was not aware if any notice u/s 160 Cr.P.C. was issued to any person</p>	<p>FIR No. 18/2019 dated 01.03.2019 u/s 10,11 &amp; 13 of UA(P) Act P.S. Anantnag</p>	<p><b>PW-15/X-</b> Copy of Authority letter given by the Inspector General of Jammu and Kashmir Police.</p> <p><b>PW-15/A-</b> Copy of affidavit of evidence</p> <p><b>PW-15/1 to 14/5-</b> Copy of FIR No. 18/2019, copy of chargesheet dated 13.02.2020, copy of statement of witness recorded u/s 161 of CrPC, copy of seizure memo in FIR no. 18/2019.</p> <p><b><u>PW-15/1A to 15/5A –</u></b> Translated Copy of FIR no. 18/2019, copy of chargesheet, and copy of statements of witnesses recorded u/s 161 Cr.P.C, copy of seizure memo in FIR No. 18/2019</p>	<p>Statements of witnesses recorded u/s 161</p>	<p>Challaned</p>
16.	<p>PW-16</p> <p><b>Shri Santosh Kumar Singh,</b></p>	<p>NIA has investigated the instant case wherein, it is established that accused entered into a criminal conspiracy with their other associates for raising of funds</p>	<p>FIR No. RC-07/2022/NIA/JMU dated 03.09.2022</p>	<p><b>PW – 16 / P-1 –</b> The copy of FIR No. RC-07/2022/NIA/JMU</p>	<p>Statement recorded under u/s 161&amp; 164</p>	<p>Undertrial-listed in September for</p>

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposited by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
	<b>Inspector, NIA, New Delhi</b>	through Al Huda Educational Trust (AHET) associated with Jel, J&K on 28 <sup>th</sup> February 2019.		<p>along with MHA order No. 11011/76/2022/ NIA</p> <p><b>PW – 16 / P-2 &amp; P-3</b> – Copies of their arrest memo</p> <p><b>PW – 16 / P-4</b> – Copy of disclosure memo of accused Amir Mohd. Shamsi dated 15.10.2022</p> <p><b>PW – 16/ P-5 &amp; P-6</b> – Copy of supplementary disclosure memo 20.10.2022 of accused Amir Mohd. Shamsi and PW statement of Nazir Ahmad raina</p> <p><b>PW – 16/ P-7</b> – Copy of criminal Antecedent of accused Mushtaq Ahmad Mir</p> <p><b>PW – 16/ P-8</b> - Copy of “AHET Trust Deed” dated 05.05.2011 received from Sub-Registrar Srinagar and “Trust Deed” received from District Court Rajouri</p> <p><b>PW – 16 / P-9</b> – Copy of disclosure memo of accused Abdul Hamid Ganai</p> <p><b>PW – 16 / P-10</b> – Copy of bank statements “AHET” operated by accused Amir Mohd. Shamsi and the “Scrutiny Report” of said bank statements</p> <p><b>PW – 16 / P-11</b> – Copy of Scrutiny Report related to whatsapp chat of</p>	Cr.P.C. of witnesses	arguments on charge.

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
				<p>accused Mushtaq Ah. Mir</p> <p><b>PW – 16 / P-12 –</b> Copy of search and seizure memo of mobile phone of accused Amir Mohd Shamsi in RC 03/2021/NIA/DLI</p> <p><b>PW – 16 / P-13 –</b> Copy of the charge sheet dated 02.09.2020</p> <p><b>PW – 16 / P-14 &amp; P-15 –</b> Copies of statements recorded u/s 164 CrPC and copies of the relevant PWs recorded u/s 161 CrPC</p>		
17.	<p>PW-17</p> <p><b>Shri. Prabhat Kr Bajpal, Deputy Superintendent of Police in the NIA, New Delhi</b></p>	<p><i>Jel is incessantly encouraging and is actively and continuously pursuing the agenda of Jel Jammu and Kashmir from the Union of India by inciting and orchestrating violence.</i></p> <p><i>He has with other separatist organisations, played a key role in building the separatist movement in Jammu and Kashmir and was one of its chief architects.</i></p> <p><i>Incessantly encouraging and have been actively and continuously advocating claims for cession of Jammu and Kashmir from the Union of India and have been inciting separatist groups, on religious lines to destabilize the Government of India.</i></p> <p><i>The acts of commission and omissions which are part of the present RC are intended to disrupt the territorial integrity of India and have been aimed at inciting individuals and groups of local Muslim community to bring about secession of the State of Jammu and Kashmir from the Union of India.</i></p> <p><i>Is promoting anti-national and separatist sentiments prejudicial to the integrity and security of the country.</i></p> <p><i>Has been spearheading/conspiring/masterminding/facilitating/escalating secessionist movement and unlawful activities inside the country and especially in the Kashmir Valley.</i></p>	<p><i>FIR No. RC-03/2021/NIA/DLI dated 04.02.2021.</i></p>	<p><b>PW-17 / P-1 –</b> The copy the FIR No. RC-03/2021/NIA/DLI along with MHA 11011/11/2021/NI A dated 04.02.2021</p> <p><b>PW-17 / P-2 –</b> Copy of the Chargesheet dated 18.01.2018</p> <p><b>PW-17 / P-3 –</b> Copy of conspired to acquire and possess firearms and ammunition with ulterior motives, without licence, from co-accused persons who are not licensed to manufacture/sell such firearms and ammunitions.</p> <p><b>PW-17 / P-4 –</b> Copy of loose sheets titled “Tajveed Shada Mowda Arkan Tehsil Lar” translated as “Proposal for collecting Mowda from Tehsil Lar” prepared in 2021</p>	-	<p><i>Undertrial-listed in September for arguments on charge.</i></p>

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
		<i>Is tacitly supporting militancy and incitement of violence in the country on religious lines and is seeking secession of Jammu and Kashmir from the Union of India.</i>		containing the names of Jel, J&K associated individuals with particular amount written after each names of Jel, J&K associated individuals with particular amount written after each names were recovered and accordingly seized.  <b>PW-17 / P-5 &amp; P-6 – Copies of arrest memos</b>		
18.	PW-18  <b>Shri Abdul Raqeeb Malik, SDPO, PS Achabal, Anantnag, Kashmir</b>	<i>The chargesheet has been filed on the FIR.</i>  <i>The accused were arrested on 04.07.2021 with their confession recorded on the same date. There was no application made for recording their confession u/s 164 of Cr.P.C.</i>  <i>The funds according to the FIR were collected through crowd funding.</i>  <i>The confession statements put the congregation being held regularly at the village, tehsil and district level with no mention of specific dates or place.</i>  <i>There are public witnesses stating that the accused used to instigate others to join Jel, J&amp;K.</i>	<i>FIR No. 65/2021 dated 03.07.2021 u/s 11, 13 &amp; 18 of the UA(P) Act P.S. Achabal</i>	<b>PW-18/X-</b> Copy of Authority letter given by the Inspector General of Jammu and Kashmir Police.  <b>PW-18/A-</b> Copy of affidavit of evidence  <b>PW-18/1 to 18/13–</b> Copy of FIR No. 65/2021, copy of chargesheet No. 53/2022 dated 29.09.2022, copy of seizure memo filed in FIR No. 65/2021, copy of statement of accused, copy of statement of witnesses recorded u/s 161 Cr.P.C.  <b><u>PW-18/1A to 18/13A</u></b> – Translated Copy of FIR No. 65/2021, copy of chargesheet No. 53/2022, copy of seizure memo filed in FIR No. 65/2021, copy of statement of accused, copy of statement of witnesses recorded u/s 161 Cr.P.C.	<i>Statements of witnesses recorded u/s 161</i>	<i>Chargesheet filed.</i>

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
19.	PW-19  <b>Shri Mohd. Nawaz Khandey, Dy. S.P., HQ Pulwama</b>	<i>The chargesheet on the FIR has been filed. The investigation is still ongoing.</i>  <i>There is no mention of the time from and the time to in the FIR No. 25/2019.</i>	<i>FIR No. 25/2019 dated 01.03.2019 u/s 10, 11 &amp; 13 of the UA(P) Act P.S. Pulwama</i>	<b>PW-19/X-</b> Copy of Authority letter given by the Inspector General of Jammu and Kashmir Police.  <b>PW-19/A-</b> Copy of affidavit of evidence  <b>PW-19/1 to 19/3-</b> Copy of FIR No. 25/2019, copy of statements of witness recorded u/s 161 of CrPC.  <b><u>PW-19/1A to 19/3A –</u></b> Translated Copy of FIR No. 25/2019, copy of statements of witness recorded u/s 161 of CrPC.	Statements of witnesses recorded u/s 161	Under investigation
20.	PW-20  <b>Shri GH. Jeelani Bhat, S.H.O., Shopian</b>	<i>The offices of the Jel, J&amp;K were sealed with around 40 documents seized including arrival register, stock register, slip pads, accounts register etc.</i>  <i>No membership register was seized. However, one razakhana file which contains the name of persons helping Jel was also seized along with other documents.</i>	<i>FIR No. 27/2019 dated 01.03.2019 u/s 10,11 &amp; 13 of the UA(P) Act P.S. Shopian</i>	<b>PW-20/X-</b> Copy of Authority letter given by the Inspector General of Jammu and Kashmir Police.  <b>PW-20/A-</b> Copy of affidavit of evidence  <b>PW-20/1 to 20/5-</b> Copy of FIR No. 27/2019, copy of statements of witness recorded u/s 161 of CrPC, copy of seizure memo in FIR No. 27/2019.  <b><u>PW-20/1A to 20/5A –</u></b> Translated Copy of FIR No. 27/2019, copy of statements of witness recorded u/s 161 of CrPC, copy of seizure memo in FIR No. 27/2019	Statements of witnesses recorded u/s 161	Under Investigation
21.	<b>PW-21</b>	<i>FIR details</i>	<i>FIR No. 25/2019 dated 01.03.2019</i>	<b>PW-21/A-</b> Copy of affidavit of	Statements of witnesses	On Prosecution evidence

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposited by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
	<b>Shri Rashid Younis, Additional Superintendent of Police, P.S. Awantipora</b>		under sections 10, 11 & 13 of UAPA P.S. Awantipora.	evidence. <b>PW-21/1</b> —Copy of FIR No. 25/2019 dated 01.03.2019 under sections 10, 11 & 13 of UAPA P.S. Awantipora and its English translation.	recorded u/s 161 Cr.P.C.	
			FIR No. 05/2019 registered on 01.03.2019 at P.S. Pampore u/s. 10, 11 & 13 of the UA(P) Act	<b>PW-21/2</b> —Copy of Chargesheet No. 257/2022 dated 23.12.2022 filed in FIR no. 25/2019 and its English Translation. <b>PW-21/3</b> —True copy of statement of HC Nazir Ahmad recorded under Section 161 Cr.P.C in FIR no. 25/2019 and its English Translation. <b>PW-21/4</b> — True Copy of Seizure memo dated 12.05.2019 and its English translation. <b>PW-21/5</b> — True Copy of FIR No. 05/2019 registered on 01.03.2019 at P.S. Pampore u/s. 10, 11 & 13 of the UA(P) Act and its English translation. <b>PW-21/6</b> —True copy of Challan/Chargesheet No. 170/2022 dated 17.12.2022 filed in FIR No. 05/2019 and its English translation. <b>PW-21/7</b> —True Copy of statement of Mohammad Amin Najar A/P Naib Tehsildar Pampore recorded u/s. 161 Cr.P.C. in FIR No. 05/2019 and its English	Statement recorded under u/s 161 Cr.P.C. of witnesses.	Chargesheet filed.

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposited by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
				Translations.  <u>PW-21/8-</u> True Copy of statement of ASI Bashir Ahmad recorded u/s. 161 of Cr.P.C. in FIR No. 05/2019 and its English Translations.  <u>PW-21/8-True</u> copy of seizure memo and its English translation.		
22.	<b>PW-22</b> <b>Shri Altaf Ahmad</b>  <b>Deputy Superintendent of Police, HQ, Baramulla, Kashmir</b>	On 24.04.2022, Captain U.K. Sharma, Company Commander 46RR gave a written complaint to P.S. Baramulla that credible input was received an individual in collecting monies on behalf of the banned organisation JEI on scooty bearing No. JK05G7856 in Baramulla market. A joint operation was conducted on the basis of said information and the accused was apprehended from the Baramulla Market and apart from the other incriminating materials 3 receipt books of JEI, receipt of money given on the letterhead of JEI and cash of Rs. 1,59,000/- were seized from his possession.	FIR No. 68/2022 dated 24.04.2022 at P.S. Baramulla under Section 10 & 11 UA(P) Act.	<u>PW-22/A-</u> copy of affidavit of evidence.  <u>PW-22/1-</u> FIR No. 68/2022 dated 24.04.2022 at P.S. Baramulla under Section 10 & 11 UA(P) Act.  <u>PW-22/02-</u> True Copy of statement of Ali Mohd. Ganie recorded u/s. 161 of Cr.P.C. in FIR No. 68/2022 and its English Translations  <u>PW-22/3-</u> True Copy of Seizure memo dated 24.04.2022 in FIR No. 68/2022 and its English Translations.  <u>PW-22/4-</u> True copy of Arrest Memo dated 24.04.2022 in FIR No. 68/2022 and its English Translations.	Statement recorded under u/s 161 Cr.P.C. of witnesses	Under Investigation .
23.	<b>PW-23</b> <b>Shri Inspector Waseem, SHO, P.S. Kralgund, J&amp;K.</b>	Upon receipt of information dated 04.03.2019 that Govt has declared Jamat-i-Islami as Unlawful organisation and has banned the members of JeI from carrying out activities of the said organisation and taking legal action for carrying out the activities. Upon this legal action will be taken against the accused. It has to be noted that in the area of P.S. Kralgund some members of JeI are residing and are still carrying out their activities of this organization.	FIR No. 10/2019 registered on 04.03.2019 at P.S. Kralgund u/s. 10 & 13 of the UA(P) Act.	<u>PW-23/A-</u> copy of affidavit of evidence.  <u>PW-23/1-</u> True Copy of FIR No. 10/2019 registered on 04.03.2019 at P.S. Kralgund u/s. 10 & 13 of the UA(P) Act and its English translation.	Statements of witnesses recorded u/s 161 Cr.P.C.	Chargesheet filed.



<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposited by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
				<u>PW-23/2</u> -True copy of Challan/Chargesheet No. 21/2020 filed in FIR No. 10/2019 and its English translation.		
24.	<b>PW-24</b> <b>Sh. Owais Ahmad Wani, Sub-Divisional Police Officer, Charar-T-Sharief</b>	<i>P.S. Chadoora received information through reliable sources to the effect that members/organisation of this banned outfit are carrying out their activities in the JD of said P.S.</i>	<i>FIR No. 05/2019 registered on 01.03.2019 at PS Charari-Sharief u/s 10, 11 &amp; 13 of the UA(P) Act</i>	<u>PW-24/A</u> -copy of affidavit of evidence. <u>PW-24/1</u> - FIR No. 05/2019 registered on 01.03.2019 at PS Charari-Sharief u/s 10, 11 & 13 of the UA(P) Act  <u>PW-24/2</u> - FIR No. 33/2019 registered on 01.03.2019 at PS Chadoora u/s 10, 11 & 13 of the UA(P) Act  <u>PW-24/3</u> - Challan/Charge Sheet No. 150/2022 dated 17.12.2022 filed in FIR No. 33/2019  <u>PW-24/4</u> - Statement of Constable Nazir Ahmad Dar recorded u/s 161 of Cr PC in FIR No. 33/2019	Statements of witnesses recorded u/s 161 Cr.P.C.	Under-investigation
		<i>P.S. Chara-i-Sharief received information through reliable sources to the effect that members/organisation of this banned outfit are carrying out their activities in the JD of said P.S.</i>	<i>FIR No. 33/2019 registered on 01.03.2019 at PS Chadoora u/s 10, 11 &amp; 13 of the UA(P) Act</i>		Statement recorded under u/s 161 Cr.P.C. of witnesses	Undertrial-at evidence stage.
25.	<b>PW-25</b> <b>Sh. Lov Karan Taneja, Deputy Superintendent Of Police, Jic Jammu</b>	<i>JeI-J&amp;K is a cadre based organisation, its Majilis-e-shoora (advisory council) takes decisions on important issues in collusion with separatists and terrorists. These decisions are further implemented by the second tier of the organisation consisting of its primary members called Rukn-e-Jamaat (Pillars of Jamaat).  P.S. CI Jammu received information from reliable sources that inspite of the ban imposed on the organisation, there are certain individuals within the Jammu Zone who have become members of JeI-</i>	<i>FIR No. 02/2023 registered on 08.06.2023 at PS CID CI Jammu under sections 10, 11, 12, 13, and 39 of the UA(P) Act</i>	<u>PW-25/A</u> - copy of affidavit of evidence. <u>PW-25/1</u> - FIR No. 02/2023 registered on 08.06.2023 at PS CID CI Jammu under sections 10, 11, 12, 13, and 39 of the UA(P) Act	Statements of witnesses recorded u/s 161 Cr.P.C.	Under Investigation .

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposited by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
		<p>J&amp;K or associated with it as sympathisers/supporters and are continuing with their membership of and/or support for JeI-J&amp;K, by actively conducting, coordinating, arranging and participating in meetings on behalf of and for JeI-J&amp;K, collecting financial aid in the form of 'Zakaat', 'ushur' and other forms of charities in order to further the activities of JeI-J&amp;K and assisting in allied operations of JeI-J&amp;K.</p> <p>These members of office bearers are managing the properties either owned by, or held in the name of JeI-J&amp;K which include but are not limited to commercial establishments, residential places, and vacant lands etc.</p> <p>Information was also received that several JeI-J&amp;K members continuing to deal with monies, funds, securities etc. which are used or intended to be used for JeI-J&amp;K activities. Some of them were also using the JeI-J&amp;K properties.</p> <p>It is further reliably learnt that members of the unlawful Association JeI-J&amp;K continue to be in close contact with terrorist outfits and are supporting extremism in various districts of Jammu region including Jammu, Rajouri and Doda. They are all making efforts to make J&amp;K secede from the Union of India and are supporting anti-India agenda of terrorist and separatist groups.</p>				
26.	<b>PW-26</b> <b>Sh. Devinder Singh, Sub-Divisional Police Officer, City, Jammu</b>	<p>that on 6/5/2022, constable Gulshan Kumar No. 3379/J produced a return docket on behalf of Sh. Rahul Nagar-JKPS Dy. SP SDPO City West, Jammu Camp Talab Khatikan, Jammu informing that he obtained search warrants from the concerned court in case FIR No. 01/2007 and in pursuance of which he along with his team went to private office "Reh-e-Manzil" situated at Talab Khatikan, Jammu in presence of Executive Magistrate, Shri Prithavi Pal, Naib Tehsildar, Nagrota, where one Azhar Sharief (owner of the property) was present and during search made in his presence, they found some objectionable material viz. Letter pads/ documents of banned outfit JeI. It was further informed that Azhar Sharief fail to give any satisfactory reply with regard to the same after the incriminating material was seized on the spot vide separate seizure memo.</p>	<p>FIR No. 27/2022 registered on 06.05.2022 at PS Peermitha, Jammu under sections 10, 11, 13, and 39 of the UA(P) Act</p>	<p><b>PW-26/A</b> - copy of affidavit of evidence.</p> <p><b>PW-26/1</b> - FIR No. 27/2022 registered on 06.05.2022 at PS Peermitha, Jammu under Sections 10, 13, and 39 of the UA(P) Act</p> <p><b>PW-26/2</b> - Charge Sheet No. 26/2022 dated 13.09.2022 filed in FIR No. 27/2022 before the Competent Court</p> <p><b>PW-26/3</b> - Handwritten statement of Sh. Rahul Nagar, Dy. SP, SDPO, City West, Jammu recorded u/s 161 of CrPC in FIR No. 27/2022</p>	<p>Statements of witnesses recorded u/s 161 Cr.P.C.</p>	<p>Charge sheet Filed</p>

<b>PW</b>	<b>Name of PW</b>	<b>Incident/ Gist of the evidence deposited by PWs</b>	<b>Case Crime No.</b>	<b>Exhibit</b>	<b>161/164 Cr.P.C. Statement</b>	<b>Status of Investigation / Trial.</b>
27.	<b>PW-27</b> <b>Sh. Saheel Iqbal,</b> <b>Deputy Superintendent</b> <b>Of Police, Ps Cik-Sia Kashmir</b>	<p>On 09.12.2021, P.S. CIK-SIA received information that the managing body of "Jamait-us-Sulihat" Marhama comprised with several other members under a criminal conspiracy with the officials of revenue department have resorted to devious manipulation and forgery of relevant revenue records, where under a patch of land Kahchariae measuring 35 kanal under Survey No. 4683-Min, situated at Marhma, Tehsil Bijbehra resulting in illegal and fraudulent transfer of such land to "Jamait-us-Sulihat" Marhama (Institution) with the dishonest intention of bestowing proprietary rights to the institution.</p> <p>It was further learnt that "Jamait-us-Sulihat" is a proxy institution of JeI, a banned organisation under UAPA, have already constructed a 3 Storey building over the said land, and 2 building are also under construction. The institution is imparting at present education to more than 350 students with boarding and lodging facilities. The report for the reviews that Marhama village was a very peaceful village. However, after establishment of this institution a large area around it witnessed a rise in terrorism and secessionism related agitation, arson, and other unlawful/terrorist activities.</p> <p>It is also revealed that with the active support of terrorist organizations and members of JeI, the managing body of the institution have been covertly instigating and motivating local youth and students of the institution to variously support the ongoing secessionist cum terrorist programme the institution to further terrorist and unlawful activities in Jammu and Kashmir so as to achieve their ultimate objective of succession of the J&amp;K from the Union of India.</p>	FIR No. 14/2021 registered on 07.12.2021 at PS CIK SIA, Srinagar under Sections 467, 468, and 120B of the Indian Penal Code, 1860 and under Sections 13 and 38 of the UA(P) Act	<p><b>PW-27/A</b> - copy of affidavit of evidence.</p> <p><b>PW-27/1</b> - FIR No. 14/2021 registered on 07.12.2021 at PS CIK SIA, Srinagar under Sections 467, 468, and 120B of the Indian Penal Code, 1860 and under Sections 13 and 38 of the UA(P) Act</p> <p><b>PW-27/2</b> - Statement of Junaid Ahmad Bhat recorded u/s 161 of CrPC in FIR No. 14/2021</p> <p><b>PW-27/3</b> - Statement of Mohammad Akram Ganie recorded u/s 161 of CrPC in FIR No. 14/2021</p> <p><b>PW-27/4 and PW-27/5</b> - Two Seizure Memos both dated 15.12.2021 in FIR No. 14/2021</p>	Statements of witnesses recorded u/s 161 Cr.P.C.	Under investigation
28.	<b>PW-28</b> <b>Sh. Mir Gulzar,</b> <b>Deputy Superintendent</b> <b>Of Police, Cid Counter Intelligence</b> <b>Ganderbal</b>	<p>JeI-J&amp;K is a cadre based organisation, its Majilis-e-shoora (advisory council) takes decisions on important issues in collusion with separatists and terrorists. These decisions are further implemented by the second tier of the organisation consisting of its primary members called Rukn-e-Jamaat (Pillars of Jamaat).</p> <p>P.S. CI Jammu received information from reliable sources that inspite of the ban imposed on the organisation, there are certain individuals within the Jammu Zone who have become members of JeI-J&amp;K or associated with it as sympathisers/supporters and are continuing with their membership of and/or support for JeI-J&amp;K, by actively conducting, coordinating, arranging and participating in meetings on behalf of and for JeI-J&amp;K, collecting financial aid in</p>	FIR No. 04/2023 registered on 12.06.2023 at PS CIK Srinagar under Sections 10, 11, 12, 13, and 39 of the UA(P) Act	<p><b>PW-28/A</b> - copy of affidavit of evidence.</p> <p><b>PW-28/1</b> - FIR No. 04/2023 registered on 12.06.2023 at PS CIK Srinagar under Sections 10, 11, 12, 13, and 39 of the UA(P) Act</p> <p><b>PW-28/2</b> - Statement of ASI Farooq Ahmad recorded u/s 161 of CrPC in FIR No. 04/2023</p>	Statements of witnesses recorded u/s 161 Cr.P.C.	Under Investigation

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposed by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
		<p>the form of 'Zakaut', 'ushur' and other forms of charities in order to further the activities of JeI-J&amp;K and assisting in allied operations of JeI-J&amp;K.</p> <p>These members of office bearers are managing the properties either owned by, or held in the name of JeI-J&amp;K which include but are not limited to commercial establishments, residential places, and vacant lands etc.</p> <p>Information was also received that several JeI-J&amp;K members continuing to deal with monies, funds, securities etc. which are used or intended to be used for JeI-J&amp;K activities. Some of them were also using the JeI-J&amp;K properties.</p> <p>It is further reliably learnt that members of the unlawful Association JeI-J&amp;K continue to be in close contact with terrorist outfits and are supporting extremism in various districts of Jammu region including Jammu, Rajouri and Doda. They are all making efforts to make J&amp;K secede from the Union of India and are supporting anti-India agenda of terrorist and separatist groups.</p>		<p><b>PW-28/3</b> – Statement of Sh.Abdul Majid, Executive Magistrate First Class recorded u/s 161 of CrPC in FTR No. 04/2023</p> <p><b>PW-28/4</b> - Search/Seizure Memo dated 11.05.2024 in FIR No. 04/2023</p>		
29.	<b>PW-29</b> <b>Sh. Sheikh Manzoor Qadir, Deputy Superintendent Of Police, Sia, Kashmir</b>	Information was received through reliable sources that the Jamati-e-Islamia J&K has several facilities/offices located within the jurisdiction of this P.S. where various activities including financial activities are being conducted by its members.	FIR No. 17/2019 registered on 01.03.2019 at PS Batmaloo, Srinagar u/s 10, 11, and 13 of the U A(P) Act	<p><b>PW-29/A</b> - copy of affidavit of evidence.</p> <p><b>PW-29/1</b> – FIR No. 17/2019 registered on 01.03.2019 at PS Batmaloo, Srinagar u/s 10, 11, and 13 of the U A(P) Act</p> <p><b>PW-29/2</b> – Statement of ASI Farooq Ahmad Mir recorded u/s 161 of CrPC in FIR No. 17/2019</p> <p><b>PW-29/3</b> – Statement of Mohammad Iqbal Pandav recorded u/s 161 of CrPC in FIR No. 17/2019</p> <p><b>PW-29/4 and PW-29/5</b> –Two Seizure Memos dated 07.03.2019 and 14.02.2022 in FIR No. 17/2019</p> <p><b>PW-29/6</b> – Charge Sheet filed in FIR No. 17/2019 before the Competent</p>	Statements of witnesses recorded u/s 161 Cr.P.C.	Charge sheet Filed

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposited by PWs</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation / Trial.</u>
				Court		
30.	<b>PW-30</b> <b>Rajesh Kumar Gupta</b>	<i>Sealed cover documents inclusive of Intelligence Inputs submitted during deposition</i>	NA	<b>PW-30/1</b> – Notification dated 27.02.2024 declaring JeI-J&K as an unlawful Association.  <b>PW-30/2</b> – Letter No. 14017/20/2023-NI-MFO of Ministry of Home Affairs, GoI enclosing therewith Brief background Note dated 26.03.2024 submitted before the UAPA Tribunal.  PW-30/3- Sealed Envelope containing two files.	NA	

442. The details of the additional FIR, which was introduced later on and deposited about by PW-4, is reproduced hereinunder:-

<u>PW</u>	<u>Name of PW</u>	<u>Incident/ Gist of the evidence deposited by PW</u>	<u>Case Crime No.</u>	<u>Exhibit</u>	<u>161/164 Cr.P.C. Statement</u>	<u>Status of Investigation/ Trial.</u>
PW4	<b>PW-4</b> <b>Sh. Satish Kumar</b> , Sub-Divisional Police Officer, Handwara	<i>That on 02.03.2019, Police Station Handwara received information from reliable sources that despite the ban Handwara (Police Distt. Handwara) on Jel and restrictions being imposed on its activities, one member of Jel namely Gh Mohammad Bhat @ Nasir S/o Mohammad Sultan Bhat R/o Kulangam is actively involved in undertaking anti-national activities which poses threat to the sovereignty and integrity of India.</i>	<i>FIR No. 30/2019 dated 02.03.2019 under Section 10 &amp; 13 UA (P) Act PS Handwara</i>	<b>PW-4/3</b> -Copy of FIR No. 30/2019 dated 02.03.2019  <b>PW-4/4 to 4/7</b> copy of charge sheet, copy of statement of two witnesses recorded under Section 161/162/164A Cr.P.C and Seizure Memo dated 24.06.2019	Statement recorded under u/s 161 & 164 Cr.P.C. of witnesses	Abated Challan filed.

				<b>PW-4/3A to 4/7A</b> Translated copy of FIR No. 30/2019, charge sheet, copy of statement of two witnesses recorded under Section 161/162/164A Cr.P.C and Seizure Memo dated 24.06.2019		
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443. She submits that the allegation of the Objectors that maximum number of FIRs as provided in the Notification of the Central Government dated 27.08.2024 had been filed against the members of the proscribed Association only one day after the ban of JeI-J&K on 28.02.2019 by the Central Government without following the due process of law, is baseless and erroneous. She submits that once the Association is banned as an unlawful Association under Section 3 of the Act and the same was communicated through Radio and Television (as deposed by RW-1), the members of the banned Association are prohibited to indulge in the activities furthering the objectives of the proscribed organisation and if found to the contrary, are punishable for an offence under Section 10 of the Act. She submits that in the present case of JeI-J&K, there are certain members of the proscribed Association who continued to promote and indulge in the unlawful activities even after the ban of JeI-J&K was notified on 27.02.2019 in the Official Gazette and therefore such members were charged as accused in cases registered before the ban of 27.02.2024. This demonstrates the continued participation in unlawful activities by members of JeI-J&K. She places list of such members of JeI-J&K, who were charged as accused both under 2019 and 2024, and list of criminal cases, as notified in the Central Government notifications, as under:

<u>Sr.No.</u>	<u>Name of the Accused</u>	<u>Cases registered before the Ban of JeI-J&amp;K in 28.02.2019</u>	<u>Cases registered before the Ban of JeI-J&amp;K in 27.02.2024</u>
1.	Ab. Hamid Gani @ Hamid Fayaz	FIR 328/2009	FIR 42/2019 PS Budgam
2.	Fayaz Ahmad Rather	FIR 81/2014, FIR 82/2014, FIR 235/2014, 133/2015, 144/2015, 224/2015, 194/2016, 196/2016	FIR 18/2019 PD Kulgam
3.	Bilal Ahmad Mir, S/o of Gh Hassan	(Gh. Hassan was Accused in FIR 109/2013 and 80/2016)	FIR 33/2019 PS Chandoora
4.	Shoaib Ahmad Czhor	FIR 166/2016	FIR 2019 PS Baramulla

444. She submits that in fact the evidence of RW1 would also show that the ideology of the Association is self-determination and ways of achieving it are violent, secessionist and armed. Though the Association tries to distance itself from Mr. Syed Ali Shah Geelani, its object has not changed. In fact, its disassociation with Mr. Geelani is also doubtful, inasmuch as it continues to let Mr. Geelani use the property belonging to the Association and vice-versa.

445. Referring to following Articles of the Constitution of the Association, she submits that the Association professes to establish an Islamic form of Government and disclaim un-Islamic Government, laws and Court of laws, and produces the same in a tabular format, which is reproduced hereinbelow:

<b>ISLAMIC CODE</b>	<b>ISLAMIC LAW</b>	<b>ISLAMIC COURT</b>
<b>Article 3</b> - Explanation - ...the Sustainer, the Controllor, the Sovereign, the Law-giver, the Rightful Deity and the Lord of us all. @Pg 37 <b>Article 3(5)</b> -	<b>Article 3 (5)</b> - Lord of the Worlds, the Supreme Authority, the most powerful or having any authority to command or	<b>Article 8 (7)</b> - avoid going to un- Islamic courts of law for the settlement of disputes unless it is unavoidable.

<p><i>Should, in matters concerning moral behaviour and conduct of social, cultural, political and economic activities in short, in every sphere of activity, allow himself/herself to be guided by the Guidance of Allah and should acknowledge only the Divine code rejecting any other code which is not in consonance with His Command and Guidance, and who's divinity has not been established. @Pg 38</i></p>	<p><i>forbid, recognize any mortal's authority to be an absolute law-giver or legislator, make any such submissions as are not pan of the overall submission to Allah and are violative of His law, for Allah is the only legitimate Lord of His domain and the only lawful sovereign of his creation, and to Him and Him alone accrues the right to lordship and sovereignty, as it is He alone who is the Lawful Ruler of his creation and is the sole master of us all and of the entire universe which belongs to Him which means that no one except Him has the right to be the Absolute Master and Ruler. @Pg 38</i></p>	
<p><b>Article 5-</b> <i>The Jama'at shall present its Da'wah (invitation to Islam) before the whole world without any discrimination whatsoever of sect, language, colour, race. Nation or country. @Pg40</i></p>	<p><b>Article 6 (7)-</b> <i>should be conscious enough to be always ready to give up helping / supporting the un-Islamic system of government and its implementation of un- Islamic laws.</i></p>	
<p><b>Article 8 (1)-</b> <i>at least know the difference between Islam and Jahiliyat (un-Islam) and is conversant with the limits imposed by Allah.</i></p>		

446. Placing reliance on the judgment of the Supreme Court in **Jamaat-e-Islaami Hind v. Union of India** (supra), she submits that while this Tribunal has to make judicial determination on the material placed by the Central Government before it as to whether the opinion of the Central Government to declare the Association as unlawful was justified or not, in reaching such conclusion, it can devise its own procedure, and need not be confined to legal evidence or follow the standard of a criminal trial. She submits that in the present case, the Central Government by leading its evidence has shown that it had sufficient material before it to form the opinion that JeI-J&K deserves to be declared as an Unlawful Association.

447. She submits that, on the other hand, the opportunity to lead material has been misused by the Objectors. The Objectors have instead used the said opportunity given by using the forum of the Tribunal to conduct a mini trial. The cross examination of the Public Witnesses was not done to refute the authenticity and the veracity of the FIRs filed by the Investigating agencies but only as an unwarranted attempt to make the Tribunal to look into the merits of the case, which is not under the jurisdiction and domain of proceedings before this Tribunal. None of the accused named in the FIRs deposed by the Prosecution Witnesses before this Tribunal had challenged, in the concerned jurisdictional Criminal Courts, the respective FIRs/criminal cases against them, and the Objectors have tried to 'prove their case' before this Hon'ble Tribunal. This shows the clear mala fide intention of the Objector promoting the stand of the said accused.

448. She submits that though the opportunity of public hearing was afforded at various dates by the Tribunal, both at Srinagar and Delhi, for examination of witnesses of Central Government and of Objectors, if any, however none of the RWs-1 to RW 5, entered appearance before the Tribunal till 10.08.2024. Their affidavits were without any specific objection to the Notification of the Central Government banning the proscribed organisation. Therefore, the testimonies and statements made by the concerned RW-1 to RW-5 should be taken on record in their respective individual capacity as members of the proscribed Organisation and not as a response to the Notification of the Central Government. She further submits that the Special Power of Attorneys (SPAs) with the Affidavits filed by the Objector for RW 2, RW-3, RW-4 and RW- 5 before the Tribunal dated 10.08.2024 are bogus and irrelevant in the eyes of Law as the contents of their respective Affidavits from paras 1 to 8 in *toto* are verbatim which implies that each Affidavit has not been made using individual understanding and are therefore vexatious in nature. She submits that the Affidavits dated 03.06.2024 filed by Mr.Asad Ullah Mir, the Objector, and by RW-1 on 05.08.2024 respectively, substantially rely on the news articles only to support their cause. She submits that such news articles infer nothing but the propaganda approach adopted by the proscribed organisation to show such intentions only on papers.



449. On the nature of proceedings and proof required, she submits that reading of Section 9 of the Act read with Section 3(1) of the Act makes it clear that the Tribunal shall follow the procedure laid down in the CPC for investigations of the claims before it. The opinion formed by the Tribunal will be governed by the principles applicable to Civil Law and accordingly, the principle of preponderance of probabilities applies and not proof beyond reasonable doubt. She submits that in *Jamat-e-Islami Hind* (supra), the Supreme Court has also observed that the test of greater probability will apply.

- i. the proceedings before the Tribunal is in the nature of *lis* between two parties;
- ii. the proceedings are governed by the Code of Civil Procedure and the principles are applicable to civil law.
- iii. the Tribunal is to adopt a procedure conforming to minimum requirement of natural justice.
- iv. the Tribunal shall follow as far as practicable the rules laid down in the Evidence Act. However, the material need not be confined to legal evidence in strict sense.

450. On the claim of confidentiality of the file produced by the Central Government in a sealed cover, she submits that Rule 3 of the Rules read with Rule 5 of the Rules authorizes this Tribunal to look at the contents of the file so produced and to make a determination if the disclosure of the contents thereof would be against the public interest. She submits that in the present case, as the file contains secret information and reports from the National Investigating Agency and the Intelligence Bureau, the same should not be disclosed to the objectors, specially where their locus is also in challenge.

**Submissions of Mr. Jawahar Raja, learned counsel for the Objectors**

451. On the other hand, the learned counsel for the objectors submitted that as far as the locus of the Objectors to file the objections is concerned, the same has been proved by the deposition of five witnesses who deposed before this Tribunal. They have deposed that they were the members of the Association and, in fact, the Central Government itself either had arrayed them as accused in the FIRs claiming them to be the members of the Association or served notices issued by this Tribunal on them, claiming them to be the members of the Association. He submits that therefore, the locus of the Objectors to challenge the Notification in question cannot be challenged.

452. He further, placing reliance on the judgments of the Supreme Court in *Jamat-e-Islami Hind* (supra), and *State of Madras v. V.C. Rao*, 1952 SCR 597, submits that the proceedings before this Tribunal are judicial in character and this Tribunal has to test the Notification and the opinion formed by the Central Government on an objective criteria of whether the material before the Central Government was sufficient to declare the Association as an Unlawful Association. The credibility of the material must be capable of an objective determination. He submits that as the Notification seeks to curtail a Fundamental Right of not only to form an Association, but also of freedom of speech and expression, it must meet the test laid down by the above judgments; must be seen as placing a reasonable restriction; must satisfy the reasons permitted in Article 19(2) and 19(6) of the Constitution of India; and must be the least intrusive alternate. He relies upon *S. Rangarajan etc. v. V.P. Jagjivan ram & Ors.*, (1989) 2 SCR 204; *Shreya Singhal v. Union of India*, (2015) 5 SCC 1; *Om Kumar & Ors. v. Union of India*, (2001) 2 SCC 386; *The Andhra Pradesh Industrial Infrastructure Corporation & Ors. v. S.N. Rajkumar & Anr.* (2018) 5 SCALE 461; and *Teri Oat Estates (P) Ltd. v. U.T. Chandigarh & Ors.* (2004) 2 SCC 130.

453. He submits that in the present case, 26 out of 41 FIRs that have been relied upon by the Central Government are dated 01.03.2019; two are dated 02.03.2019; four are dated 04.03.2019; and one is dated 21.03.2019. Only remaining 8 cases were registered from 2021 to 2023. The earlier Notification declaring the Association as an Unlawful Association was issued on 28.02.2019. Therefore, most of the FIRs are proximate to the date of the earlier Notification and seek to invoke Section 10 of the Act, against the accused therein. Placing reliance on the judgment of the Supreme Court in *Arup Bhuyan v State of Assam* (2023) 8 SCC 745, he submits that for invoking Section 10 of the Act, the person must continue to remain the member of an Unlawful Association in spite of the Notification declaring it to be such. He submits that in the present case, apart from the fact that the Government has failed to prove that most of the accused persons mentioned in these FIRs were indeed the members of JeI-J&K, has even otherwise, due to the proximity of time to the earlier Notification, failed to prove the ingredients of Section 10 of the Act against these accused. He submits that there cannot be a retrospective operation of the Notification to implicate the accused in the FIRs. In support, he placed reliance on the judgments of the Supreme Court in *Rao Shiv Bahadur Singh v. State of Vindhya Pradesh*, (1953) SCR 1188 and *P.V. Nidhish vs Kerala State Wakf Board & Anr.*, (2023) 4 SCR. 547.

454. He submitted that even otherwise these FIRs which were registered in March, 2019 have no proximate relevance to the Impugned Notification which is issued in the year 2024. He submits that the stale material cannot be basis of the action for declaring an Association as Unlawful. In support, he places reliance on the judgments of Supreme Court in *Mustakmiya Jabbarmiya Shaikh v M.M. Mehta*, 1995 SCC (Cri) 454 and *Ramesh Yadav vs District Magistrate, Etah*, (1985) 4 SCC 232.

455. He submitted that even reading of the FIRs would show that they disclose no material which would justify the declaration of JeI-J&K as an Unlawful Association. He submits that the FIRs cannot be read as an evidence of the



contents thereof. In support, he places reliance on the judgments of the Supreme Court in *Lalita Kumari v. Govt. of U.P.*, (2014) 2 SCC 1 and *Amitbhai Anilchandra Shah vs CBI & Anr.*, (2012) 10 SCC 545.

456. He submitted that as the witnesses produced by the Central Government before this Tribunal, apart from in only six cases, where the Investigating Officer was examined, were merely the Supervisory Officers who had no personal knowledge of the contents of the FIRs. Out of the six cases where the Investigating Officers were examined, only in one case the Investigating Officer who had conducted the investigation, was examined. Their evidence, therefore, would be hearsay and inadmissible in nature. In support, he placed reliance on the judgment of the Supreme Court in *Kalyan Kumar Gogoi v. Ashutosh Agnihotri and Anr.*, (2011) 1 SCR 796 and of the High Court of Bombay in *Om Prakash Berlia and Anr. vs Unit Trust of India and Ors.*, 1983 SCC OnLine Bom 148. He submits that the Investigating Officers are still in service and were thus available to be examined, however, have not been examined.

457. He submitted that the witnesses presented by the Central Government have sought to exhibit the FIRs, the statements of Police Officers, Seizure memos and chargesheets, and stated that even the chargesheets produced by the police is its opinion and should not in any manner, affect the evaluation of facts. The Final Report/Chargesheet is only the opinion of the police and it does not bind judicial determination. In support, he placed reliance on the judgments of the Supreme Court in *India Carat Pvt. Ltd. v. State of Karnataka and Anr.*, (1989) 2 SCC 132 and *Vinubhai Haribhai Malviya and others vs. State of Gujarat and Anr.*, (2019) 17 SCC 1.

458. He submitted that the Central Government has claimed that 19 accused persons in FIR No.12/2019, PS Yaripora, and one accused in FIR No.27/2022, PS Peermitha, have confessed to their crime. Their so called confession is, however, not recorded in terms of Section 164 of Cr.P.C. or in a manner stipulated by law. These are otherwise also not worthy of any credit or reliance.

459. He stated that out of the 41 FIRs relied upon, in 12 cases, chargesheet has not been filed. Out of the 29 cases in which charge-sheet has been filed, in 8 cases charges under the Act have been dropped by the Investigating Agency due to absence of any incriminating material.

460. He submitted that there are a total of 12 cases against the 29 admitted members of the Association, and out of these 12 cases, UAPA has been dropped by the Investigating Agencies at the stage of filing the chargesheet in 2 cases. All such persons have been admitted to bail, except for Abdul Hamid Ghanie @ Hamid Fayaz, who is still in custody in RC-07/2022, PS NIA Jammu.

461. He stated that PW-1, PW-4, PW-10 and PW-13 have admitted that FIRs were registered on the basis of directive to register FIRs under Sections 10,13 of the Act against members of the Association and as per the depositions of the witnesses, no effort was made to verify the membership of the persons against whom the cases were registered, though Ex.PW29/5 and Ex.PW20/8/X, being Seizure Memos, show that records of the membership were seized from the office of the Association, while Ex.PW20/7/X shows seizure of the Arrival Register. He submits that though 36 Seizure Memos have been exhibited by 19 witnesses produced by the Central Government, no incriminating material has been seized.

462. He submitted that in the present case while the Impugned Notification contains the opinion of the Central Government, however, there are no grounds mentioned in support thereof in the Notification. He submits that there is a difference between the facts, grounds, and the opinion formed on the basis of those grounds. He submits that in the present case, in absence of the grounds, Notification cannot be sustained. He placed reliance on the judgments of the Supreme Court in *Narayan Dass Indurakhyia v. State of Madhya Pradesh*, 1972 (3) SCC 676; *Shalini Soni and Others v. Union of India*, (1980) 4 SCC 544; *Vakil Singh v. State of J&K and Anr.*, (1975) 3 SCC 545; and, *The State of Bombay vs Atma Ram Sridhar Vaidhya*, 1951 SCR 167.

463. He submitted that the only material that can be considered by this Tribunal is the one which was placed before the Central Government. No new material can be looked into by this Tribunal nor can the Central Government be allowed to justify the Impugned Notification by giving new grounds or by producing of new material. In support, he placed reliance on the judgments of the Supreme Court in *Commissioner of Police, Bombay v. Gordhandas Bhanji*, AIR (39) 1952 SC 16; *Mohinder Singh Gill vs. Chief Election Commissioner*, AIR 1978 SC 851; *T. P. Senkumar, IPS v. Union of India and Ors.*, (2017) 6 SCC 801; *Dipak Babaria and Anr. v. State of Gujarat and Ors.*, (2014) 3 SCC 502; *Harnam Das v. State of U.P.*, A.I.R. 1961 S.C. 1662, 1666; and, *State of Uttar Pradesh v. Lalai Singh Yadav*, (1976) 4 SCC 213.

464. He submitted that in the present case, the Notification does not state that because of the contents of the Constitution of JeI-J&K, it is sought to be declared as unlawful. In fact, there is nothing objectionable in the Constitution of JeI-J&K. It can lawfully profess and propagate the religion of Islam and the said right is protected under Article 25 of the Constitution of India.

465. On the claim of the privilege, he submits that the same is liable to be rejected on the ground that it has not been claimed by the Head of the Department. Placing reliance on the judgments of the Supreme Court in *S.P. Gupta v. Union of India and Others*, 1981 (Supp) SCC 87; *Jamaat-e-Islami Hind v Union of India* (supra) and *Madhyamam*

**Broadcasting Limited v. Union of India & Ors.** (2023) 10 SCR 595, he submits that, in fact, disclosure of information is necessary to ensure compliance with the principles of Natural Justice; either the material must be disclosed to the objectors or it must also be ignored by this Tribunal and not taken on record. He submitted that Rule 3 of the Rules, in fact, also clearly states that all information must be disclosed to the Objectors.

466. He submitted that the expression “as far as practicable” in Rule 3 of the Rules only means that unless the Central Government is able to establish that it is impracticable to do so, the rules of evidence of the Indian Evidence Act will apply. The onus of establishing that it is impracticable to apply rules of evidence will lie on the Central Government. In support, he placed reliance on **Bareilly Electricity Supply Company v. The Workmen and Others**, 1971 (2) SCC 617; **Maganlal et cetera v. Jaiswal Industries Neemuch & Ors.**, (1989) 3 SCR 696; and, **Rajiv Arora v. Union of India & Ors.**, (2008) 15 SCC 306.

467. He further submitted that this Tribunal, being a creature of the statute, is confined to act within the scope of the Act, and lacks inherent powers, especially regarding accepting material behind the back of the contesting parties, it is limited by Section 3, 4, 5 and 9 of the Act, and Rules 3 and 5 of the Rules. He placed reliance on the judgments of the Supreme Court in **Rajeev Hitendra Pathak and Ors. v. Achyut Kashinath Karekar and Anr.**, (2011) 9 SCC 541 and **Standard Chartered Bank v. Dharminder Bhohi and Ors.** (2013) 15 SCC 341.

468. He submitted that the Objectors have led evidence of its witnesses before this Tribunal, who have deposed that JeI-J&K does not support secession of any part of India or the secession of any part of its territory. They have deposed that JeI-J&K supports political means and acts for the betterment of the society as a whole. He submits that the witnesses have not been cross-examined on their above claim. This would be considered as deemed admission of these statements by Central Government. He relied upon **Rajinder Pershad (D) by Lrs. v. Darshana Devi**, (2001) Supp. (1) S.C.R. 442; **State of U.P. v. Nahar Singh (D) & Ors.**, (1998) 3 SCC 561; **Sarwan Singh v. State of Punjab**, (2002) SUPP. 3 S.C.R. 128; and **SA v. AA**, 2016 SCC OnLine Del 1818.

469. He further stated that, in fact, suggestions given to these witnesses during their cross-examination will also amount to admission of the Central Government to the contrary. He relied upon **Balu Sudam Khalde & Anr. v. The State of Maharashtra**, (2023) 6 SCR 851.

470. He submitted that in the present case, therefore, there is no legal material before this Tribunal to uphold the Notification in question declaring the JeI-J&K as an Unlawful Association.

**Submissions of Mr.Amit Prasad, learned advocate for the Central Government, in Rejoinder**

471. In rejoinder, Mr.Amit Prasad, Advocate appearing for the Central Government, placed reliance on the reports of the various Tribunals constituted under Section 4 of the Act to consider the Notification declaring other Associations as an Unlawful. He submitted that issues now raised by the learned counsel for the Objectors have been dealt with by the earlier Tribunals and have been rejected.

472. He had also drawn my attention to Clause 2(5) of Jammu and Kashmir Reorganization (Removal of Difficulties) Order, 2019, which reads as under:-

*“2. Removal of difficulties. The difficulties arising in giving effect to the provisions of the principal Act have been removed in the following manner, namely.-*

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*(5) All those Central laws, Ordinance and rules which are applicable to the whole of India except the existing State of Jammu and Kashmir immediately before the appointed day, shall now be applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh in addition to the Central laws specified in TABLE-1 of the of Fifth Schedule to the principal Act....”*

In view of the above provision, he states that the proviso to Section 2(1)(p) of the Act shall no longer be applicable and the provision of Section 2(1)(p)(ii) shall equally apply to the Union Territory of Jammu and Kashmir and Ladakh.

473. He submits that in the present case, while the objectors claim that the persons accused in the FIRs are not the members of the JeI-J&K, the assertion is belied by the fact that FIRs were registered even prior to the 2019 Notification against these persons claiming them to be the members of JeI-J&K and these persons never challenged this assertion. In fact, as stated hereinabove, none of these accused have been discharged from the criminal cases against them, nor have they come before this Tribunal claiming that they are not the members of the JeI-J&K, though they are prosecuted for being so. He submitted that therefore, sufficient material not only exists but has been placed before this Tribunal to justify the Notification in question.

**Submissions by Mr. Jawahar Raja, learned counsel for the Objectors in surrejoinder**

474. In answer to the submission of the learned counsel for the Union of India, that in the earlier Notification, no dispute was raised by the Association to the assertion of the Union of India that the accused persons mentioned in the FIRs were its members, the learned counsel for the Objectors, in surrejoinder stated that in the 2019 proceedings, the Central Government did not seek to prove all the cases mentioned in the Background Note. It only examined 10 witnesses who proved 29 cases. Rather, in the submissions filed by the Respondent Association in 2019, the Association accepted the membership of Shoaib Ahmed Czhor and Abdul Ahmed Ghanie @ Hamid Fayaz, and did not need to respond to the claims of membership of Fayaz Ahmed Rather.

475. The learned counsel for the Objectors stated that these contentions of the Central Government are belated and made at the fag end of the proceedings, when the Objectors do not have an opportunity to respond to these fresh claims.

476. The learned counsel for the Objectors further states that the submissions based on the Constitution of J&K can also not be allowed as these were not the basis of the notification banning the Association.

**VI. ANALYSIS AND FINDINGS****i. Locus of the Objectors**

477. As noted hereinabove, the Central Government has challenged the locus of Mr. Asad Ullah Mir under whose signatures the objectors have filed their statement of objections/reply. The learned ASG has contended that the Association had also challenged the Notification declaring it as unlawful, issued in the year 2019. In the said Writ Petition, Mr. Asad Ullah Mir did not claim himself to be a member of the Association, however, derived his authority from Mr. Mohammed Ramzan Naik, who, he claimed to be the General Secretary of the Association. She submitted that it is only in these proceedings that Mr. Asad Ullah Mir now claims himself to be a member of J&K. She submitted that the other witnesses produced before this Tribunal, have not signed or verified the objections filed. Therefore, their testimony be also not relied upon.

478. I do not find any merit in the above challenge of the Central Government. Section 4 (3) of the Act requires the Tribunal to consider the cause against the Notification shown by the Association or the office bearer or the members thereof. In the present case, the Objectors have filed their statement of objections/reply, though under the signatures of Mr. Asad Ullah Mir, claiming therein as under:-

*“44 .That, Asad Ulla Mir joined the Association in 1980 and remained a member of the Association until it was declared unlawful in 2019. He was ‘In-charge, Legal Cell’ of the Association from 1998 till 2001 and then once again from 2001 till 2008. He was also authorised to represent the Association by its General Secretary, Mohammed Ramzan Naik, (i.e., the general secretary of the Association on the day it was declared unlawful in 2019) before the Unlawful Activities (Prevention) Tribunal of Honourable Mr Justice Chander Shekhar in 2019.*

*45. That, notices that Jama'at-e-Islami Jammu and Kashmir ('the Association') had once again been declared an unlawful Association were received by some persons who were members of the Association when it was declared unlawful in 2019. Some of these persons have issued Letters of Authorisation/Powers of Attorney in favour of Mr. Asad Ulla Mir. These Letters of Authorisation/Powers of Attorney authorise Mr. Asad Ulla Mir to represent the signatories in the present proceedings in defence of the Association and to contest the declaration of the Association as unlawful. Annexure R11 (Colly) are three Letters of Authorisation/Powers of Attorney in favour of Mr. Asad Ulla Mir. The said Letters of Authorisation/Powers of Attorney are being filed with leave and liberty of this Tribunal to file any additional such Letters of Authorisation/Powers of Attorney in favour of Asad Ullah Mir, as and when they are received, at any stage subsequently.*

*46. That Asad Ullah Mir is therefore contesting the present proceedings as a person who was a member of the Association when it was declared unlawful and also on behalf of the persons who have issued Letters of Authorisation/Powers of Attorney in his favour, as their representative.”*

479. Along with the statement of objections/reply to the notice, the objectors also annexed copies of the Special Power of Attorney issued by Mr. Bashir Ahmed Lone, Gul Mohammad War, and Mohammad Asraf Wani in favour of Mr. Asad Ullah Mir, appointing him as an attorney to do all acts as may be required before this Tribunal.

480. Mr.Gul Mohammad War has appeared before this Tribunal as RW-3, and has affirmed executing the Special Power of Attorney in favour of Mr.Asad Ullah Mir. He has also stated that he stands by the objections that have been filed before the Tribunal and affirms the same. As far as him being a member of JeI-J&K is concerned, though he could not produce any document in support of such claim, he is named as an accused in FIR No. 32/2019 registered at Police Station Ganderbal (Ex.PW13/1), which alleges him to be a member of JeI-J&K and as instigating the youth for protesting/pelting stones. He also claims to have received notice issued by this Tribunal.

481. Similarly, Mr.Mohammad Asraf Wani appeared before this Tribunal as RW-2. He also affirmed having executed a Special Power of Attorney in favour of Mr.Asad Ullah Mir and affirmed the statements made in the objections/reply filed before the Tribunal. While he also could not produce any document before this Tribunal of being a member of JeI-J&K, he stated that he came to know of the Notification on 05.05.2024 when his brother received a notice with the Notification attached and informed him. His name also appears at Sr. No.65 of paragraph no.4(iii) of Affidavit dated 09.05.2004 filed on behalf of the Central Government of proof of service of notice issued by this Tribunal to members of the Association.

482. Similar is the testimony of Shamim Ahmad Thoker. His name appears at Sr. No.25 of paragraph no.4(iii) of the above referred Affidavit of the Central Government.

483. Be that as it may, and as noted hereinabove, as FIR No.32/2019 on which the Central Government itself places reliance, names Ghulam Mohamad War as an accused and as a member of JeI-J&K, this Tribunal is obliged to consider the objections filed by him to the Notification.

484. Accordingly, the challenge to the locus of the Objectors is hereby rejected. Application, JeI Appln. No. 01/2024 is rejected.

## ii. Claim of Privilege

485. As noted hereinabove, Mr.Rajesh Kumar Gupta, Director (CT), Government of India, Ministry of Home Affairs appeared before this Tribunal as PW-30. Along with his evidence by way of affidavit (Ex.PW30/A), he filed the original file containing the Central Intelligence Report/inputs (Ex.PW30/3). He claimed privilege over the disclosure of the said documents. The Objectors have, however, submitted that privilege cannot be claimed over the said documents as it would amount to denial of principles of natural justice and would even otherwise be contrary to Rule 3(2) of the Rules.

486. In this regard, it would be quite useful to reproduce Section 123 of the Indian Evidence Act, 1872, which deals with the evidence as to the affairs of the State and permits the State to claim privilege. It reads as under:

*“123. Evidence as to affairs of State. -No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.”*

487. Proviso to Section 3(2) of the Act states that while every notification declaring an Association as unlawful shall specify the grounds on which it is issued and other such particulars the Central Government may consider necessary, nothing contained therein shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose. Sub-Section (2) of Section 3 of the Act is reproduced hereinbelow:

### ***“3. Declaration of an Association as unlawful.-***

*(2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary.*

*Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose.”*

488. Rule 3 of the Rules also provides that in holding an inquiry under Section 4(3) of the Act, the Tribunal, subject to provision of Sub Rule (2) of Rule 3, follow, **as far as practicable**, the rules of evidence laid down in the Indian Evidence Act. Sub Rule (2) of Rule 3 further provides that **notwithstanding anything contained in the Indian Evidence Act**, where any books of accounts or other documents have been produced before the Tribunal by the Central Government and such books of accounts or other documents are claimed by the Government to be a confidential nature, then, the Tribunal shall not make such books of accounts or other documents a part of the records of the proceedings before it or allow inspection of, or grant a copy of, the whole of or any extract from, such books of accounts or other documents by or to any persons other than **a party to the proceedings before it**. Sub-Rule (2) of Rule 3 of the Rules is quoted hereinbelow:

**“3. Tribunal and District Judge to follow rules of evidence.-**

(2) Notwithstanding anything contained in the Indian Evidence Act, 1872, where any books of account or other documents have been produced before the Tribunal or the Court of the District Judge by the Central Government and such books of account or other documents are claimed by that Government to be of a confidential nature then, the Tribunal or the Court of the District Judge, as the case may be, shall not,-

- (a) make such books of account or other documents a part of the records of the proceedings before it; or
- (b) Allow inspection of, or grant a copy of, the whole of or any extract from, such books of account or other documents by or to any person other than a party to the proceedings before it.”

489. The plea of privilege and its ambit and scope as far as the Act is concerned, was considered at length by the Supreme Court in its judgment in **Jamat-e-Islami Hind** (Supra). The Supreme Court held that while minimum requirement of natural justice must be satisfied by the Tribunal to make its adjudication meaningful, the requirement of natural justice, in a case of this kind, must be tailored to safeguard public interest which must always outweigh every lesser interest.

490. The Supreme Court further held that in the Act, a departure has been made from the strict observance of the Indian Evidence Act only when public interest so requires and, therefore, subject to the requirement of public interest, which must undoubtedly outweigh the interest of the Association and its members, the ordinary rules of evidence and requirement of natural justice must be followed by the Tribunal. The Tribunal must ascertain the credibility of the material placed before it by the Central Government and should be satisfied that non disclosure of such information to the Association or its office bearers is in public interest. If it is so satisfied, the Tribunal may permit its non-disclosure to the Association or its office bearers. I may quote from the judgment as under:-

*“20. As earlier mentioned, the requirement of specifying the grounds together with the disclosure of the facts on which they are based and an adjudication of the existence of sufficient cause for declaring the Association to be unlawful in the form of decision after considering the cause, if any, shown by the Association in response to the show-cause notice issued to it, are all consistent only with an objective determination of the points in controversy in a judicial scrutiny conducted by a Tribunal constituted by a sitting High Court Judge, which distinguishes the scheme under this Act with the requirement under the preventive detention laws to justify the anticipatory action of preventive detention based on suspicion reached by a process of subjective satisfaction. The scheme under this Act requiring adjudication of the controversy in this manner makes it implicit that the minimum requirement of natural justice must be satisfied, to make the adjudication meaningful. No doubt, the requirement of natural justice in a case of this kind must be tailored to safeguard public interest which must always outweigh every lesser interest. This is also evident from the fact that the proviso to sub-section (2) of Section 3 of the Act itself permits the Central Government to withhold the disclosure of facts which it considers to be against the public interest to disclose. Similarly, Rule 3(2) and the proviso to Rule 5 of the Unlawful Activities (Prevention) Rules, 1968 also permit non-disclosure of confidential documents and information which the Government considers against the public interest to disclose. Thus, subject to the non-disclosure of information which the Central Government considers to be against the public interest to disclose, all information and evidence relied on by the Central Government to support the declaration made by it of an Association to be unlawful, has to be disclosed to the Association to enable it to show cause against the same. Rule 3 also indicates that as far as practicable the rules of evidence laid down in the Indian Evidence Act, 1872 must be followed. A departure has to be made only when the public interest so requires. Thus, subject to the requirement of public interest which must undoubtedly outweigh the interest of the Association and its members, the ordinary rules of evidence and requirement of natural justice must be followed by the Tribunal in making the adjudication under the Act.*

21. To satisfy the minimum requirements of a proper adjudication, it is necessary that the Tribunal should have the means to ascertain the credibility of conflicting evidence relating to the points in controversy. Unless such a means is available to the Tribunal to determine the credibility of the material before it, it cannot choose between conflicting material and decide which one to prefer and accept. In such a situation, the only option to it would be to accept the opinion of the Central Government, without any means to test the credibility of the material on which it is based. The adjudication made would cease to be an objective determination and be meaningless, equating the process with mere acceptance of the ipse dixit of the Central Government. The requirement of adjudication by the Tribunal contemplated under the Act does not permit abdication of its function by the Tribunal to the Central Government providing merely its stamp of approval to the opinion of the Central Government. The procedure to be followed by the Tribunal must, therefore, be such which enables the Tribunal to itself assess the credibility of conflicting material on any point in controversy and evolve a process by which it can decide whether to accept the version of the Central Government or to reject it in the light of the other view asserted by the Association. The difficulty in this sphere is likely to arise in relation to the evidence or material in respect of which the Central Government claims non-disclosure on the ground of public interest.

22. It is obvious that the unlawful activities of an Association may quite often be clandestine in nature and, therefore, the source of evidence of the unlawful activities may require continued confidentiality in public interest. In such a situation, disclosure of the source of such information, and, may be, also full particulars thereof, is likely to be against the public interest. The scheme of the Act and the procedure for inquiry indicated by the Rules framed thereunder provide for maintenance of confidentiality, whenever required in public interest. However, the non-disclosure of sensitive information and evidence to the Association and its office-bearers, whenever justified in public interest, does not necessarily imply its non-disclosure to the Tribunal as well. In such cases where the Tribunal is satisfied that non-disclosure of such information to the Association or its office-bearers is in public interest, it may permit its non-disclosure to the Association or its office-bearers, but in order to perform its task of adjudication as required by the Act, the Tribunal can look into the same for the purpose of assessing the credibility of the information and satisfying itself that it can safely act on the same. In such a situation, the Tribunal can devise a suitable procedure whereby it can itself examine and test the credibility of such material before it decides to accept the same for determining the existence of sufficient cause for declaring the Association to be unlawful. The materials need not be confined only to legal evidence in the strict sense. Such a procedure would ensure that the decision of the Tribunal is an adjudication made on the points in controversy after assessing the credibility of the material it has chosen to accept, without abdicating its function by merely acting on the ipse dixit of the Central Government. Such a course would satisfy the minimum requirement of natural justice tailored to suit the circumstances of each case, while protecting the rights of the Association and its members, without jeopardising the public interest. This would also ensure that the process of adjudication is not denuded of its content and the decision ultimately rendered by the Tribunal is reached by it on all points in controversy after adjudication and not by mere acceptance of the opinion already formed by the Central Government.

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25. Such a modified procedure while ensuring confidentiality of such information and its source, in public interest, also enables the adjudicating authority to test the credibility of the confidential information for the purpose of deciding whether it has to be preferred to the conflicting evidence of the other side. This modified procedure satisfies the minimum requirements of natural justice and also retains the basic element of an

*adjudicatory process which involves objective determination of the factual basis of the action taken.*

*26. An authorised restriction saved by Article 19(4) on the freedom conferred by Article 19(1)(c) of the Constitution has to be reasonable. In this statute, provision is made for the notification to become effective on its confirmation by a Tribunal constituted by a sitting High Court Judge, on adjudication, after a show-cause notice to the Association, that sufficient cause exists for declaring it to be unlawful. The provision for adjudication by judicial scrutiny, after a show-cause notice, of existence of sufficient cause to justify the declaration must necessarily imply and import into the inquiry, the minimum requirement of natural justice to ensure that the decision of the Tribunal is its own opinion, formed on the entire available material, and not a mere imprimatur of the Tribunal affixed to the opinion of the Central Government. Judicial scrutiny implies a fair procedure to prevent the vitiating element of arbitrariness. What is the fair procedure in a given case, would depend on the materials constituting the factual foundation of the notification and the manner in which the Tribunal can assess its true worth. This has to be determined by the Tribunal keeping in view the nature of its scrutiny, the minimum requirement of natural justice, the fact that the materials in such matters are not confined to legal evidence in the strict sense, and that the scrutiny is not a criminal trial. The Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the Association, if the public interest so requires.*

*27. It follows that, ordinarily, the material on which the Tribunal can place reliance for deciding the existence of sufficient cause to support the declaration, must be of the kind which is capable of judicial scrutiny. In this context, the claim of privilege on the ground of public interest by the Central Government would be permissible and the Tribunal is empowered to devise a procedure by which it can satisfy itself of the credibility of the material without disclosing the same to the Association, when public interest so requires. The requirements of natural justice can be suitably modified by the Tribunal to examine the material itself in the manner it considers appropriate, to assess its credibility without disclosing the same to the Association. This modified procedure would satisfy the minimum requirement of natural justice and judicial scrutiny. The decision would then be that of the Tribunal itself."*

491. Though the learned counsel for the Objectors submitted that the above judgment of the Supreme Court is *per incurium* and is based on a concession made by the learned Senior Counsel for the Association therein, I find no merit in the said submission. The Supreme Court has, in spite of the said concession, not based its judgment on the concession alone, but has considered the objects and purpose of the Act and its various provisions in reaching the above conclusion. The same is binding on this Tribunal.

492. Even otherwise, in **Madhyamam Broadcasting Limited** (Supra), which has been extensively relied upon by the learned counsel for the Objectors by contending that the same would in some manner no longer bind this Tribunal with the judgment of the Supreme Court in **Jamat-e-Islami Hind** (supra), does not in any manner dilute or have the effect of overruling the judgment of the Supreme Court in **Jamat-e-Islami Hind** (supra).

493. In **Madhyamam Broadcasting Limited** (Supra), the Supreme Court was considering the following issues:

- “(i) Whether security clearance is one of the conditions required to be fulfilled for renewal of permission under the Uplinking and Downlinking Guidelines:*
- (ii) Whether denying a renewal of license and the course of action adopted by the Division Bench of the High Court violated the appellants procedural guarantees under the Constitution; and*
- (iii) Whether the order denying renewal of license is an arbitrary restriction on MBL's right to the freedom of speech and expression under Article 19(1)(a) of the Constitution."*

494. In answering the above issues, the Supreme Court also considered and laid down the law on the applicability of principles of natural justice when the issue of National Security is involved. It was held that the Court must choose

between the two alternates of either permitting a complete abrogation of the principles of natural justice or attempting to balance the principles of natural justice with concerns of National Security. The Court summarized the principles that would be applicable to a claim of violation of principles of natural justice on grounds of national security, as under:-

**“83.** *The following principles emerge from the above judgments:*

*(i) The party affected by the decision must establish that the decision was reached by a process that was unfair without complying with the principles of natural justice; (ii) The State can claim that the principles of natural justice could not be followed because issues concerning national security were involved;*

*(iii) The Courts have to assess if the departure was justified. For this purpose, the State must satisfy the Court that firstly, national security is involved; and secondly, whether on the facts of the case, the requirements of national security outweigh the duty of fairness. At this stage, the court must make its decision based on the component of natural justice that is sought to be abrogated; and*

*(iv) While satisfying itself of the national security claim, the Courts must give due weightage to the assessment and the conclusion of the State. The Courts cannot disagree on the broad actions that invoke national security concerns that is, a question of principle such as whether preparation of terrorist activities by a citizen in a foreign country amounts a threat of national security. However, the courts must review the assessment of the State to the extent of determining whether it has proved through cogent material that the actions of the aggrieved person fall within the principles established above.*

**84.** *The contention of the respondent that the judgment of this Court In Ex-Armymen's Protection Services (supra) held that the principles of natural justice shall be excluded when concerns of national security are involved is erroneous. The principle that was expounded in that case was that the principles of natural justice may be excluded when on the facts of the case, national security concerns outweigh the duty of fairness. Thus, national security is one of the few grounds on which the right to a reasonable procedural guarantee may be restricted. The mere involvement of issues concerning national security would not preclude the state's duty to act fairly. If the State discards its duty to act fairly, then it must be justified before the court on the facts of the case. Firstly, the State must satisfy the Court that national security concerns are involved. Secondly, the State must satisfy the court that an abrogation of the principle(s) of natural justice is justified. These two standards that have emerged from the jurisprudence abroad resemble the proportionality standard. The first test resembles the legitimate aim prong, and the second test of justification resembles the necessity and the balancing prongs.”*

495. The Court highlighted that a general claim of Ministry of Home Affairs that all reports of the Investigating Agencies are confidential, cannot be accepted. It highlighted that to argue that reports of the Intelligence Agencies may contain confidential information is one thing, but to argue that all such reports are confidential is another; the second would be misplaced and cannot be accepted on the touchstone of constitutional values. The reports by Investigating Agencies impact decision on the life, liberty, and professions of individuals and entities, and to give such reports absolute immunity from disclosure is antithetical to a transparent and accountable system. The Court held that the Courts do not resort to a hands-off approach when it is claimed that National Security implications are involved. The expression National Security does not have a fixed meaning. The phrase derives its meaning from the context. It is not sufficient for the State to identify its purpose in broad conceptual terms such as national security and public order, rather, it is imperative for the State to prove through the submission of cogent material, that non-disclosure is in the interest of national security. It is the Court's duty to assess if there is sufficient material for forming such an opinion. Even assuming, that the action taken is in the interest of confidentiality and National Security, the proportionality standard requires the State to assess whether the means used are rationally connected to the purpose. The Court held that the Evidence Act prescribes rules precluding to disclosure of certain communication and evidence, in form of Sections 123, 124 and 162 of the Indian Evidence Act. The Court advocated adoption of a Structured Proportionality Standard modified on the basis of the content of Section 124 of the Indian Evidence Act to assess claim of Public Interest Immunity. The Court held as under:-



*“94. Thus, the expression national security does not have a fixed meaning. While courts have attempted to conceptually distinguish national security from public order, it is Impossible (and perhaps unwise) to lay down a text-book definition of the expression which can help the courts decide if the factual situation is covered within the meaning of the phrase. The phrase derives its meaning from the context. It is not sufficient for the State to identify its purpose in broad conceptual terms such as national security and public order. Rather, it is imperative for the State to prove through the submission of cogent material that non-disclosure is in the interest of national security. It is the Court's duty to assess if there is sufficient material for forming such an opinion. A claim cannot be made out of thin air without material backing for such a conclusion. The Court must determine if the State makes the claim in a bona fide manner. The Court must assess the validity of the claim of purpose by determining (1) whether there is material to conclude that the nondisclosure of the information is in the interest of national security; and (ii) whether a reasonable prudent person would arrive at the same conclusion based on the material. The reasonable prudent person standard which is one of the lowest standards to test the reasonableness of an action is used to test national security claims by courts across jurisdictions because of their deferential perception towards such claims. This is because courts recognise that the State is best placed to decide if the interest of national security would be served. The court allows due deference to the State to form its opinion but reviews the opinion on limited grounds of whether there is nexus between the material and the conclusion. The Court cannot second-guess the judgment of the State that the purpose identified would violate India's national security. It is the executive wing and not the judicial wing that has the knowledge of India's geo- political relationships to assess if an action is in the interest of India's national security.*

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*170. While it cannot be denied that allowing a public interest immunity claim may cause some degree of injury to the procedural guarantees of the claimant and the defendant, a sealed cover procedure will not ensure a fairer proceeding. The purpose of public Interest Immunity proceedings would become redundant if the defendant is provided the option of requesting a closed material procedure after the conclusion of public interest Immunity proceedings, which the defendant makes, is allowed. Rather, we are of the opinion that the effect of public interest immunity proceedings of removing the evidence completely from the proceedings would persuade the State in making restricted claims of public Interest immunity. Further, as Lord Dyson remarked, the procedure would be inherently disadvantageous to the claimant because they are unaware of the contents of the document.*

*171. It may be argued that the removal of the documents from the proceedings would render the proceedings non-justiciable if the documents that are sought to be protected are so closely intertwined with the cause of action. Though the argument holds merit on a cursory glance, it does not hold water when delved into deeper. As observed above, one of the relevant considerations for the court in the balancing stage of adjudicating the public interest immunity claim is whether the non-disclosure of the material would render the issue non-justiciable. The court while analysing the relevancy of the material and the potential non-justiciability of the issue due to non-disclosure may direct that the material should be disclosed. The purpose of the balancing prong is to weigh in the conflicting claims and effects of such claims. Even if the disclosure would conceivably injure public Interest, the courts may still dismiss the claim of public interest immunity if the non -disclosure would render the issue non-justiciable, and on the facts of the case it is decided that the injury due to non-disclosure outweighs the injury due to disclosure.*

*172. The courts could adopt the course of action of redacting the confidential portions of the document and providing a summary of the contents of the document instead of opting for the sealed cover procedure to fairly exclude the document from the proceedings on a successful public interest immunity claim. Both the parties can then only be permitted to refer to the redacted version of the document or the summary in the proceeding. In view of the above discussion, we are of the opinion that public Interest immunity proceeding is a less restrictive means to deal with non-disclosure on the grounds of public interest and confidentiality. This leaves the final issue to be answered : if public interest immunity is a less restrictive means, then whether the procedure of sealed cover can be used at all, and if so, in what circumstances would it be permissible for the court to exercise its power to secure evidence in a sealed cover. While it would be beyond the scope of this judgment to lay down the possible situations when the sealed cover procedure can be used, it is sufficient to state that if the purpose could be realised effectively by public interest immunity proceedings or any other less restrictive means, then the sealed cover procedure should not be adopted. The court should undertake an analysis of the possible procedural modalities that could be used to realise the purpose, and the means that are less restrictive of the procedural guarantees must be adopted.”*

496. In light of the above law, and keeping in mind the object and purpose of the Act, this Court has considered the claim of privilege made by the Central Government to the documents filed in the sealed cover. From a perusal of the file, it was found that apart from the Background Note, including the reference to the FIRs that already stand disclosed to the Objectors as forming part of the Background Note, there are confidential inputs received from Intelligence Bureau and the NIA on the working of JeI-J&K and its members/sympathizers/office bearers. This information is clearly confidential and cannot be disclosed in National Interest. Non-disclosure of such information would even otherwise not have any impact on the present adjudication inasmuch as the objectors have been given access to otherwise publicly claimed inputs/materials/reasons which have weighed with the Central Government in forming its opinion on declaring JeI-J&K as an Unlawful Association. The principles of natural justice have also been met by not only holding public hearings but also giving an opportunity to the Objectors to cross-examine the witnesses that were produced by the Central Government in support of the Notification, and also giving to the Objectors an opportunity to produce their own evidence in opposition to the Notification.

497. The reliance of the learned counsel for the objectors on Rule 3(2)(b) of the Rules is also unfounded inasmuch as it prohibits the Tribunal to grant inspection of or copy of the books of accounts and other documents, which are claimed by the Central Government to be confidential in nature, to any person other than the party to the proceedings before it. The same, however, does not *ipso facto* lead to a conclusion that the Tribunal, in spite of finding the claim of privilege made by the Central Government to be genuine and entitled to acceptance, must still grant inspection of or copy of such books of accounts and documents to the Objectors.

498. As far as the credibility of the documents which have not been disclosed to the Objectors is concerned, this Tribunal has minutely gone through these documents and find the same to be worthy of acceptance. They are also corroborated by the testimony of various witnesses produced by the Central Government who have spoken about the clandestine activities of the Association and its members.

499. In my view, therefore, the claim of privilege made by the Central Government on Ex.PW30/3, produced by RW-30, is in accordance with law and the documents submitted in the sealed cover are not required to be disclosed to the Objectors in public interest. Application filed by the Objectors, JeI Appln. 02/2024, is accordingly dismissed.

### **iii. Standard to be applied to the adjudication by the Tribunal**

500. Before considering the above issue, it would be advisable to quote the necessary and relevant provisions from the Act and the Rules for a ready reference:-

*“2. Definitions. – (1) In this Act, unless the context otherwise requires, -*

*(o) “unlawful activity”, in relation to an individual or Association, means any action taken by such individual or Association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),-*

*(i) Which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or, the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or*

- (ii) Which disclaims, questions, disrupts, or is intended to disrupt the sovereignty and territorial integrity of India; or
- (iii) Which causes or is intended to cause disaffection against India;

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(p) “unlawful Association” means any Association,-

(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or

(ii) which has for its object any activity which is punishable under Section 153-A or Section 153-B of the Indian Penal Code or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

Provided that nothing contained in sub-clause (ii), shall apply to the State of Jammu and Kashmir”.

501. Provisions of Sections 153A and 153B of the IPC are also relevant and are reproduced hereinbelow:-

**“153A. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.--(1) Whoever-**

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity,

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,] shall be punished with imprisonment which may extend to three years, or with fine, or with both.

**Offence committed in place of worship, etc.--**Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

**153B. Imputations, assertions prejudicial to national integration.--(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,-**

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

*(b) asserts, counsels, advises, propagates or publishes that any class of persons by reason of their being members of any religious, racial, language or regional group or caste or community be denied, or deprived of their rights as citizens of India, or*

*(c) makes or publishes and assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons, shall be punished with imprisonment which may extend to three years, or with fine, or with both.*

*(2) Whoever commits an offence specified in sub-section (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine”*

502. Though the proviso to Section 2(1)(p) of the Act provides that nothing contained in sub clause (ii) of the said provision shall apply to State of Jammu and Kashmir, in view of Clause 2(5) of the Jammu and Kashmir Reorganisation (Removal of Difficulties) Order, 2019, the said provision would also equally apply to the Union Territory of Jammu and Kashmir and to the Union Territory of Ladakh. Clause 2(5) of the Jammu and Kashmir Reorganisation (Removal of Difficulties) Order, 2019 is reproduced hereinbelow:

*“2. Removal of difficulties.—The difficulties arising in giving effect to the provisions of the principal Act have been removed in the following manner, namely: –*

*(5) All those Central laws, Ordinance and rules which are applicable to the whole of India except the existing State of Jammu and Kashmir immediately before the appointed day, shall now be applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh in addition to the Central laws specified in TABLE -1 of the of Fifth Schedule to the principal Act.”*

503. Section 3 of the Act empowers the Central Government to declare an Association as Unlawful, as also the requirements of such a notification. It is quoted hereinbelow:

*“3. Declaration of an Association as unlawful.—(1) If the Central Government is of opinion that any Association is, or has become, an unlawful Association, it may, by notification in the Official Gazette, declare such Association to be unlawful.*

*(2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary:*

*Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose.*

*(3) No such notification shall have effect until the Tribunal has, by an order made under section 4, confirmed the declaration made therein and the order is published in the Official Gazette:*

*Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an Association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under section 4, have effect from the date of its publication in the Official Gazette.*

*(4) Every such notification shall, in addition to its publication in the Official Gazette, be published in not less than one daily newspaper having circulation in the State in which the principal office, if any, of the Association affected is situated, and shall also be served on such Association in such manner as the Central Government may think fit and all*

*or any of the following modes may be followed in effecting such service, namely:—*

- (a) *by affixing a copy of the notification to some conspicuous part of the office, if any, of the Association; or*
- (b) *by serving a copy of the notification, where possible, on the principal office-bearers, if any, of the Association; or*
- (c) *by proclaiming by beat of drum or by means of loudspeakers, the contents of the notification in the area in which the activities of the Association are ordinarily carried on; or*
- (d) *in such other manner as may be prescribed.”*

504. Section 4 of the Act obliges the Central Government, within 30 days from the date of publication of Notification under Section 3, to refer the Notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the Association Unlawful. It also lays down the procedure that the Tribunal shall follow. Sections 5 and 9 are also relevant in this regard. Sections 4, 5 and 9 of the Act are quoted hereinbelow:-

**“4. Reference to Tribunal—**(1) *Where any Association has been declared unlawful by a notification issued under sub-section (1) of section 3, the Central Government shall, within thirty days from the date of the publication of the notification under the said sub-section, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the Association unlawful.*

(2) *On receipt of a reference under sub-section (1), the Tribunal shall call upon the Association affected by notice in writing to show cause, within thirty days from the date of the service of such notice, why the Association should not be declared unlawful.*

(3) *After considering the cause, if any, shown by the Association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the manner specified in section 9 and after calling for such further information as it may consider necessary from the Central Government or from any office-bearer or member of the Association, it shall decide whether or not there is sufficient cause for declaring the Association to be unlawful and make, as expeditiously as possible and in any case within a period of six months from the date of the issue of the notification under sub-section (1) of section 3, such order as it may deem fit either confirming the declaration made in the notification or cancelling the same.*

(4) *The order of the Tribunal made under sub-section (3) shall be published in the Official Gazette.*

**5. Tribunal.—**(1) *The Central Government may, by notification in the Official Gazette, constitute, as and when necessary, a tribunal to be known as the “Unlawful Activities (Prevention) Tribunal” consisting of one person, to be appointed by the Central Government:*

*Provided that no person shall be so appointed unless he is a Judge of a High Court.*

(2) *If, for any reason, a vacancy (other than a temporary absence) occurs in the office of the presiding officer of the Tribunal, then, the Central Government shall appoint another person in accordance with the provisions of this section to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.*

(3) *The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.*

(4) *All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India.*

(5) *Subject to the provisions of section 9, the Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it will hold its sittings.*

(6) *The Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—*

- (a) *the summoning and enforcing the attendance of any witness and examining him on oath;*
- (b) *the discovery and production of any document or other material object producible as evidence;*
- (c) *the reception of evidence on affidavits;*
- (d) *the requisitioning of any public record from any court or office;*
- (e) *the issuing of any commission for the examination of witnesses.*

(7) *Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and [Chapter XXVI] of the [Code].*

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**9. Procedure to be followed in the disposal of applications under this Act.**—*Subject to any rules that may be made under this Act, the procedure to be followed by the Tribunal in holding any inquiry under sub-section (3) of section 4 or by a Court of the District Judge in disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8 shall, so far as may be, be the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), for the investigation of claims and the decision of the Tribunal or the Court of the District Judge, as the case may be, shall be final."*

505. Sections 10 to 13 of the Act prescribe the penalty in relation to an Unlawful Association. They are quoted hereinbelow:-

**"10. Penalty for being member of an unlawful Association, etc.—**

*Where an Association is declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section,—*

(a) *a person, who—*

*(i) is and continues to be a member of such Association; or (ii) takes part in meetings of such Association; or*

*(iii) contributes to, or receives or solicits any contribution for the purpose of, such Association; or*

*(iv) in any way assists the operations of such Association,*

*shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine; and*

(b) *a person, who is or continues to be a member of such Association, or voluntarily does an act aiding or promoting in any manner the objects of such Association and in either case is in possession of any unlicensed firearms, ammunition, explosive or other instrument or substance capable of causing mass destruction and commits any act resulting in loss of human life or grievous injury to any person or causes significant damage to any property,—*

*(i) and if such act has resulted in the death of any person, shall be punishable with death or imprisonment for life, and shall also be liable to fine;*

(ii) in any other case, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

**11. Penalty for dealing with funds of an unlawful Association.**—If any person on whom a prohibitory order has been served under sub-section (1) of section 7 in respect of any moneys, securities or credits pays, delivers, transfers or otherwise deals in any manner whatsoever with the same in contravention of the prohibitory order, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and notwithstanding anything contained in the Code of Criminal Procedure 1973, the court trying such contravention may also impose on the person convicted an additional fine to recover from him the amount of the moneys or credits or the market value of the securities in respect of which the prohibitory order has been contravened or such part thereof as the court may deem fit.

**12. Penalty for contravention of an order made in respect of a notified place.**—(1) Whoever uses any article in contravention of a prohibitory order in respect thereof made under sub-section (3) of section 8 shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine.

(2) Whoever knowingly and wilfully is in, or effects or attempts to effect entry into, a notified place in contravention of an order made under sub-section (4) of section 8 shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine.

**13. Punishment for unlawful activities.**—(1) Whoever—

(a) takes part in or commits, or

(b) advocates, abets, advises or incites the commission of, any unlawful activity, shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

(2) Whoever, in any way, assists any unlawful activity of any Association, declared unlawful under section 3, after the notification by which it has been so declared has become effective under sub-section (3) of that section, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

(3) Nothing in this section shall apply to any treaty, agreement or convention entered into between the Government of India and the Government of any other country or to any negotiations therefor carried on by any person authorised in this behalf by the Government of India.

506. The relevant Rules are reproduced hereinunder:

**“3. Tribunal and District Judge to follow rules of evidence.**—(1) In holding an inquiry under sub-section (3) of section 4 or disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8, the Tribunal or the District Judge, as the case may be, shall, subject to the provisions of sub-rule (2), follow, as far as practicable, the rules of evidence laid down in the Indian Evidence Act, 1872.

(2) Notwithstanding anything contained in the Indian Evidence Act, 1872 where any books of account or other documents have been produced before the Tribunal or the Court of the District Judge by the Central Government and such books of account or other documents are claimed by that Government to be of a confidential nature then, the Tribunal or the Court of the District Judge, as the case may be, shall not,—

(a) make such books of account or other documents a part of the records of the proceedings before it; or

(b) allow inspection of, or grant a copy of, the whole of or any extract from, such books of account or other documents by or to any person other than a party to the proceedings before it.

**5. Documents which should accompany a reference to the Tribunal.—** Every reference made to the Tribunal under sub-section (1) of section 4 shall be accompanied by—

(i) a copy of the notification made under sub-section (1) of section 3, and

(ii) all the facts on which the grounds specified in the said notification are based:

*Provided that nothing in this rule shall require the Central Government to disclose any fact to the Tribunal which that Government considers against the public interest to disclose.”*

507. In *Jamat-e-Islami Hind* (Supra), the Supreme Court on a detailed analysis of the provisions of the Act, held that the determination of the question as to whether any Association is, or has become, an Unlawful Association to justify declaration under sub Section (1) of Section 3, must be based on an objective decision; and the determination should be that ‘any action taken’ by such Association constitutes an ‘unlawful activity’ which is the object of the Association or the object is any activity punishable under Section 153A or Section 153B of the IPC. It is only on the conclusion so reached in an objective determination, that a declaration can be made by the Central Government under section 3(1) of the Act. It was further held that Section 3(2) of the Act requires the notification to specify the grounds on which it is issued, and that such requirement indicates that the exercise has to be objective, together with disclosure of the basis of action to the Association. The purpose of making the Reference to the Tribunal under Section 4(1) of the Act is for an ‘adjudication’ by the Tribunal of the existence of sufficient cause for making the declaration under Section 3(1) of the Act. The nature of inquiry contemplated by the Tribunal requires it to weigh the material on which the notification under Section 3(1) of the Act is issued by the Central Government, the cause shown by the Association in reply to the notice issued to it, and to decide the existence of sufficient cause for declaring the Association to be unlawful. The entire procedure contemplated is an objective determination made; the inquiry is in the nature of an adjudication of a *lis* between two parties; credibility of the material should, ordinarily, be capable of objective assessment; and the test of greater probability appears to be the pragmatic test applicable in the context of the Act.

508. It was held that the nature of the inquiry conducted by the Tribunal is judicial in character. The test is not of a subjective satisfaction of the Central Government; the Tribunal is to form its own opinion on the entire available material by adopting a fair procedure to prevent the vitiating elements of arbitrariness, and after assessing for itself the credibility of the material produced. I may quote from the judgment as under:-

*“9. Clauses (f) and (g) of Section 2 contain definitions of “unlawful activity” and “unlawful Association” respectively. An “unlawful activity”, defined in clause (f), means “any action taken” of the kind specified therein and having the consequence mentioned. In other words, “any action taken” by such individual or Association constituting an “unlawful activity” must have the potential specified in the definition. Determination of these facts constitutes the foundation for declaring an Association to be unlawful under sub-section (1) of Section 3 of the Act. Clause (g) defines “unlawful Association” with reference to “unlawful activity” in sub-clause (i) thereof, and in sub-clause (ii) the reference is to the offences punishable under Section 153-A or Section 153-B of the Penal Code, 1860. In sub-clause (ii), the objective determination is with reference to the offences punishable under Section 153-A or Section 153-B of the IPC while in sub-clause (i) it is with reference to “unlawful activity” as defined in clause (f). These definitions make it clear that the determination of the question whether any Association is, or has become, an unlawful Association to justify such declaration under sub-section (1) of Section 3 must be based on an objective decision; and the determination should be that “any action taken” by such Association constitutes an “unlawful activity” which is the object of the Association or the object is any activity punishable under Section 153-A or Section 153-B IPC. It is only on the conclusion so reached in an objective determination that a declaration can be made by the Central Government under sub-section (1) of Section 3.*



**10.** Sub-section (2) of Section 3 requires the notification issued under sub-section (1) to specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary. This requirement indicates that performance of the exercise has to be objective together with disclosure of the basis of action to the Association. The proviso to sub-section (2) permits the Central Government not to disclose any fact which it considers to be against the public interest to disclose. Ordinarily a notification issued under sub-section (1) of Section 3 becomes effective only on its confirmation by the Tribunal by an order made under Section 4 after due inquiry; but in extraordinary circumstances, which require that it may be brought into effect immediately, it may be so done for “reasons to be stated in writing” by the Central Government, and then also it is subject to any order made by the Tribunal under Section 4 of the Act. Section 3 requires an objective determination of the matter by the Central Government and Section 4 requires confirmation of the act of the Central Government by the Tribunal.

**11.** Section 4 deals with reference to the Tribunal. Sub-section (1) requires the Central Government to refer the notification issued under sub-section (1) of Section 3 to the Tribunal “for the purpose of adjudicating whether or not there is sufficient cause for declaring the Association unlawful”. The purpose of making the reference to the Tribunal is an adjudication by the Tribunal of the existence of sufficient cause for making the declaration. The words ‘adjudicating’ and “sufficient cause” in the context are of significance. Sub-section (2) requires the Tribunal, on receipt of the reference, to call upon the Association affected “by notice in writing to show cause” why the Association should not be declared unlawful. This requirement would be meaningless unless there is effective notice of the basis on which the declaration is made and a reasonable opportunity to show cause against the same. Sub-section (3) prescribes an inquiry by the Tribunal, in the manner specified, after considering the cause shown to the said notice. The Tribunal may also call for such other information as it may consider necessary from the Central Government or the Association to decide whether or not there is sufficient cause for declaring the Association to be unlawful. The Tribunal is required to make an order which it may deem fit “either confirming the declaration made in the notification or cancelling the same”. The nature of inquiry contemplated by the Tribunal requires it to weigh the material on which the notification under sub-section (1) of Section 3 is issued by the Central Government, the cause shown by the Association in reply to the notice issued to it and take into consideration such further information which it may call for, to decide the existence of sufficient cause for declaring the Association to be unlawful. The entire procedure contemplates an objective determination made on the basis of material placed before the Tribunal by the two sides; and the inquiry is in the nature of adjudication of a lis between two parties, the outcome of which depends on the weight of the material produced by them. Credibility of the material should, ordinarily, be capable of objective assessment. The decision to be made by the Tribunal is “whether or not there is sufficient cause for declaring the Association unlawful”. Such a determination requires the Tribunal to reach the conclusion that the material to support the declaration outweighs the material against it and the additional weight to support the declaration is sufficient to sustain it. The test of greater probability appears to be the pragmatic test applicable in the context.

**12.** Section 5 relates to constitution of the Tribunal and its powers. Sub-section (1) of Section 5 clearly provides that no person would be appointed “unless he is a Judge of a High Court”. Requirement of a sitting Judge of a High Court to constitute the Tribunal also suggests that the function is judicial in nature. Sub-section (7) says that any proceeding before the Tribunal shall be deemed to be a “judicial proceeding” and the Tribunal shall be deemed to be a “Civil Court” for the purposes specified. Section 6 deals with the period of operation and cancellation of notification. Section 8 has some significance in this context. Sub-section (8) of Section 8

*provides the remedy to any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section 4, by an application made to the District Judge who is required to decide the same after giving the parties an opportunity of being heard. This also indicates the judicial character of the proceeding even under Section 8. Section 9 prescribes the procedure to be followed in the disposal of applications under the Act. Provisions of Section 9 of the Act lay down that the procedure to be followed by the Tribunal in holding an inquiry under sub-section (3) of Section 4 or by the District Judge under Section 8 shall, so far as may be, be the procedure prescribed by the Code of Civil Procedure for the investigation of claims. Sections 10 to 14 in Chapter III relate to "offences and penalties" which indicate the drastic consequences of the action taken under the Act including a declaration made that an Association is unlawful. The penal consequences provided are another reason to support the view that the inquiry contemplated by the Tribunal under Section 4 of the Act is judicial in character since the adjudication made by the Tribunal is visited with such drastic consequences.*

**13.** *In our opinion, the above scheme of the Act clearly brings out the distinction between this statute and the scheme in the preventive detention laws making provision therein for an Advisory Board to review the detention. The nature of the inquiry preceding the order made by the Tribunal under Section 4 of the Act, and its binding effect, give to it the characteristic of a judicial determination distinguishing it from the opinion of the Advisory Board under the preventive detention laws.*

**14.** *In Section 4, the words 'adjudicating' and 'decide' have a legal connotation in the context of the inquiry made by the Tribunal constituted by a sitting Judge of a High Court. The Tribunal is required to 'decide' after "notice to show cause" by the process of 'adjudicating' the points in controversy. These are the essential attributes of a judicial decision.*

**15.** *In Volume 2 of the Words and Phrases, Permanent Edition, by West Publishing Co., some of the meanings given of "adjudicate; adjudication" are as under:*

*"An 'adjudication' essentially implies a hearing by a court, after notice, of legal evidence on the factual issue involved.*

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*Generally, 'adjudication' of any question implies submission of question to a court of record."*

**16.** *Volume 1 of the Shorter Oxford English Dictionary on Historical Principles, 3rd Edn., says, the word 'adjudicate' means "to try and determine judicially".*

**17.** *The reference to the Tribunal is for the purpose of adjudicating whether or not there is sufficient cause for declaring the Association unlawful. Obviously the purpose is to obtain a judicial confirmation of the existence of sufficient cause to support the action taken. The confirmation is by a sitting High Court Judge after a judicial scrutiny of the kind indicated. This being the nature of inquiry and the purpose for which it is conducted, the materials on which the adjudication is to be made with opportunity to show cause given to the Association, must be substantially in consonance with the materials required to support a judicial determination. Reference may be made at this stage to the decision in *State of Madras v. V.G. Row* on which both sides place reliance.*

**18.** *In *State of Madras v. V.G. Row* the question for decision related to the constitutional validity of a law empowering the State to declare Associations illegal by notification, wherein there was no provision for judicial inquiry or for service of notification on the Association or its office-bearers. The absence of a provision for judicial inquiry and notice to the Association of the basis for the action taken was held to be an unreasonable*

*restriction on the right to form Associations under Article 19(1)(c) read with Article 19(4) of the Constitution as it then stood. By the Constitution (Sixteenth Amendment) Act, 1963, the expression “the sovereignty and integrity of India or” was inserted prior to “public order or morality” to permit reasonable restrictions to be imposed also in the interests of the sovereignty and integrity of India in addition to those in the interests of public order or morality. The significance, however, is that in V.G. Row the absence of a provision for judicial inquiry to scrutinise the reasonableness of restrictions on the exercise of the right conferred by sub-clause (c) of clause (1) of Article 19 was the ground on which the law was held to be constitutionally invalid. The test of reasonableness of the restrictions imposed was indicated thus:*

*“It is important in this context to bear in mind that the test of reasonableness, wherever prescribed, should be applied to each individual statute impugned, and no abstract standard, or general pattern of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict.”*

*The argument of the learned Attorney General in V.G. Row placing reliance on the decision in N.B. Khare (Dr) v. State of Delhi wherein the subjective satisfaction of the Government regarding the necessity for the externment of a person coupled with a reference of the matter to an Advisory Board was considered to be reasonable procedure for restricting the right conferred by Article 19(1)(b), was rejected. A distinction was drawn between the requirement for preventive detention or externment of a person with declaration of an Association to be unlawful on the ground that the former was anticipatory or based on suspicion whereas the latter was based on grounds which are factual and capable of objective determination by the Court. This distinction was emphasised as under:*

*“These grounds, taken by themselves, are factual and not anticipatory or based on suspicion. An Association is allowed to be declared unlawful because it ‘constitutes’ a danger or ‘has interfered or interferes’ with the maintenance of public order or ‘has such interference for its object’, etc. The factual existence of these grounds is amenable to objective determination by the court,....*

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*For all these reasons the decision in Dr Khare case, is distinguishable and cannot rule the present case as claimed by the learned Attorney General. Indeed, as we have observed earlier, a decision dealing with the validity of restrictions imposed on one of the rights conferred by Article 19(1) cannot have much value as a precedent for adjudging the validity of the restrictions imposed on another right, even when the constitutional criterion is the same, namely, reasonableness, as the conclusion must depend on the cumulative effect of the varying facts and circumstances of each case.”*

**19.** *In our opinion, the test of factual existence of grounds amenable to objective determination by the court for adjudging the reasonableness of restrictions placed on the right conferred by Article 19(1)(c) to form Associations, in the scheme of the Unlawful Activities (Prevention) Act, 1967, is equally applicable in accordance with the decision in V.G. Row. It is, therefore, this test which must determine the meaning and content of the adjudication by the Tribunal of the existence of sufficient cause for declaring the Association to be unlawful under the Act. A different construction to equate the requirement of this Act with mere subjective satisfaction of the Central Government, when the power to declare an Association to be unlawful depends on the factual existence of the grounds which are amenable to objective determination, would result in denuding*

*the process of adjudication by the Tribunal of the entire meaning and content of the expression 'adjudication'.*"

509. In *Arup Bhuyan* (supra), the Supreme Court held that the Act has been enacted in exercise of powers conferred under Article 19(2) and 19(4) of the Constitution of India. Its main object is to make powers available for dealing with activities directed against the integrity and sovereignty of India, and its aim and its object is to provide for more effective prevention of certain unlawful activities.

510. Keeping in view the above principles of law, I shall now consider as to whether the Central Government had sufficient cause for declaring JeI-J&K as an 'Unlawful Association'.

511. The Central Government has placed on record the fact that JeI-J&K was earlier banned for a period of two years by the Notification dated 16.04.1990, which was duly confirmed by the Tribunal. It was again declared unlawful by a Notification dated 28.02.2019 for a period of five years, which Notification was again confirmed by the Tribunal vide its order dated 27.08.2019. It is claimed that even after the declaration of JeI-J&K as unlawful Association in 2019, it continues to be a significant threat to the integrity and security of the Union of India; its ideology and activities are aimed at disrupting the unity and integrity of India and promoting separatism; its activist/members are covertly supporting HuM, a banned terrorist organization, and other terrorist organizations operating in Jammu and Kashmir; and are known to propagate radical ideology and support groups engaged in activities that incite violence, disturb public order, and challenge the sovereignty of India. The Central Government has also placed on record and proved through its witnesses, 40 FIRs that formed part of the Notification and its Background Note. It has also referred to one additional FIR in the testimony of PW-4, Mr. Satish Kumar. The basic allegations in the FIRs referred by the Central Government have also been referred by this Tribunal in its preceding paragraphs. For the sake of brevity, they are not reproduced herein again. The contents of these FIRs would show that in spite of being declared unlawful, persons claiming to be members of JeI-J&K were found collecting funds for the Association; were found involved in subversive activities and supporting terrorist organizations, promoting militancy in the area and inciting the general public to continue their struggle for so-called freedom by provoking the youth and disturbing peace and tranquillity. The fine distinction between facts, grounds, and opinion that the learned counsel for the Objectors argued, cannot come to his aid. The Notification and the Background Note not only succinctly state the facts (in form of FIRs), but also the grounds (conclusion of facts from the FIRs and other information), and also the opinion of the Central Government based on the facts and the grounds.

512. As noted hereinabove, Section 9 of the Act obliges the Tribunal, so far as may be practicable, to follow the procedure laid down by the CPC. Rule 3(1) of the Rules states that as far as may be practicable, the Rules of evidence laid down in the Indian Evidence Act, 1872 shall be applicable to the inquiry.

513. As noted hereinabove, in *Jamat-e-Islami Hind* (supra), the Supreme Court clarified that while the proceedings of the Tribunal are adjudicatory and judicial in nature, at the same time, it was held that the Tribunal can devise a suitable procedure and apply the test of greater probability in determining whether the material to support the declaration outweighs the material against it. The material on which the adjudication is to be made, must be substantially in consonance with the material required to support a judicial determination. It was further held that material before Tribunal need not be confined only to legal evidence in the strict sense.

514. It is to be borne in mind that while considering the Reference, the Tribunal is not to pronounce on the guilt of the accused in the FIRs, but only on whether the registration of these FIRs give rise to a sufficient cause for the Central Government to form an opinion that the Association in question deserves to be declared as an Unlawful Association.

515. Section 5(6) of the Act also shows that in such inquiry, the Tribunal is not bound by the material produced by the parties, and for a proper adjudication, the Tribunal can also call for other further material. It is also to be kept in mind that the provisions of the Act are extraordinary and aimed at providing more effective prevention of unlawful activities of the individuals and Associations. It is a special enactment and, therefore, strict rules of evidence may not be applicable. The objections of the learned counsel for the Objectors on the reliance of the Central Government on one additional FIR, which did not form part of the Notification, Background Note, is, therefore, ill-founded and liable to be rejected.

516. Applying the above test to the material placed before this Tribunal, it can safely be concluded that the Central Government had sufficient cause to form an opinion that JeI-J&K is liable to be declared as an Unlawful Association. The FIRs, though cannot be said to be evidence of the contents thereof, but are a proof of their registration. Section 35 of the Indian Evidence Act provides that an entry in any public or other official book, register or record stating a fact in issue or relevant fact, and made by public servant in the discharge of his official duty, is itself a relevant fact. As noted above, this Tribunal is not to pronounce on the guilt of the accused named in the FIRs. The FIRs are relevant facts for the formation of the opinion by the Central Government. It is relevant to note that it is not the case of the Objectors that the said FIRs have been quashed by a Court of law or the accused named therein have been either discharged or acquitted of the offence alleged against them. In fact, in 29 cases, as per the evidence of the Central Government, charge-sheet stands filed against the accused; in two of them even charges stand framed. In some cases,

though charges may not have been framed under the Act, the same would not have much impact on the opinion formed by the Central Government.

517. The submission of the learned counsel for the Objectors that most of the FIRs, being of March 2019, are stale and could not have acted as material for the opinion of the Central Government, though on first blush appeared attractive, cannot be accepted as it is the totality of circumstances and the material as a whole that needs to be considered. The material cannot be compartmentalised and seen in isolation. They, in the facts of the present reference, act as a chain and show the continuation of the illegal activities of the Association even post its ban in 2018.

518. On the inadmissibility of the statements of the accused persons recorded by the police, for the proceedings of the present Tribunal, they would still act as relevant material, though they may be inadmissible for proving the guilt of the accused in the criminal cases. In *Khatri and Ors v. State of Bihar and Ors*, 1981 (2) SCC 493, the Supreme Court held that the prohibition under Section 162 of the Cr.P.C. was applicable for use of the statement at an inquiry or trial in respect of offence under investigation at the time when the statement was made, however, it does not bar or prohibit the use of the statement in any other proceedings, inquiry, or trial. Following the said decision, in *Vinay D. Nagar v. State of Rajasthan*, (2005) 5 SCC 597, the Supreme Court held that the bar of Section 162 of the Cr.P.C. is in regard to the admissibility of the Statement recorded of a person by a police officer under Section 161 of the Cr.P.C., and by virtue of Section 162 of the Cr.P.C., such bar would apply only where the statement is sought to be used at any inquiry or trial in respect of any offence under investigation at the time when such statement was made, it can be, however, used in other proceedings, inquiry or trial.

519. The bar of the evidence being hearsay in nature and, therefore, inadmissible in nature, would also not apply. As noted above, the witnesses here deposed about the registration of FIRs and material collected in their investigation. They are deposing with respect to their record and opinion formed by them from their record and from the information collected by them in discharge of their duties. These cannot be brushed aside by calling them hearsay.

520. Though the learned counsel for the Objectors sought to contend, relying upon the statement of Mr. Ghulam Qadir Lone (RW1), that JeI-J&K disassociated itself from Mr. Syed Ali Shah Geelani who formed a separate Association in the name of *Tehreek-e-Hurriyat*, which, for its object has followed militant means, the witness also admitted that there was no public announcement of such disassociation. He also admitted that certain properties had been bought in the name of Mr. Geelani but were being used by JeI-J&K.

521. In addition to the above, reference also deserves to be made to the Constitution of JeI-J&K, which has been placed on record by Mr. Ghulam Qadir Lone (RW1) as Ex. RW1/4. Certain Articles of the said Constitution would be relevant for the present proceedings and are reproduced hereinbelow:-

*"1. Deem or recognize none except Allah, howsoever powerful, as real ruler, his patron, fulfiller of desires, provider of needs, protector and helper as no mortal can never have real and everlasting power and authority in his / her own right."*

522. One of the conditions for the eligibility for its membership is as under:-

*"7. should be conscious enough to be always ready to give up helping / supporting the un-Islamic system of government and its implementation of un-Islamic laws."*

523. Article 8 of the constitution mentions about the obligation of a member of JeI-J&K, which, inter alia, includes as under:-

*"8. focus all activities on the mission of establishing Islam (Iqamat-e-Deen) and disassociate from all such activities, except real and essential needs of life, as may not lead towards the set goal."*

524. Though RW-1 in his statement tried to explain the above provisions by stating that these would only mean believing in Islam and acting for the good of the society, the underlined emphasis appears to be a non-recognition of the Government which does not follow the Islamic principles, and of Court of laws which are not based on Islamic Laws. While it is true that Article 25 of the Constitution of India grants freedom to all persons to profess, practice and propagate religion, the same is subject to public order, morality and health and other provisions of the Constitution. In any case, from the material placed by the Central Government on record, the provisions of the Constitution of JeI-J&K appear to be only on paper and are not being followed in actual practice. The material placed on record shows that the members of the Association are actively supporting subversive activities, HuM, terrorist groups from across the border, and religious division.

525. From the Constitution of JeI-J&K, the allegations made in the FIRs produced before this Tribunal, the deposition of the witnesses, and other material placed by the Central Government, it is evident that the Central Government had sufficient material to form an opinion that JeI-J&K deserves to be declared as Unlawful Association.

**VII. CONCLUSION**

526. From the above, the Tribunal finds that there is ample justification to declare Jamaat-e-Islami, Jammu & Kashmir as an Unlawful Association under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 and the Central Government was justified in taking recourse to the provision of Section 3(3) of the Unlawful Activities (Prevention) Act, 1967, *vide* Notification dated 27.02.2024. Thus, the Reference is answered in affirmative and an order under Section 4(3) of the Unlawful Activities (Prevention) Act, 1967 confirming the declaration made in the Notification No.S.O.924(E) dated 27.02.2024, published in the Gazette of India, Extraordinary issued under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 is hereby passed.

**(JUSTICE NAVIN CHAWLA)**  
**UNLAWFUL ACTIVITIES**  
**(PREVENTION) TRIBUNAL**

**Dated: 23<sup>rd</sup> August, 2024”**

[F. No. 14017/52/2024-NI-MFO]  
PRAVEEN VASHISTA, Addl Secy.