



भारत का राजपत्र

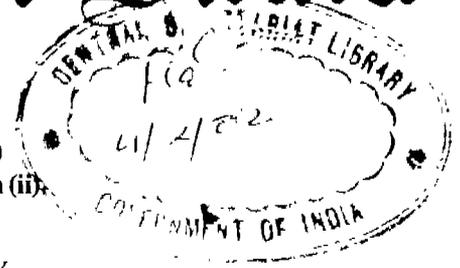
The Gazette of India

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, मंगलवार, अप्रैल 9, 2002/चैत्र 19, 1924
NEW DELHI, TUESDAY, APRIL 9, 2002/CHAITRA 19, 1924

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 8 अप्रैल, 2002

का.आ. 397(अ).—केन्द्रीय सरकार, ने विधि-विरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 27 सितम्बर, 2001 को स्टूडेंट्स इस्लामिक मूवमेंट ऑफ इंडिया (सिमी) को भारत सरकार के गृह मंत्रालय की अधिसूचना सं० का०आ० 960 (अ), तारीख 27 सितम्बर, 2001 द्वारा विधि-विरुद्ध संगम घोषित किया था;

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना सं० का०आ० 1005 (अ), तारीख 8 अक्टूबर, 2001 द्वारा विधि-विरुद्ध क्रियाकलाप (निवारण) अधिकरण का गठन किया था जिसमें दिल्ली उच्च न्यायालय के न्यायाधीश न्यायमूर्ति एस०के० अग्रवाल थे ;

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए उक्त अधिसूचना को 20 अक्टूबर, 2001 को इस बात का न्याय निर्णयन करने के प्रयोजन हेतु उक्त अधिकरण को निर्दिष्ट किया था कि क्या उक्त संगम को विधि-विरुद्ध घोषित करने के लिए पर्याप्त कारण था अथवा नहीं;

और उक्त अधिकरण ने उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए अधिसूचना सं० का०आ० 960 (अ), तारीख 27 सितम्बर, 2001 में की गई घोषणा की पुष्टि करते हुए 26 मार्च, 2002 को एक आदेश किया था;

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

(आदेश इस अधिसूचना के अंग्रेजी भाग में छपा है।)

[फा०सं० II-14017/3/2000-एनआई(डीपी)]

बी०के० हल्दर, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS**NOTIFICATION**

New Delhi, the 8th April, 2002

S.O. 397(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), declared on the 27th September, 2001 the Students Islamic Movement of India (SIMI) as an unlawful association vide notification of the Government of India in the Ministry of Home Affairs number S.O. 960(E), dated the 27th September, 2001;

And whereas, the Central Government, in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, constituted on the 8th October, 2001 the Unlawful Activities (Prevention) Tribunal consisting of Mr. Justice S.K. Agarwal, Judge of the Delhi High Court vide notification of the Government of India in the Ministry of Home Affairs number S.O. 1005(E), dated the 8th October, 2001;

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 the 20th October, 2001 for the purpose of adjudicating whether or not there was sufficient cause for declaring the said association 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, made an Order on the 26th March, 2002, confirming the declaration made in the notification number S.O.960(E) dated the 27th September, 2001;

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

The Unlawful Activities (Prevention) Tribunal, New Delhi.**In Re : Students Islamic Movement of India**

Union of India (Central Government)/petitioner

through :

Mr. K.K. Sud, Additional Solicitor General with Mr. Mahipal, Mr. R.V. Sinha and Mr. Neeraj Jain, Advocates.

versus

Students Islamic Movement of India—

Respondent No. 1.

through :

Mr. Sidharth Luthra, Advocate with Mr. Manish Goel, Mr. S.N. Vashist, Mr. K.B.S. Nalwa, Advocates.

State of Maharashtra—Respondent No. 2.

through :

Ms. Shubhangi Tuli, Advocate,

State of Kerala—Respondent No. 3

through :

Mr. Ramesh Babu M. R., Advocate,

State of M.P. —Respondent No. 4.

through :

Mr. B.S. Banthia and Mr. T.S. Chaudhary, Advocates

State of Tamil Nadu—Respondent No. 5.

through :

Mrs. Revathy Raghavan and Ms. Shweta Garg, Advocates.

State of West Bengal—Respondent No. 6.

through :

Mr. Tara Chandra Sharma, Advocate.

State of Gujarat —Respondent No. 7.

through :

Mrs. Hemantikawahi with Ms. Anu Sawhney, Advocates.

State of Rajasthan—Respondent No. 8.

through :

Ms. Shubhangi Tuli, Advocate.

State of Andhra Pradesh—Respondent No. 9.

through :

Mr. G. Prabhakar, Advocate.

Coram :

Hon'ble Mr Justice S.K. Agarwal

ORDER

This order will answer the reference under Section 4 (1) of the Unlawful Activities (Prevent) (hereinafter referred to as 'the Act').

The Central Government vide notification No. S.O. 960 (E) dated 27-9-2001, in exercise of the powers conferred under sub-section (1) of Section 3 of the Act, declared Students Islamic Movement of India (hereinafter for short referred to as 'SIMI') to be an unlawful association. Under proviso to sub-section (3) of the Act, the Central Government also declared the said association to be unlawful with immediate effect, as in its opinion the circumstances so warranted. The Central Government by another notification No. S.O. 961(E) dated 8-10-2001, under sub-section (1) of Section 5 of the Act, constituted this Tribunal, and made the reference under Section 4(1) of the Act for adjudicating whether or not there is sufficient cause for declaring the said association unlawful. The notification was accompanied by a resume of facts and grounds on the basis of which the said notification was issued, as required by rule 5 of the Unlawful Activities (Prevention) Rules, 1968 (hereinafter referred to as "the Rules").

On receipt of reference, notices were issued, calling upon the SIMI to show cause within 30 days from the date of service of notice, as to why it should not be declared unlawful. The notices were directed to be served by ordinary process as well as by publication in the national and local newspapers and by pasting on notice board of the offices of District Magistrates and Tehsildars. SIMI entered appearance through its All India President, Shahid Badar. States of Maharashtra, Kerala, Madhya Pradesh, Tamil Nadu, West Bengal, Gujarat, Andhra Pradesh, Rajasthan, Uttar Pradesh and Delhi also entered appearance and supported the notification declaring SIMI to be unlawful. For the purpose of reference, Central Government was arrayed as the petitioner and SIMI as respondent No. 1 and other States were arrayed as respondents 2 to 11.

Parties were directed to file their written statements along with the documents on which they proposed to rely. Learned counsel of Union of India made the statement that the Background Note and documents filed along with the notification be treated as their statement. SIMI-respondent No. 1 filed the written statement/objections, through its President, to which a rejoinder was filed by the UOI.

The case set-up by the Central Government in brief is that SIMI came into existence on 25-4-1977 in the Aligarh Muslim University as a front organisation of youth and students having faith in Jamait-e-Islami-Hind (JEIH). It declared itself independent in the year 1993 with the following proclaimed objectives :—

1. Governing of human life on the basis of Quran ,
2. Propagation of Islam ;

3. Jehaad (religious war) for the cause of Islam ;
4. Destruction of Nationalism and establishment of Islamic Rule or Caliphate.

SIMI aims to utilize students and youths in the propagation of Islam religion and mobilise support for 'Jehaad'. It aims at achieving Shariat based Islamic rule through 'Islamic Inqalab'. It does not believe in the nation state, therefore, it also does not believe in the constitution or the secular order. It regards Idol worship as a sim and its holy duty to end such worship. It is stated that SIMI organisation has been indulging in anti-national, militant and objectionable activities and is known to have launched a country-wide campaign since November 1996 to mobilize support for the caliphate (Rule of Islam) for Muslim community. It advocates self-determination in Jammu and Kashmir and is in close touch with the militant outfits in Jammu and Kashmir, including pro-Pak Hizb-ul-Muzahideen (Hum) and Jammu and Kashmir Liberation Front. The leadership of SIMI also extended full support to Punjab extremists and Jammu and Kashmir insurgents.

Further, it is stated that SIMI is closely associated with Al-Ummah, All India Jihad Committee (AIJC) and Tamil Nadu Muslim Munnetra Kazaghham (TMMK) in Tamil Nadu and is also involved in various militant activities relating to killing of Hindus, especially persons associated with RSS/Hindu organizations, since August, 1993. Its anti-national posture was exposed by its pro-Pak stand on the issue of Kargil. During the Kargil crisis, SIMI leaders, contrary to the views of most other Muslim leaders and organizations who had supported the Indian Government's actions including the air strikes, had adopted an anti-India posture. The contentions of SIMI on the Kargil issue were that : it were the Kashmiri 'freedom fighters' who had been fighting the Indian Army in Kargil, and not the Pakistan Army or Pakistani nationals as claimed by the Government. The Indian Army was engaged in barbaric torture of Muslims in Kargil, including Muslim women, on the pretext of fighting the infiltrators.

It is pleaded that in the Ikhwan Conferences at Kanpur, Aurangabad and Malappuram, the anti-national and militant posture of SIMI was manifest in the speeches of its leaders and the conduct of different programmes. SIMI leaders, in their addresses, eulogized and glorified Pan-Islamic terrorists and fundamentalists like Osama Bin Laden, Sheikh Mohd. Yasin (HAMAS leader) and Gulbuddin Hekmatyar. They used derogatory language for Hindu Gods and Goddesses, and, exhorted Muslims for Jihad and martyrdom to counter atrocities on Muslims and to establish the supremacy of Islam. Describing the concept of secularism, democracy and nationalism as anti-Islam, the speakers gave a call to obey only the law of Allah and not man-made laws. Cassettes containing provocative and fundamentalist speeches of Pan-Islamic leaders like Qazi Hussain (Pak JEI leader) and Sheikh Mohd. Yasin (HAMAS) were played at the conference. In an in-camera meeting of selected SIMI leaders at Kanpur, it was decided to promote militant, ideas among the Muslim students and youth, directed against Hinduism and establish clandestine links with militant outfits like the Lashker-e-Toiba.

It is further pleaded that SIMI had published posters captioning the advent of a 'new Mahmood of Ghaznawi' in the context of the Babri Masjid. The circulation of these posters has the potential of hurting the sentiments of Hindus, polluting the minds of various religious groups and disturbing peace and communal harmony. As part of their anti-India propaganda SIMI has also published a calendar containing distorted and misleading historical facts about the accession of Kashmir to India and giving an impression that Kashmiri Muslims had been suppressed and exploited for long. SIMI has procured audio cassettes containing the speech of Mohd. Masood Azhar (Harkat-ul-Mujahideen), who was released in exchange for the hostages of the Indian Airlines plane, in which Azhar exhorted Muslims for "Jehad" till Kashmir is liberated. It is *inter alia* stated that in the State of Andhra Pradesh, Gujarat, Madhya Pradesh, Maharashtra, Rajasthan, West Bengal, Tamil Nadu, Kerala, Uttar Pradesh and Delhi more than 100 cases have been registered against members of SIMI under various Sections of IPC/Cr. P.C. The reasons for banning SIMI with immediate effect are given as under :—

- (a) SIMI is in close touch with militant outfits and is supporting extremism/militancy in Punjab, Jammu and Kashmir and elsewhere ,
- (b) SIMI supports claims for the secession of a part of the Indian territory from the Union, supports groups fighting for this purpose, and is thus questioning the territorial integrity of India ;
- (c) SIMI is working for an International Islamic Order;
- (d) During Ikhwan conferences, the anti-national and militant postures of the SIMI were clearly manifest in the speeches of the leaders who glorified Pan Islamic Fundamentalism, used derogatory language for deities of other religions and exhorted Muslims for Jehad;

- (e) SIMI has published objectionable posters and literature which are calculated to incite communal feelings and which question the territorial integrity of India;
- (f) SIMI is involved in engineering communal riots and disruptive activities in various parts of the country ;

Respondent No. 1-SIMI, in their reply, have denied the allegations stating that these are *mala fide*, illegal, unsustainable and without jurisdiction. It is claimed that SIMI organisation was founded on April 25, 1977 in Aligarh by educated and enlightened citizens of India. It is a Deeni (religious) secular organization and its activities are a political and non-communal besides being spiritual and religious. It believes in unity of God and unity of humankind. Till its ban, SIMI was connected only with lawful activities. The primary objective/aim of SIMI is to guide the mankind and to provide a practical example of putting God's guidance into practice and reconstruction of human life according to the guidance given by God. It believes in unity of God and unity of Human kind. Its main function is upliftment of mankind and service of human beings by carrying out social service and by helping those affected during natural or man made calamities, without distinguishing people on the basis of religion, caste, creed or sex. It has its own written constitution and till its ban it was carrying on only lawful activities which were in consonance with its aims and objectives.

It is pleaded that SIMI is an absolutely lawful and patriotic association working for the betterment of the lives of the people, development of the society, unity, peace and prosperity and universal brotherhood. The organization structure of SIMI is democratic and its working advisory in nature. It has a Central Representative Council (CRC). This body, in turn, elects the President and the Central Advisory Committee. The Secretary General of the Organization is appointed by the President in consultation with the Central Advisory Committee. There are 400 "Ansar" (basic members) and about 20,000 Ikhwan (ordinary members). Only persons of proven integrity, good character and those imbued with a spirit of sacrifice and service to humankind are enrolled as Ansars. The maximum age limit of an Ansar is 30 years and after attaining the age of 30 years a person ceases to be a member of the organization both in the capacity of Ansar and that of Ikhwan. SIMI is therefore purely a student youth organisation and is in no manner connected with or related to any of the allegations levelled against it. It is claimed that the whole of the organisation cannot be blamed or banned just because a few members of the organisation were allegedly working against the interest, aims and objectives of the organisation. Actions of such members cannot be attributed to be the actions of the organisation. The organisation works through its resolutions and there is no resolution that warrants the ban on the organisation.

It is further pleaded that SIMI is an organization of the minority community and should not be blacked out unjustly as it will lead to panic based on minority discrimination. It is submitted that banning an organisation of a minority community having only socio-religious aims is a clear violation of Articles 25 and 26 of the Constitution of India. The activities of SIMI have always been open and lawful. There is no iota of secrecy or unlawfulness in the activities of SIMI. There has been no occasion in the 25 years of SIMI's existence where any violence or even a strife or disturbance has occurred in any part of the country as a result of any activity of SIMI. It has undertaken several programs such as scholarships & career guidance to the needy students. The grounds spelt out in the Notification for banning the organization fall short of mandatory conditions and that the ban is authoritarian and bad in law. It is pleaded that the timing of the ban is actuated by the political motives and is not based on any legal foundation. It was intended to create terror in the minds of minority Muslim community and an "anti national" image out of ordinary Muslims in the country.

It is further pleaded that SIMI had never challenged the territorial integrity of the country nor has it stated anything which will incite communal violence in the country. The most outstanding contribution of SIMI has been in the field of social service and in the field of relief work during natural and man made calamities. It undertook extensive social work and provided relief to the victims of the earth quake in Gujarat without discrimination between people of various religions. It is denied that SIMI is in close touch with militant outfits and is supporting extremism in Punjab, Jammu and Kashmir and elsewhere. It is claimed that SIMI believes in an International Islamic Order just as the socialists have an International Socialists Order as their aim. It was pleaded that any citizen, if he so desires, can be a part of an international Hindu Order or an International Christian Order. Islam having an international presence, every Muslims has a right to aspire to be a part of International Islamic Order. It is pleaded that the present Central Government is inimical to the minorities and the ban on SIMI is wholly unconstitutional. It has been denied that during Ikhwan conferences, the anti-national and militant postures of SIMI were manifested in the speeches of its leaders who glorified pan Islamic Fundamentalism, used derogatory language for deities of other religions and exhorted Muslims for Jihad. It is denied that SIMI has published objectionable posters and literature which are calculated to incite communal feelings and which question the territorial integrity of India. It is pleaded that no poster has been displayed or literature published by SIMI to incite communal feeling and which question the territorial integrity of India.

Taking into consideration the issues involved and the statutory limitation of six months under the Act for completion of the enquiry, parties were directed to lead their evidence by way of affidavits. Shri B.K. Halder, Joint Secretary, Union Ministry of Home Affairs, New Delhi, filed an affidavit, in support of the notification. On the other hand, Shahid Badar, All India President of SIMI filed his affidavit and Mohammad Hasan, President of Rajasthan Zone, and Humam Ahmad President of U.P. Zone also filed their affidavits. During the course of enquiry affidavits of Shakir Azim, Secretary Tamil Nadu Unit; Mohd. Ikrar, Secretary, Madhya Pradesh Unit; K.T. Mohd., President, Kerala Zone; Shamsul Haque, Secretary, West Bengal Unit; Mohd. Athar Qureshi, President, Hyderabad Unit on behalf of respondent SIMI were also filed. They also filed additional affidavits and documents when they appeared as witnesses. Affidavits along with documents were also filed by the concerned officers of respondent Nos. 2 to 11, in support of the notification. Thereafter parties also examined their witnesses. As per the request of parties hearings of the Tribunal were held in Delhi as well as in the States.

The Central Government in support of its case examined PW-41, B K Halder, Joint Secretary, Ministry of Home Affairs, Government of India, who proved his affidavits Ex.PW-41/1 and Ex.PW-41/4; and the notification Ex.PW-41/2; the background note prepared by Mr. Jag Ram, Deputy Secretary, Ministry of Home Affairs Ex. PW-41/3. He also proved Summary Chart of Cases registered against members of SIMI during 1997-2001 in different States and the supporting documents marked PW-41/3-A (Collectively), copies of posters, calendars and pamphlets published by SIMI marked PW-41/3-B and other notification marked PW-41/3C. He deposed that the Government received the material regarding unlawful activities of SIMI from the States and other agencies; that SIMI has close links with extremist and militant organisations in Punjab, Jammu and Kashmir and supports the claim for secession of Indian territory; that during "Ikhwan" conferences SIMI had glorified Islamic fundamentalism, used derogatory language against Hindu deities and exhorted Muslims for "Jehad"; that SIMI had published objectionable literature and pamphlets, instigating communal disharmony in the country and engineering communal disturbances and disruptive activities in various parts of the country. On the basis of this material, the Govt. took a decision to ban SIMI, declaring it to be an unlawful organisation under sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act.

Evidence was also led on behalf of the ten respondent-states. Nodal officers and the investigating Officers, who investigated the cases registered against the members of SIMI have been examined. The Nodal officers proved the affidavits of the Investigating officers working under them and the documents filed along with those affidavits. In some cases, Investigating officers also appeared as witnesses and proved their affidavits. They proved FIRs, charge-sheets, investigation reports, panchnama showing recovery of arms, explosives and other case property of the cases registered against SIMI members. Some confessional statements made by the accused persons have also been proved.

Respondent-SIMI examined nine witnesses. RW-1, Shahid Badar, All India President, SIMI supported his case and proved constitution of SIMI Ex. RW-1/1. RW-2, Shakir Azim, Secretary, Tamil Nadu Unit; RW-3, Humam Ahmad, President of U. P. Zone; RW-4, Mohammad Hasan President of Rajasthan Zone; RW-5, Mohd. Ikrar, Secretary, Madhya Pradesh Unit; RW-6, K.T. Mohd., President, Kerala Zone; RW-7, Shamsul Haque, Secretary, West Bengal Unit; RW-8, Mohd. Athar Qureshi, President, Hyderabad Unit; and RW-9, Irshad Khan Salim Khan, Zonal President of SIMI Unit in Maharashtra appeared as witnesses in support of the case of SIMI. These witnesses proved their respective affidavits and have stated that the activities of SIMI are lawful, social and educational.

I have heard Sh.K.K. Sud, learned Additional Solicitor General, Sh. Sidharth Luthra learned counsel for SIMI and have been taken through the record.

Mr. Sidharth Luthra, learned counsel for respondent No. 1-SIMI argued that for the purpose of adjudicating whether or not there is sufficient cause for declaring SIMI as unlawful, the material collected by the Central Government after issuance of the notification dated 27th September, 2001, declaring SIMI to be an unlawful association, cannot be considered, as the same was not available before the Appropriate Authority when it took the decision to ban SIMI. He further argued that the material relied upon by the Government while declaring SIMI as an unlawful association is stale and insufficient and on the basis of such material, no opinion for declaring an association unlawful could be formed. I am unable to agree. These principles are applicable while examining the validity of a preventive detention order; where the Court, is required to see whether the subjective decision was reached by the detaining authority on the material available before it. The adequacy of material on which the satisfaction purports to rest cannot be examined by the Court. However, under sub-section (1) of section 4 of the Act, the Tribunal is required to adjudicate whether or not there is sufficient cause for declaring the Association unlawful. Thus, the material which existed prior to the notification but comes in possession of the government after the issuance of the Notification under Section 3(1) of the Act, can be considered by the Tribunal to determine the sufficiency of the cause.

Learned counsel for respondent No. 1-SIMI next argued that the confessional statements made by the accused persons arrested in different cases, even prior to 27th September, 2001, cannot be relied upon either to show that the accused persons were members of SIMI or to prove that the activities of SIMI were or are unlawful or that it encourages or aids the persons to undertake unlawful activities. He argued that the facts revealed through these confessional statements; were within the knowledge of the different investigating agencies, therefore, the reception of the said statements would be barred under Section 27 of the Evidence Act. Reliance is placed on *Pulukuri Kottaya and Ors. Vs. Emperor* 1947 Privy Council, 67. Learned counsel for UOI argued to the contrary. The confessional statements referred to and relied upon by the Government, were recorded during investigation of the criminal cases in which they were arrested. Section 25 of the Evidence Act provides that no confession made to a police officer shall be proved against a person accused of any offence. The expression 'a person accused of an offence' describes the person against whom evidence is sought to be proved in a criminal case. The adjective clause "accused of an offence", is therefore, descriptive of the person against whom a confession is sought to be proved. The confessional statements, can be used in Civil Proceedings and other collateral proceedings under the Criminal Procedure Code. The inquiry before this Tribunal is clearly not a trial against the accused persons, who made the confessional statements. Therefore, in my considered view confessional statements made by the accused persons during investigation of different cases to the police or before the court., would not be hit by Section 25 of the Evidence Act and are admissible in evidence, to show whether the accused persons were or are the members of the association, as well as to show whether the activities of the association are unlawful or not. This view finds support, from *Mahanta Singh Natha Singh Vs. Het Ram Pakhar and Anr.*, AIR 1954 (Punjab) 27 and Full Bench decision of Madras High Court in *Suman and etc. Vs. State of Tamil Nadu*, AIR 1986 (Madras) 318, wherein it was held :

"It has to be remembered that when S.25 refers to a confession which is not permitted to be proved as against a person accused of any offence, it refers to a confession made by an accused person which is proposed to be proved against him to establish an offence. The scope of S.25 is therefore restricted only to a confession made by a person who is an accused that is being used in a proceeding to establish an offence against him"

(Emphasis supplied)

In view of the above, the confessional statements recorded during the course of investigation of various criminal cases by the police would be admissible to determine the activities of the Association as well as its members.

Learned counsel for SIMI next argued that Government could not claim privilege in public interest and withhold inputs received from its agencies, while declaring SIMI as an unlawful association and that no privilege could be claimed under Section 123 read with Section 162 of the Evidence Act in respect of such documents. Reliance is placed on the Supreme Court decision in *Dr. George Mathew Vs. Union of India*, 1997 (10) SCC 537 and *State of U.P. Vs. Raj Narian*, 1975 (5) SCC 428. Law with regard to claim of privilege is well settled. Privilege can always be claimed regarding the internal files which are meant for the use of the department and not meant for the outside exposure or publication. PW-41, Mr. B.K. Halder, Joint Secretary, in his affidavit has clearly stated that the disclosure of the inputs received from various Government agencies would be against public interest. The objection was taken at the earliest opportunity. Learned counsel for the Government further submitted that they have no objection if the relevant files are perused by the Tribunal. In view of this settled proposition of law, this contention is also held to be without any merit.

Learned counsel for the respondent SIMI next argued that the material relied upon by the government in the form of calendars, magazines, posters, etc. only reflects historical facts or reproduction of religious scriptures. It is argued that this material could not form the basis to show any unlawful activity of an individual or an Association, within the meaning of Section 2(f) of the Act. He further argued that the said material falls within the scope of freedom of speech and expression guaranteed under Articles 19 and 25 of the Constitution of India and that banning or forfeiture of such material would violate Article 25 thereof. Every religion is to be treated equally and no preference is to be given to any particular religion. Liberty of thought, expression, belief, faith and worship are assured under the Constitution, therefore, Section 153-A and 153-B, IPC are not attracted. In support of his submission he placed reliance on the decision of the Supreme Court in *Balwant Singh Vs. State of Punjab* (AIR 1995 SC 1775); *Chanda Mal Chopra Vs. State of West Bengal* (1986 Cr.L.J. 182); *Joseph Bain D' Souza Vs. State of Maharashtra* (1995 Cr.L.J. 1316); *Shiv Kumar Mishra Vs. State of Uttar Pradesh* (1978 Cr.L.J. 701); and *The Commissioner, Hindu Religious Endowments, Madras Vs. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt* (AIR 1954 SC 282).

There can be no dispute about this proposition when someone is sought to be prosecuted under Sections 153-A and 153, IPC. Here the issue is whether SIMI is an 'unlawful association' as defined under clause (g) of Section 2 of the Act, which reads :

2(g) "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 153A or section 153B 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.

A bare reading of the above would show that an 'unlawful association' means 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 any such activity or which has for its object any activity, which is punishable under Sections 153-A and 153-B, IPC. The section is very wide. If an Association has for its object any unlawful activity, it can be declared as an unlawful association. The "unlawful activity" in relation to an individual or association has been defined under section 2(f) of the Act, to mean 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), 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; which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India. Therefore, while considering the question whether an Association is carrying out any unlawful activity or not, we have to go by the definition as given in Section 2 (f) of the Act. The "cession of any part of the territory of India" defined under sub-section (b) of Section 2 of the Act includes admission of the claim of any foreign country to any such part. "Secession of a part of the territory of India from the Union" defined under sub-section (d) includes the assertion of any claim to determine whether such part will remain a part of the territory of India or not. None of the cases cited by learned counsel for the respondent SIMI under Sections 124-A and 153-A are applicable to the facts of this case. The factual situation in each of those cases is different. Mere inciting of feeling of one group, without any reference to another religion was held not to attract the provisions of Section 153-A. Again, mere casual raising of some slogans couple of times by the accused persons, without intention to incite people to create disorder was held neither to constitute any threat to Government of India nor it gave rise to a feeling of hatred amongst different communities or religions. Therefore, in ultimate analysis, it would be a question of fact to be examined whether the material available before the Government and placed before the Tribunal is sufficient to hold the association as an unlawful association or to hold that the activities alleged are unlawful activities or not, as defined in sub-section (f) and (g) of section 2 of the Act.

Learned counsel for the respondent next argued that no reliance can be placed on the affidavit or the documents filed by PW.41, B.K. Haldar, as the facts stated in his affidavit are not based on his personal knowledge but are based on information gathered from the record. Thus, the government has failed to prove its case. The enquiry under this Act is not a regular trial. Strict rules of evidence and standard of proof are not applicable. The material placed before the Tribunal need not be a legal evidence in the strict sense. The Tribunal can even look into undisclosed material for the purpose of assessing the credibility of information and satisfying itself whether it can be safely acted upon. Law in this regard is authoritatively laid down by the apex Court decision in *Jamaat-e-Islami Hind Vs. Union of India*, (1995) 1 SCC 428 wherein it was held :—

"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 abdication of 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.”

(emphasis supplied)

It was further held :—

“.....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.”

(emphasis supplied)

Now the stage is reached to consider the material on record. The Central Government in support of its case proved the Background Note on the unlawful activities of SIMI. Along with this note, they have filed the list of more than hundred criminal cases registered against the members of SIMI under various Sections of IPC/Cr. P.C (annexure-I). They have also filed posters, pamphlets, articles, speeches, denigrating the Hindu religion and instigating Muslims to fight against Hindus. The calendar Published by SIMI contain distorted and misleading historical facts about accession of Kashmir to India giving an impression that Kashmiri Muslims had been suppressed and exploited for long. Some of the posters, pamphlets and a calendar have also been proved along with the note as annexure-II. The slogans on some of the posters read :—

1. Khoon ka Badla Khoon Se Lenge.
2. Kaba Ka Itihass Dohrainge.
3. Jaha Jaha Hindustan Me Mandir Bane Hai, Unhe Masjid Banadenge.
4. Ayodhya Main Jo Murtiya Rankhi Hai Unhe Uthakar Phenk Denge.
5. Jis Murti Ko seer Jhukakar Puja karte Hain Use Bhi Phenk Denge.
6. Pas Bode Ne Bano Or Suleh Ki Darkhast Na Karo Tum He Galib Rahonge.
7. Tera Badla Hai Karz Humpur.
8. Bada Mubarak Jihad Hai Ye Sahar Ki Ummind Jinda Rakhna, Nai Chain Julmat Ko Lene Dena, Sabo Ki Nind Udai Rakhna.
9. Srinagar Se Dili Tak Dusra Pakistan Banega.
10. Sang-e-Azadi Hai Ye, Zang-e-Azadi Zari Rakhna.
11. Bharat Ka Sar Phodo, Bolo Labaek Ala.
12. Mil Ke Uththo Or Masrike Pakistan Ka Karz Bhi Chuka Do
13. Ya Ilahi Bhej De Mahmood Koi.
14. Ye Door Apne Ibrahim Ki Talash Main Hain.
15. Hinduo Ka Ek Ilaz Inse Padhao Namaz.
16. Parlok Main Jahainnum Ki Aag Ke Karak.
17. Ayodhaya to Jerusalem Jihad will go on.
18. Waiting, How Long.
19. Waiting for another Gaznavi.

The above slogans clearly prove the involvement of SIMI in questioning the unity and integrity of India, instigating communal strife, hurting sentiments of other religions and various social groups thereby disturbing peace and communal harmony. The pamphlet/publication calling Kashmir the “Kosovo of India” showing that Kashmir is not to be the part of India, article calling for “Islamisation of India” and the speeches by activists further show that they had no faith in the Constitution of India.

The respondents, in support of their case, have examined their All India President, Mr. Shahid Badar, as RW. 1 and other State office-bearers as RW. 2 to RW. 9. While denying the allegations against SIMI alongwith the affidavit, he has claimed that SIMI was never involved in questioning the unity and integrity of India, instigating communal strife, polluting the mind of people, disturbing peace and spreading communal disharmony; and that SIMI association and its members have faith in the Constitution of India.

However, this does not find support from their own evidence. The respondent No. 1-SIMI examined RW-2, Shakir Azim, Secretary of their Tamil Nadu Unit, a lecturer in Mohd. Sadar College of Arts and Science at Chennai. He

stated that they got the calendars from the Head Office of SIMI in Delhi and were circulated amongst its various units containing preaching of SIMI. It also contains narration of the sufferings of the people of Jammu and Kashmir. He admitted that SIMI believes that Muslims of Jammu and Kashmir have a right of plebiscite for self determination. In cross-examination, he stated that "political-religious State, comprising the Muslim community and the lands and the people in its domain are called Caliphate. It is correct that SIMI believes in establishing Caliphate all over the world. I have not heard of the expression International Islamic Order." He further admitted that on 25th June, 1999, two persons, Shah Jahan and Abu Thadeer were arrested while distributing copies of SIMI Sethi Madal, containing inflammatory and objectionable writings and FIR No. 722/99 was registered against them. However, he denied that they were the members of SIMI. He further admitted that on 4th December, 2000, Manzoor, Hakkim and Shabeer were arrested by police of Tamil Nadu while pasting objectionable posters at Coimbatore. He admitted that case FIR No. 722/99, under Sections 124A/153A and 153B was registered at P.S. Kattur on 25-6-1999 against seven persons including Shamimul Islam, Syed Abdur Rahman Umari and Khader Basha. Admittedly they were the members of SIMI. The FIR reads: "We found that they were in possession of copies of Magazines "Seithi Madal" of Students Islamic Movement—June 1999 issues containing 8 pages. Each copy was enclosed with May 1999 Seithi Madal issue a special issue relating to KOSOVO. An article with captions Kashmir: KOSOVO OF INDIA was found in the first and fifth pages of June month issue. The wording of the article was framed in such a way that it would create ill feelings among the Muslims against India. Hence the accused were arrested." The said case is admittedly pending trial.

Admittedly, on 10th January, 2001, one sticker bearing monogram of SIMI was found pasted near the guard post of SRK Hotel of Jamia Milia Islamia University, Okhla, New Delhi in which three mosques, i.e. Masjid Kartaba, Babri & Masjid Akha with symbols of cross, swastic and star respectively were shown in tears, with Hindi translation of Quaranic Aayaat No. 2:14, which says that person who prevents people from offering Namaz and damages the mosques is the most cruel man. The intent was to instigate the sentiments of Muslims to strive for the liberation of these Mosques. A case under Sections 153A/153B/505(1) read with Section 124, IPC was registered at P.S. New Friends Colony. Investigation revealed the identity of accused Shahid Badar as the All India President of SIMI. He was arrested and the case is pending trial.

On 7th October, 2000, another case FIR No. 489/2000, under Sections 124A/153B IPC was registered on the basis of calendar Published by SIMI which was examined by the Government of NCT. The calendar contains references that are likely to create enmity and communal disharmony as well as prejudicial to the national integration, legal proceedings against the authors and the publisher of the calendar were initiated. Investigations were taken up. The calendars presents distorted facts about accessation of Kashmir to India and gave an impression that Muslims have been persecuted for long in Kashmir. Thus they promoted disaffection against the Government established by law in India. It is stated that "the self-styled champions of human rights the British sold Kashmir and Kashmiris to Raja Gulab Singh for a mere 75 lakh rupees. Allama Iqbal lamented: "dehkan o kisi jua khiyaban frohltand. Laumeiy frukhland che arzan frokhtand". The tillers, the crops, the lakes and orchards they sold. A whole nation they sold—and for a pittance. It show that Kashmiri Muslims were subjected to extreme repression at the hands of Gulab Singh and his descendants for one hundred and one years. A number of mosques were razed to the ground. Imams restrained from delivering sermons. In 1931 the Khattev of Jammu Idgah was nabbed out while delivering the Khatba. It is claimed that desecration of the Holy Quran was a common occurrence. For beggar (forced labour) any number of Muslims were lifted from their Homes and driven away like cattle. It was not always that all of them returned to their kith and kin. It claimed that Muslim women bit a cow under Raja Hari Singh's order her head was shaved, her tongue chopped off and she was paraded in the streets. The skins of Milli Khan and Sabz Aliwer peeled off and stuffing with rubbish and they were left hanging on a tree. They claim that Kashmir is today subjugated oppressed and poverty stricken.

January, 2000 issue (i) Front page of the magazine, and at page 29, an article, "Bandh Lo Sar Par Kafan Phir" written by Asif Hussain contain objectionable material which attract Section 153-A of the IPC, 1860 as it promotes or attempts to promote enmity, hatred or ill-will between different religious groups on grounds of religion, which is prejudicial to maintain communal harmony.

State of Delhi in support of its case examined PW-1, Govind Sharma, Sub-Inspector, Special Cell, Lodhi Colony, New Delhi, who in his evidence proved his affidavit Ex. PW-1/1. Copy of FIR No. 304/2001 registered at P.S. Kamla Market u/s. 121/121A/122/123 etc. IPC and under Sections 4/5 of the Explosive Substances Act; and copies of the disclosure statements of the accused persons as well as connected documents are marked PW-1/1A to PW-1/1E respectively, showing recovery of 1.9 kg. of RDX, four detonators, two remote control detonating devices and a wireless set, etc. effected from Ghulam Mohidin Shah.

PW-2, Chander Bhan Sharma, Inspector, Special Cell, Lodhi Colony, New Delhi, who in his evidence proved

his affidavit Ex. PW-2/1; that he conducted raid on the night between 27-28/9/2001 and arrested Shahid Badar, National President of SIMI; Saif Nachan, Office Manager-cum-Circulation Manager, SIMI; Mohd. Khalid, Assistant Manager SIMI; and Irfan Ahmed, Office Secretary, in the case FIR No. 532/2001, P.S. New Friends Colony and proved the incriminating material seized vide different seizure memos, marked PW. 2/1A1 to PW. 2/1A10. Transcripts of floppies CPU and audio-video cassettes, and disclosure statements of Shahid Badar and Saif Nachan were recorded and copies of magazines seized and scrutinised, marked PW. 2/1C.

PW-3, Satyavir Dagar, Inspector, District Investigation Unit, South Distt, New Delhi, who in his evidence proved his affidavit Ex. PW-3/1; he investigated the case FIR No. 489/2000 dated 7-10-2000, P.S. New Friends Colony, with respect to the calendar for the year, 2000, published by SIMI received from Ministry of Home Affairs through the Home Department of the Government of Delhi, containing distorted facts regarding accession of Kashmir to India, disharmony between various sections of the Indian Community. FIR No. 535/2000 was also registered on the basis of monthly magazine Islamic Movement and other documents, which are collectively marked PW-3/1A.

PW-10, Braham Pal Sub-Inspector, P.S. New Friends Colony, Delhi, who in his evidence proved his affidavit Ex. PW-10/1. He registered FIR No. 643/2001 on 25-11-2001, on the basis of 13 magazines seized from the possession of Mohd. Hakib Iqbal at Batla House Chowk, Jamia Nagar. Copy of the seizure memo of the magazine as well as disclosure statements of the accused is marked PW-10/C and PW-10/D respectively.

PW-24, Hukam Chand S.I. Special Cell, Lodhi Colony, New Delhi, who in his evidence proved his affidavit Ex. PW-24/1; He on 19-5-2001, registered FIR No. 269/2001 under Sections 153-A/153-B/505(1) B&C & 124A IPC, PS New Friends Colony, New Delhi. On 10th January, 2001, some stickers were found pasted on the walls of SRK Hostel, Jamia Millia University, Okhla, Delhi. On those stickers three marks, namely, Masjid Kartaba (Spain), Masjid Babri (U.P.) and Masjid Aksha (Philistine) were printed. On Masjid Aksha cross mark, on Masjid Babri, Swastic mark and on Masjid Kartaba star mark were also printed. He also proved on record copies of stickers. Copy of FIR is marked PW-24/A; and copy of confessional statement is marked PW-24/D.

In the State of Uttar Pradesh, as per the material on record, 12 criminal cases were registered from 28th March, 1999 to 27th September 2001 against the persons, some of whom are admittedly activists of SIMI for various heinous offences including the following:—

(i) On 9th August, 2000 at 11.30 pm. in Mohala Qureshi, there was a bomb explosion. Three persons were seriously injured in the said explosion and they later on died. Inquiries revealed that the persons who had died were students of Aligarh Muslim University. A case FIR No. 988 dated 9th August, 2000, under Sections 4/5 Explosive Substances Act and Sections 420/467/468/121/121A/122/123/124/A IPC, P.S. Sadar Bazar Agra. Investigations revealed that they had come to Agra for the purpose of some practical training. During investigations on 3rd September, 2000, Maroof Ahmed and Abdul Mobin of Aligarh Muslim University were arrested large quantity of RDX, pamphlets and magazines were recovered. One Gulzar of Jammu and Kashmir was also arrested, and on his disclosur Ex. PW-5/1E several other incidents in U.P. were solved. The accused confessed that he had been participating in weekly meeting SIMI known as "Izaatmaas". confessional statements of Maroof Ahmed and Mobbin, Ex. PW-5/1C and Ex. PW/5/1D also show that they are members of SIMI indulging in unlawful activities.

(ii) On 16th March, 2001, in a firing incident ADM (Finance) Shri C.P. Pathak was killed on the spot and his orderly Ram Chander and S.P. City, Pankaj Pathak were badly injured. Case vide FIR No. 72/2001 under Sections 302/307/147/148/153 IPC at P.S. Mool Ganj, Kanpur was registered. Four persons, namely, Mohd. Wasif, Mumtaz @ Maulana, Haji Atiq and Safaaq were arrested. Mumtaz in his confessional statement admitted that he is an active member of SIMI and has been pursuing the guide-lines laid down by SIMI and has been indulging in terrorists activities with a view to achieve its objectives and that he through SIMI leaders came in touch with militant outfits Hizbul Muzahideen. Mohd. Wasif also made similar confessional statement marked PW-6/E. He also stated that he is an active member of SIMI and he came in touch with militant outfit organization Hizbul Muzahidcen. These facts stand proved by the evidence of PW-6, Bijender Singh Tyagi, SHO, P.S. Kotwali, Kanpur Nagar, and his affidavit is Ex. PW-6/1.

(iii) On 3rd August, 2001, during the course of investigation, one Wasif was arrested. From his house search one factory made .30 bore pistol, 3 magazines, 24 cartridges, 1.38 bore pistol, one magazine, 6 cartridges were recovered without licence. A case vide FIR No. 72/2002 was registered. On his disclosure statement, he led to the recovery of 200 grams of RDX, 2 kg of potassium chloride, timer and other material used in making the country-made explosive was recovered, 9 hand-grenades were also recovered and a separate case vide FIR No. 73/2001 was registered. In his disclosure statement Ex. PW-12/1D, he confessed that he met, Amir, Zamir, Najir office-bearers of SIMI. Nazir has taken him to Kashmir where he was given training in handling arms and ammunitions. He further confessed that he was persuaded for all that on the ground that atrocities are being committed by Indian Army on the Muslims in Kashmir. These facts stand proved by the evidence of PW-12, Dharam Pal Singh, Inspector, P.S. Raipurwah, Kanpur and his affidavit is Ex. PW-12/1.

(iv) On 14th August, 2000, there was a bomb blast in Sabarmati Express at Railway Station, Rosa Gaon, 10 persons were killed and 44 were injured. Consequently, a case vide FIR No. 148/00 under Sections 150(2)/151 Railways Act and Section 3 Explosive Substances Act and Sections 302/307/338/120B/121/122/123/124 IPC at GRP Barabanki was registered. During investigations, three persons were arrested. Mohd. Akil, Maroof Ahmed and Abdul Mobin in their confessional statement submits that they are the active members of SIMI and they had been participating in the meeting of SIMI and they had kept the bag containing bag in Sabarmati Express at the instance of Guljar. They confessed their involvement in their disclosure statements which are PW 18/D collectively. These facts are proved by the evidence of PW. 18, S O., P.S. Railway Barabanki and also by his affidavit PW 18/1.

(v) On 3-8-2001, 200 gms. RDX, 2 kg. Potassium Chloride, Power Circuits, Remote Circuits, Detonators, Rocket Cells, Bomb making chemicals were recovered from the possession of Mumtaz Ahmed, FIR Nos. 83/2001 under Sections 3/4/5 Explosive Substances Act was registered. Similar articles/materials were recovered from Gulam Jilani and Mohd. Zuber and FIR No. 85/2001 under Sections 4 and 5 of Explosive Substances Act and FIR No. 70/2001 and FIR No. 71/2001 under Sections 25/27 Arms Act and Sections 3, 4, 5 Explosive Substances Act were registered. During investigations, they confessed that they are the active members of SIMI and they have been participating in the terrorist activities and in touch with Kashmiri militants. This was proved by PW-2 Ajay Kumar Kulshreshtha, SHO, P.S. Bajaria, Kanpur and by his affidavit Exhibit PW 20/1. RW. 3 Humam Ahmed in his evidence, has admitted some of the accused persons mentioned are the member of SIMI. President, Uttar Pradesh Zone of SIMI. Other accused persons are the members of SIMI stands proved by the disclosure statement of the accused persons made during investigations as referred to above.

RW-4, Dr. Mohammad Hasan, President, SIMI Unit, Rajasthan in his affidavit admitted pendency of six cases from 1998 to 2001 in different districts. FIR No. 136/98 under sections 153A/295A IPC P.S. Kotwali, Bikaner where around 300 people of Muslim community were present, case was registered against Yaseen Patel, Muzaffar Ali and Niyamat Ali, who are stated to be members of the SIMI. Perusal of FIR No. 136/98 reveals that the case was registered on the basis of speeches delivered in front of Masjid wherein Hindu Deities, Gods and Goddesses were ridiculed and abused. Prima facie it reveals that they have been abusing Hindu Gods and Goddesses with an intent to cause disaffection between different communities.

During the Naved-e-saher on 10th, 11th and 12th September, 2000 at Indore, members of SIMI exhibited posters instigating the Mohamaddan youths saying "Pas bode na bano aur sulah ki darkhwast naa karo, tum hi galib rahoge". They also published poster containing "Vah din bhi babri masjid dikhayenge ek din, sujid se tujhe apane sajayenge ek din, Inshaallah" showing three weeping mosques and also written "Ye dor apane ibrahim ki talash mein hai". Cases under sections 153A/153B/295A were registered against them. RW-5, Mohd. Ikrar, Secretary, Madhya Pradesh State supporting the case of SIMI in his affidavit admitted the pendency of 40 cases in different districts of State of Madhya Pradesh.

The evidence led by the other States and the respondent -SIMI through RW-6 to RW-9 is practically on similar lines and further discussion on their evidence is not required. The above material clearly shows that activities of SIMI are unlawful.

From the foregoing discussion it is clear that members, office-bearers and activists of SIMI Association have been indulging in unlawful activities. There is sufficient material, justification and grounds for the Central Government for taking action under sub-section (1) of section 3 of the Act for declaring SIMI as an unlawful association. It may also be noticed that apart from the evidence led by the Central and the State Governments, which was made available to respondent-SIMI, the Central Government also produced original files. Perusal of the files showed that the Central Government had received intelligence reports from other agencies, and together with material which was available with the Government, it formed its opinion to declare SIMI as an unlawful association and imposing the ban with immediate effect.

For the foregoing reasons, I hold that there is sufficient cause for confirming the notification issued under sub-section (1) of section 3 of the Act, declaring SIMI to be an unlawful association and the same is hereby confirmed. The reference is answered accordingly.

Justice S. K. AGGARWAL
Unlawful Activities (Prevention) Tribunal

March 26, 2002.
New Delhi

[F. No. II-14017/3/2000-NI (DV)]

B.K. HALDER, Jt. Secy.