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गृह मंत्रालय

अधिसूचना

नई दिल्ली, 1 नवम्बर, 2001

का.आ. 1072(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, 28 अप्रैल, 2001 को दीनदार अंजुमन को भारत सरकार के गृह मंत्रालय की अधिसूचना संख्या का.आ. 373(अ), तारीख 28 अप्रैल, 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 अधीसूचना संख्या का.आ. 448(अ), तारीख 22 मई, 2001 के द्वारा विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण का गठन किया था, जिसमें दिल्ली उच्च न्यायालय के न्यायाधीश न्यायमूर्ति श्री मनमोहन सरीन थे;

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिसूचना को 26 मई, 2001 को इस बात का न्यायनिर्णयन 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 दीनदार अंजुमन के संबंध में अधिसूचना सं. का.आ. 373(अ), तारीख 28 अप्रैल, 2001 में की गई घोषणा की पुष्टि करते हुए 27 अक्तूबर, 2001 को एक आदेश किया था;

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

[अधिकरण का आदेश अंग्रेजी पाठ में छपा है]

[फा. सं. II-14017/14/2000-एन आई (डी वी)]

बी. के. हल्दर, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 1st November, 2001

S.O. 1072(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 28th April, 2001 the Deendar Anjuman to be unlawful association vide notification of the Government of India in the Ministry of Home Affairs number S.O. 373(E), dated the 28th April, 2001;

And whereas the Central Government in exercise of the powers conferred by Sub-section (1) of Section 5 of the said Act constituted vide notification of the Government

of India in the Ministry of Home Affairs number S.O. 448(E), dated the 22nd May, 2001, the Unlawful Activities (Prevention) Tribunal, consisting of Mr. Justice Manmohan Sarin, Judge of the Delhi High Court;

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 26th May, 2001, for the purpose of adjudicating whether or not there was sufficient cause for declaring the said association as unlawful;

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 27th October, 2001 confirming the declaration made in the notification number S.O. 373(E), dated the 28th April, 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 :—

'A'

BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

In the matter of :

Gazette notification dated 28-4-2001 declaring Deendar Anjuman as an unlawful association.

And in the matter of :

Reference under Section 4 of the Unlawful Activities (Prevention) Act, 1957

Coram:

Hon'ble Mr. Justice Manmohan Sarin

Present :

Mr. K. K. Sud, A.S.G. with Mr. R. V. Sinha, advocate on behalf of Central Government.

Mr. M. Rama Kishan Rao, advocate for the State of Andhra Pradesh.

Mr. H. N. Nilogal, Legal Advisor-cum-Public Prosecutor COD Bangalore, Karnataka.

Mr. K. G. Kannabiran, Sr. advocate for Deendar Anjuman.

Mr. M. G. Gokhale, advocate for the State of Maharashtra.

Mr. Jag Ram, Deputy Sectetary, Ministry of Home Affairs, Govt. of India.

Mr. K. Pandu Ranga Reddy, S.P. CID, AP. Hyderabad.

Ms. Subhashini for State of Goa.

BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

In re : Deendar Anjuman

Coram:

Hon'ble Mr. Justice Manmohan Sarin

Order

(1) The Central Government vide a notification dated 28-4-2001, issued under Sub-section (1) of Section 3 of The Unlawful Activities (Prevention) Act, 1957 (hereinafter referred to as the Act) declared Deendar Anjuman to be an unlawful association. The Central Government also formed the opinion that it was necessary to declare Deendar Anjuman as an "Unlawful Asociation" with immediate effect by invoking the powers conferred under proviso to Sub-section (3) of Section 3 of the Act. The Central Government vide another Notification dated 22-5-2001 issued under Sub-section (1) of Section 5 of the Act, appointed and constitued me as the unlawful Activities (Prevention) Tribunal for the prupose of adjudicating whether or not there is sufficient cause for delaring Deendar Anjuman as an unlawful association.

(2) Notices were directed to be issued to Deendar Anjuman under Sub-section (2) of Section 4 of the Act. Publication of the notices was also directed in the National Dailies and Local Newspapers as well as by broadcasting it on radio and television. Notices were also directed to be served on Deendar Anjuman as also on its office bearers at their address or if under detention through the concerned Superintendents of Jail.

Notices as directed by the Tribunal were served by ordinary process as well as by publication in the National and Local Newspapers and by pasting them on the notice boards of the offices of the District Magistrates/Tehsildars. Necessary affidavit of service had also been filed by the Central and State Governments.

(3) The Deendar Anjuman entered appearance through its Secretary Mr. Syed Siddique Hussain on 13-7-2001, who filed a representation/written submission,

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together with documents in opposition to the declaration of Deendar Anjuman as an unlawful association. The Secretary of Deendar Anjuman also requested that hearings of the Tribunal be held at Hyderabad, pleading constraint of resources, particularly, in view of the large number of sessions cases initiated all over the States, for defence of which arrangements are to be made. Replies to the said representation have also been filed by the Central and State Governments.

(4) The Central Government for the purpose of reference filed before the Tribunal the notification issued under Sub section (1) of Section 3 of the Act, declaring Deendar Anjuman as an unlawful association. The notification was accompanied by a resume giving the facts on which the grounds in the notification under Section 3 were based, as required under Rule 5 of the Unlawful Activities (Prevention) Rules, 1968, (hereinafter referred to as 'the Rules'). The resume was accompanied by documents relied on i.e. FIR, charge-sheet etc.

Affidavits by way of evidence together with documents were filed by Shri Jag Ram, Deputy Secretary, Ministry of Home Affairs, on behalf of the Central Government. Affidavits by way of evidence together with documents were also filed by the concerned officers of the State Government of Maharashtra, State Government of Karnataka, State Government of Andhra Pradesh and the State Government of Goa. Copies of the affidavits by way of evidence and documents filed by the Central Government, State Governments were duly provided to Deendar Anjuman, who also filed their evidence by way of affidavit together with documents.

(5) The Tribunal held the hearings on 25-8-2001 and 27-8-2001 at Hyderabad, where evidence of PWs. 1 to 10 was recorded. The witnesses also made oral deposition on oath, proving their respective affidavits and documents filed. Counsel for the Deendar Anjuman also cross-examined the said witnesses. The sitting of the Tribunal was also held at Bangalore on 15th and 16th September, 2001 and 5th and 6th October, 2001. Statements of Pws. 11 to 23 were recorded and they were also cross-examined.

(6) Deendar Anjuman also led its evidence in defence and examined its Ameer, Mohd. Zafar Siddiqui as DW1, one Granthi Harbans Singh as DW2 and its Secretary Syed Siddique Hussain son of Syed Amanat Hussain, as DW3. The above witnesses were also cross-examined during the hearings at Bangalore on 5th and 6th October, 2001. Evidence was concluded on 6-10-2001, with the consent of the parties, who had been given full opportunity to lead their evidence and present their case. Arguments were heard in Delhi from 15-10-2001 to 19-10-2001. Parties also filed their written submissions in support of their contentions which have been duly considered.

(7) The case of the Central Government and as supported by the State Governments is :—

Deendar Anjuman was founded in 1924, by Hazarat Maulana Siddique known as Channabasveshwar Saheb. Maulana Siddique claimed himself to be an incarnation of Basaveshwar, a minister in the kingdom of BiJjal. who had established Veerashaivisim in the 12th Century from which the Lingayats of Karnataka and Andhra Pradesh, trace their lineage. Deendar Anjuman Jagatguru Ashram was established at Asif Nagar, Hyderabad by Maulana Siddique.

Syed Zia-ul-Hassan, eldest son of Maulana Siddique, who had migrated to Pakistan in 1948, had set up a militant wing of the association, an outfit known as Jamat-E-Hizbullah Mujahiddin in Pakistan. which operated from Mardan and other cities of Pakistan. Maulana Siddiqui expired some time in 1952. Zia-ul-Hassan and his sons used to visit India every year on the occasion of URS in the memory of Maulana Siddique @ Channabasveshwar Saheb. It is claimed that Zia-ul-Hassan and his sons organised disgruntled Muslim youths of the community into a militant outfit for launching Jehad in India with the avowed objective of total Islamisation of the sub-continent. During his visit for the URS in October, 1999, Zia-ul-Hassan spelt out his plans to create disturbance by promoting hatred between the Christians and the Hindus. He had directed his followers to attack Christians so that there could be international pressure on the Government of India and the Government would be weakened, while resolving to hoist the Deendar Anjuman flag on the Red Fort in Delhi after entering India on horseback through Kashmir with 9 lakh Pathans in April, 2000, Zia-ul-Hassan exhorted his followers to create a conducive situation for welcoming him by carrying out sabotage all around the Southern States. Zia-ul-Hassan is claimed to have been coordinating the anti India activities like sabotage, subversion, espionage himself and through his sons Javed Pasha and Jahid Pasha. The composite plan of subversion, sabotage and espionage was inclusive of (1) creation of hatred between communities by Nifaq; (ii) collection of funds by illegal means (Sariya), (iii) training of activists (Tarbiyat), (iv) targeting of infrastructure and VIPs.

(8) As per the Central Government, the objective was to weaken India by engineering communal strife, sabotaging elements of the infrastructure and damaging vital installations. Zia-ul-Hassan had also offered to equip

Deendar Anjuman's members with weapons and explosives to be clandestinely inducted into India. It is claimed that Zia-ul-Hassan had allegiance with the Pakistani establishment and Kashmir insurgents. He and his sons had close relations with Syed Salahuddin, Ameer, Hizbul-Mujahideen and Bakht Zameen, Al-Badr. Fifty activists of Deendar AnJuman had received arms and explosive trainings through Al-Badr. Two Deendar Anjuman's activists, Zakir and Mohd. Khalid Chaudhary, who were killed in Maruti Van Blast in Bangalore, had visited Pakistan along with other activists of Deendar Anjuman during September, 1992 for arms training. A Farm of 9.6 acres at Sunkolu, Nuzvid, Andhra Pradesh is stated to have been purchased for storing of arms and explosives for carrying out the blasts on religious places.

(9) Between May 21 to 9th July 2000, 12 incidents by explosion of improvised explosive devices (IED) at religious places were reported from Southern states of Andhra Pradesh. Karnataka and Goa. Out of these, seven cases were reported from Andhra Pradesh, four from Karnataka and one from Goa. The investigations carried out by the States and Central Agencies estabiished the involvement of Deendar Anjuman in this conspiracy. This was revealed after the explosion of Maruti Van on 9th July, 2000 at Bangalore in which two persons, namely, Mohd. Siddique and Zakir travelling in the van had died, while the third one Syed Ibrahim had sustained serious injuries. The three victims belonged to the Anjuman sect. The documents recovered from the Maruti Van as well as the houses of various suspects proved the Involvement of the activists of Deendar Anjuman in carrying out the explosions in Churches, specifically with a view to turning Christians against the Hindus. The blast in the Churches followed by blast in a Mosque, was engineered with the objective of putting the Hindus against Muslims and vice versa. Following the blasts and the investigations carried out, several members and activists of Deendar Anjuman were arrested from the Jagatguru Ashram at Asif Nagar , Hyderabad where they reside.

(10) The documents, literature and pamphlets seized from the scene of crime at Bangalore as well as from the Christian Institutio . at Hyderabad required the Christian missionaries "to stop conversion or quit India". The base data of this pamphlet was found on the Hard disk of a computer seized from the residence of Syed Ibrahim, who was injured in the Maruti Van blast.

(11) It is claimed that keeping in view the aforesaid facts and undermentioned reasons. Central Government invoked its powers under Sub-section (3) of Section 3 of the Act, for an immediate ban.

(i) During May to July, 2000, the Deendar Anjuman engineered bomb explosions in Church premises and other places in the States of Andhra Pradesh, Karnataka and Goa;

(ii) The said association was engaged in distribution of objectionable anti-Christian literature and pamphlets, and in espionage activities;

(iii) The Deendar Anjuman has links at Mardan Pakistan and has been organizing bands of disgruntled Muslim youths in India into a militant outfit for launching Jehad with the avowed objective of total Islamisation of the sub-continent;

(iv) The said association was planning to create disturbances, particularly by promoting hatred and creating suspicion and ill-will among the Christians and Hindus as well as among other communities;

(v) The association had directed its activists to attack Christian institutions with the objective of embarrassing the Government, particularly in the international community and weakening it internally; and

(vi) The association had plans to target major infrastructural installation including railways, telecom network. electricity grids, oil refineries and defence installations."

(12) Deendar Anjuman in response to the notice issued, filed a representation dated 7-7-2001 before the Tribunal, claiming that the Gazette notification dated 28-4-2001, declaring the association as unlawful merely gave a bare narration of the grounds, without any supporting material and sufficient details. In the absence of supporting material, a proper rebuttal was not possible.

(13) Deendar Anjuman while denying the allegations, submitted as regards Its activities and beliefs, that it was an association pursuing establishment of world peace and unity of humanity as well as harmony between different religions. It was founded by Hazrath Maulana Syed Siddique Hussain G Siddlque Deendar Channabasveshwar Kibla. Channabasveshwar was an ophthalmologist. He was well read and was a multilinguist having command over 11 languages. He studied the teaching of different religions and was inspired by a zeal to uplift the human race and achieve the oneness of humanity, which

was the essence of Quranic teachings. It is stated that Maulana Syed Deendar Sahab, had a revelation that he was the incarnation of Channabasveshwar, whose advent was prophesised in "Kannada Kalagnanam" of Lingayat Community. Channabasveshwar, as noted earlier, was a Minister in the Kingdom of Bijjal, who had established Veerashaivism to which the Lingayats of Karnataka and Andhra Pradesh traced their origin and lineage. Maulana Siddique Channabasveshwar established the Deendar Anjuman and set up the Jagat Guru Ashram in Asif Nagar at Hyderabad. It is stated that Maulana Siddique known as Channabasveshwar Kibla, trained and prepared about 300 preachers. He authored about 29 books. The teaching and philosophy appealed to the Lingayat community and Dravidians, who felt that they had been deprived of power and status in their home land by the Vedic Aryans. Maulana Siddique manifested himself as the incarnation of Channabasveshwar to uplift the Lingayat community and the Dravidian nation, as prophesised in the "Kannada Kalagnanam".

(14) A three day International Religious conference is organized by Deendar Anjuman on the Urs-e-Sharif, death anniversary of the founder to promote communal harmony, unity and integrity among all religions. Maulana Siddique Deendar Kibla i.e. Channabasveshwar and his followers believed in Panchshanti Marg i.e. 5 fundamental principles for attaining world peace, namely, (1) Eko Jagadishwara (oneness of God); (2) Eko Jagadguru (Unity in World teacher); (3) Sarva Avtar Satya, Sarva Dharma Granth Satya (Believe in all prophets, Apostles, Avatars, Saints and Sages. Believe in all the reverred scriptures of the world); (4) Samata (Equality among the human beings); and (5) Sammail Prarthana (Composite form of prayers).

(15) Deendar Anjuman, claims to pursue the goal of achieving communal harmony. Its office bearers and leaders had been invited and participated in the functions and conferences of other religions. It is claimed that their Vice-President, Moulana Osman Ali Mallana was even invited to deliver a lecture on Bhagavad Gita. Their office bearers and leaders also attended the Ardh-Kumbh and shared the dias with saints and known persons like Swami Ranganathananda of Ramakrishna Math as well as Senior political leaders. The details of participation in the various functions have been given. Participation by the office bearers and members of Deendar Anjuman in conferences, including that of Sikhs are mentioned. It is urged that activities of Deendar Anjuman, therefore, far from endangering the secular fabric of the country and inter-communal harmony, have contributed to a greater tolerance and mutual understanding between different religions in the country.

(16) The involvement of Deendar Anjuman and its members/followers in the bomb explosions in the various .Churches, is denied. It is stated that the association, believing in inter-religious understanding and amity, would never seek to destroy the places of worship of other religions. As regards the accused in these cases being either members of Deendar Anjuman or Kith and Kin of members of Deendar Anjuman, no comments were offered on the plea that truth and falsity of the allegations against the individual accused are pending trial. Rather, a legal plea is raised that since the same allegations as are levelled against individual accused in trial, are sought to be urged before the Tribunal, it would mean parallel adjudication by two Judicial forums. This itself, it is submitted, vitiated the ban order. Reliance could not also be placed on confessions of the accused recorded by the police.

(17) Additionally, it was urged on behalf of the Association that assuming offences against the individuals are true and those individuals had personal or familial link with Deendar Anjuman, the same without any further material, showing the involvement of Deendar Anjuman, as an association, cannot be made the basis of a ground for banning the association under Section 3 of the Act.

(18) Reliance was also placed by the Deendar Anjuman on a statement by the Minister of Andhra Pradesh, Mr. Devender Goud, reported in media, expressing surprise that the entire sect is banned for the unlawful doings of some of its members. The State Government had not been consulted by the Central Government before imposing the ban. Support was also sought to be drawn from the statement to the Press, reportedly made by the Director General of Police, Andhra Pradesh, Mr. H. J. Dora, that only some in the association were involved or had links with the 'extremist activities". It was further claimed by Deendar Anjuman that Mr. Dora when asked about the State Government's recommendation to the Centre for banning the association, stated that there was no need to ban the sect, as only a small group was involved in anti-national activities. It was claimed that the views of the State Police on the activities of the association were more reliable than that of Central Government. Besides, it was claimed that Deendar Anjuman immediately had condemned the dastardly attacks on Christian places of worship and fully cooperated with the police in the investigation of the crimes and the arrests, which were made from its Ashram at Asif Nagar, Hyderabad. The allegation of distribution of objectionable anti-Christian literature and indulging in espionage activities was denied, as being without any evidence. There was only an isolated seizure of some pamphlets from the house

of S. M. Ibrahim, with which the Deendar Anjuman was not connected.

(19) Deendar Anjuman also denied having any links with the set up at Mardan, Pakistan. It is stated that its only link was that the eldest son of the founder of Deendar Anjuman, Zia-Ul-Hassan, had migrated to Pakistan and lived in Mardan. Zia-Ul-Hassan came only occasionally to Hyderabad for the Urs-e-Sharif of his father i.e. Channabasveshwar. It was denied that Zia-Ul-Hassan was the Ameer or had any control over Deendar Anjuman in India.

The allegation that Deendar Anjuman was organising Jehad was also denied. The allegation of creating disturbances by promoting hatred and suspicion and ill-will among Christians and Hindus as well as among other communities was denied as being contrary to the aims and objectives of the Deendar Anjuman of creation of mutual understanding and goodwill among different communities and religions. The allegation of Deendar Anjuman planning to target major infrastructural installations including railways, telecom network, electricity grids, oil refineries and defence installations was also denied, as being without any evidence or basis.

(20) Having noticed the rival submissions of the Central Government, State Governments and the Deendar Anjuman, before proceeding further with the consideration and analysis of evidence and determining whether there is sufficient cause for confirming the declaration or not, it would be appropriate to deal with the objections and legal submissions raised, including the plea for exclusion of certain evidence from consideration by the Tribunal.

(21) The legal submissions and objections, as raised by Deendar Anjuman, are taken up for consideration hereunder :—

(I) The declaration of Deendar Anjuman as unlawful association with immediate effect under proviso to Sub-section (3) of Section 3 of the Act was vitiated as the reasons given for immediate ban were the same as given for declaring the Association as unlawful under Sub-section (1) of Section 3 of the Act.

Learned counsel for Deendar Anjuman submitted that no reasons for an immediate ban, other than those given for the declaration as an unlawful association itself, had been given. As such, there was absence of reasons vitiating the action under sub-section (3) of Section 3 of the Act. The plea now sought to be raised had earlier been raised by Deendar Anjuman, while impugning the notification under proviso to sub-section (3) of Section 3 of the Act in writ petition No.13209/2001 in the High Court of Andhra Pradesh. The challenge in the writ petition was confined to the exercise of powers by the Central Government under the proviso to Sub-Section (3) of Section 3 of the Act. It was urged before the High Court that there were no reasons for giving immediate effect to the ban in exercise of power under proviso to Sub-section (3) of Section 3 of the Act other than the reasons, disclosed by the Government for imposing ban on the association under Sub-section (1) of Section 3 of the Act. On the same reasons, the power under proviso to Sub-section (3) of Section 3 of the Act-could not have been exercised. The Court repelled the submission after examination of records, holding that, "it was clear from the records made available by the Central Government that the Competent Authority had some facts before it and the requisite material in its possession to declare the petitioner association as Unlawful with immediate effect. The said material was in addition to the facts and material for taking action against the Association under Sub-section (1) of Section 3 of the Act." The Court held that the reasons for exercising the powers conferred upon the Central Government by proviso to Sub-section (3) of Section 3 of the Act are in addition to the reasons and grounds for declaring the association to be unlawful in exercise of powers conferred by Sub-section (3) of Section 3 of the Act. The Court further observed that the Central Government upon careful consideration of the material available on record came to the conclusion that the association indulged in activities, which are prejudicial to the security of the country and, accordingly, issued a notification in exercise of powers, conferred by Sub-section (1) of Section 3 of the Act. In arriving at such a conclusion the Central Government noticed the various acts of the association, alleged to have been committed by it during May, 2000 to July, 2000. The details are mentioned in the notification. The details relate to what the petitioner association is alleged to have already done and accomplished. In contradiction, the Central Government on the basis of material available on record, noticed as to what the petitioner association is likely to do in case it is not declared as unlawful association with immediate effect. I am in respectful agreement with the finding and reasons given by the learned Judge. Accordingly, the challenge to the notification under Sub-section (3) of Section 3, declaring it to be an unlawful association with immediate effect on the allegation that the reasons given are the same as for declaring the association as unlawful is rejected as being without factual foundation and being misconceived.

(II) It was not permissible for the Central Government to consider the material and allegations against individual accused, which were pending trial. There could not be two parallel adjudi-

cations, one in criminal trial and other before the Tribunal. Notification was assailed as ultra vires since it amounted to usurping and prejudging the judicial verdict.

Counsel assailed the notification under Section 3 of the Act as ultra vires, claiming that the grounds of ban are none other than the penal charges awaiting trial before the Courts of Competent criminal jurisdiction. It was urged that in the circumstances the ban based on subjective satisfaction of the executive on the basis of same allegation amounts to usurping and pre-judging the judicial verdict. The Andhra Pradesh High Court repelled this submission as totally misconceived. It held that the entire material, including the material leading to the allegations and charges in criminal cases, was bound to be taken into consideration by the Central Government in arriving at a conclusion as to whether it is a fit case where declaration is to be made in exercise of power conferred under Section 3 of the Act. The Court held that the Central Government could not have eschewed the said material from its consideration. It observed that the Government has not made any pronouncement with regard to the truth or otherwise or allegations levelled against the concerned individuals in the criminal cases nor the Central Government has any jurisdiction to make such pronouncement. The given material available with the Government may give rise to a criminal action against the concerned individuals and simultaneously form the basis for taking appropriate action under Section 3 of the Act.

The plea with regard to the exclusion from consideration by the Tribunal of the material relating to the criminal charges against the individual accused and members of the association is also rejected, for the reasons noted above with which I am in full agreement. The pendency of the criminal trial cannot come in the way of the Tribunal proceeding with the matter. It may be noted that any observations and findings in this order are for the purposes of adjudicating whether there is sufficient cause to confirm or cancel the declaration with regard to the association being an unlawful one. It will not in any manner affect the merits of the criminal trial against the individual accused.

(III) The declaration of Deendar Anjuman as an unlawful association was manifestation of a siege mentality against a small minority sect and to banish it. It was an infringement of fundamental right under Article 19(1)(c) of the Constitution of India based on the subjective satisfaction of the Executive. The objective satisfaction by Judicial scrutiny, applying the principles of natural justice and normal rules of appreciation of evidence was essential for satisfaction of requirements under Article 19(4) of Constitution of India.

Learned counsel Mr. K.G. Kannabiran submitted that it was a small minority association, with handful of members. Considering the size and population of country, the declaration by Central Government was a manifestation of a siege mentality against a very small sect for the purposes of banishing it. He submitted that the right to form an Association was a fundamental right guaranteed under Article 19(1)(c) of the Constitution of India and the subjective satisfaction or the executive could not be final in the matter. The objective assessment of that satisfaction by judicial forum, applying the principles of natural justice and normal rules of appreciation of evidence was essential if the right to form an Association was to be validly taken away. Such judicial scrutiny was essential if the ban was to satisfy the requirements under Article 19(4) of the Constitution of India of a reasonable restriction. Reliance was placed on the judgment of the Supreme Court in **The State of Madras** *v.* **V. G. Row. Respondents; The Union of India and the State of Travancore-Cochin. Intervenors** reported at AIR 1952 Supreme Court 196. In the cited case Section 15(2) (b) of the Indian Criminal Law Amendment Act, 1908, as amended by the Indian Criminal Law Amendment (Madras Act 1950), was held to be unconstitutional and void. The Supreme Court had observed that "the right to form Associations/ Unions has such wide and varied scope for its exercise, and its curtailment is fraught with such potential reactions in the religious, political and economic fields, that the vesting of the authority in the executive Government, to impose restrictions on such right without allowing the grounds of such imposition, both in their factual and legal aspects, to be duly tested in a Judicial inquiry, is a strong element which must be taken into account in judging the reasonableness of the restrictions imposed by Section 15(2)(b) on the exercise of the fundamental right under Article 19(1)(c)."

There is no quarrel with the proposition as laid by the Supreme Court in the cited case, with regard to the curtailment of fundamental right being subjected to Judicial scrutiny. The Supreme Court in its judgment **Jamaat-Eslami Hind v. Union of India** (1995) 1 Supreme Court Cases 428 had the occasion to consider the vires of the present Act and the safeguards and the procedure provided. The Court has upheld the vires of the Act and the safeguard providing reference to a Tribunal consisting of Judge of the High Court in terms of Section 4 of the Act for adjudicating whether there is sufficient

cause for either confirming or cancelling the declaration issued under Section 3 of the Act. While upholding the vires of the Act, Supreme Court observed in para 20 on the aspect of procedure to be adopted by the Tribunal and observance of natural Justice as under:

> "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."

The submission of learned counsel Mr. Kannabiran that the declaration of Deendar Anjuman as an unlawful association, being actuated by a siege mentality, is without basis and any foundation and is lacking in material particulars. It cannot stand in the teeth of the material and evidence as produced during the hearing before the Tribunal and as was available to the Central Government at the time of forming of the opinion.

> (IV) There has been violation of the principle of natural justice. The enquiry before the Tribunal proceeded and concluded without the Deendar Anjuman knowing exactly what was the material or information on which the decision of the Central Government was based. It is only the State Governments, which have produced and dumped voluminous material and evidence against the individual accused in respect of their criminal trial and prosecution.

Mr. Kannabiran urged that the enquiry before the Tribunal progressed and is concluded, without the banned association or even the Tribunal knowing exactly what was the material or information on which the decision of the Central Government to issue the notification under Section 3 of the Act was based. The Union of India, it was contended, produced no material, whatsoever, before the Tribunal in justification of the ban. All the material for whatever is its worth as evidence was produced by State Governments of Andhra Pradesh, Karnataka, Maharashtra and Goa. It is not stated whether this material was placed by any of them before Central Government. Besides, the State Governments, it was urged had not recommended the ban on the association, yet they supported the declaration by the Central Government before the Tribunal. The above submissions are again without merit. The grounds of imposing the ban have been adequately disclosed in the notification itself. The six grounds mentioned in the notification are self explanatory and comprehensive in content. Further the resume filed by the Central Government before the Tribunal has disclosed the facts and evidence on which it has relied. Besides the affidavits by way of evidence and the documents filed which were made available to the Deendar Anjuman gave the requisite facts and details. It would, therefore, be not correct for the association to urge that it was not aware of

the evidence material and documents which were available to the Central Government, when it formed its opinion to declare the association as unlawful. The records of the tribunal were available to the parties for inspection all through, except the reports of intelligence Bureau and CISF which were produced for perusal of the Tribunal.

As regards the proceedings before the Tribunal, the State Governments filed detailed evidence by way of affidavits together with documents which run into more than 2000 pages, copies of all of which had been made available to the association. It is, therefore, idle on the part of the association to contend that it was not firstly of the material or information on which the Central Government had formed its opinion or the details and particulars of the unlawful activities for which it had been declared unlawful. There has been full compliance with the principles of natural justice for the purposes of these proceedings, as enumerated by the Supreme Court in Jamaat-Eslami Hind Vs. Union of India (Supra).

(V) There was no independent material before the Central Government, to form its opinion to declare Deendar Anjuman as an unlawful association. This was in the context of reported press statements of the Minister of State Government of Andhra Pradesh and Director General of Police, Andhra Pradesh, that the State Government had not been consulted before imposing the ban. The State Government was not in favour of banning the entire Association for the acts of few individuals.

Deendar Anjuman had submitted relying on certain press statements attributed to the Director General of Police and a Minister of State Government of Andhra Pradesh that the State Governments had not been consulted and it was not in favour of the ban of the entire association for the acts of a few individuals. Relying on the above, Mr. Kannabiran submitted that there was no independent material before the Central Government to form its opinion as the State Government was not in favour of the ban. With a view to satisfy judicial conscience with regard to the existence or otherwise of any recommendation by the State Government of Andhra Pradesh and the existence of material other than the State Governments' reports with the Central Government. I had called for the files of the Central Government and the State Government of Andhra Pradesh. The position, as revealed from the record is that the Central Government had sought information from the State Government with regard to the activities of Deendar Anjuman, as also the various incidents. The State Government had supplied the information sought without making recommendation either for or against declaring the association as an unlawful association. It is the prerogative of the Central Government to issue a declaration under Section 3 of the Act and not of the State Government. The Central Government in addition to the inputs from the State of Andhra Pradesh and other State Governments had received reports and updates from the intelligence Bureau as well as Central Government Industrial Security Force (CISF). As noted earlier, the grounds mentioned in the notification were comprehensive. Besides the background note and resume filed before the Tribunal gave the detailed facts and particulars of the unlawful activities. It described the links with Pakistan and Kashmir insurgents. The involvement of the Association, its members in the incident of explosions. The plans to target infrastructure network, such as, Railways, Telecom, electricity grids, oil refineries etc. were mentioned. The substance of CISF report was also given. In view of the foregoing, the submission Deendar Anjuman is without merit.

(VI) The Tribunal while either confirming or cancelling the declaration is to look Principally at the material considered by the Central Government in forming its opinion as the time of issuance of the notification. It is not a proposal for a ban which is to be scrutinized by the Tribunal.

Learned counsel for Deendar Anjuman Mr. Kannabiran submitted that the function of the Tribunal is to conduct a hearing to either confirm the declaration made in the notification or cancel it. The Tribunal is to look at the justification for the opinion formed by the Central Government while issuing the notification. The Tribunal is to see whether there is sufficient cause for the opinion formed by the Central Government or not. The reference to the Tribunal under Section 4 is not a proposal of a ban to be scrutinised for recommendation or disapproval by the Tribunal. In other words, the submission is that sufficiency of the cause is to be tested with reference to the material that was available as the time of issuance of the notification by the Central Government and not subsequently or at a larger stage. He submitted that the use of expression "information" in Section 4(3) of the Act indicates that the Principal material to be considered is the information or material on which the Central Government based its decision. The "further or additional information" is such information, which the Tribunal may require for a proper adjudication.

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I am unable to accept the submission that the power of the Tribunal is circumscribed or confined to consideration of the material available at the time of issuance of notification only. The mandate of the statute to the Tribunal is to decide "whether or not there is sufficient cause for either confirming the declaration of association as unlawful or cancelling it". The legislature has used the present tense. It has not used words "whether there was sufficient cause." In case, the intention was that only the material and evidence that had been taken into consideration by the Central Government for forming opinion should only be seen and examined by the Tribunal, then the legislature could have used different words, such as, whether there existed sufficient cause for declaring as association to be unlawful by the Central Government. The use of the present tense i.e. whether there is sufficient cause in the statute coupled with the Power given to the Tribunal to call the Central Government or even the association and their office bearers to furnish further information, which may be relevant to the enquiry, also makes it evident that the Tribunal's power is not circumscribed to deciding the issue only on the basis of material and evidence, which was available to the Central Government for formation of its opinion. In any case, the submission is not of any consequence in the present case as it has been found that the Central Government apart from the inputs from State Governments, had reports from IB and CISF and was possessed of the requisite material at the time of issuance of the notification. The evidence produced by the State Governments before the Tribunal only supplemented the essential material and evidence already available at the time of issuance of notification.

(VII) Statements and confessions recorded by the police under Section 161 Cr. P.C. were inadmissible in evidence and should be excluded from consideration by the Tribunal. Confessions recorded under Section 164 Cr. P.C. of an accused amounted to statement of an accomplice unworthy of credit unless corroborated independently.

Learned Counsel for the Deendar Anjuman submitted that reliance which was being placed by the Central and State Government on the statements and confessions recorded under Section 161 Cr. P.C. by the police officers were inadmissible in evidence. Further, that even the confessions under Section 164 Cr. P.C. as recorded by the Magistrate, amounted in law to the submission of an accomplice by the virtue of Illustration (b) to Section 114 of the Evidence Act. He submitted that such testimony would be unworthy of credit unless corroborated independently. Learned counsel for Deendar Anjuman submitted that though rule 3(1) of the Rules provided that the Tribunal shall follow the rules of evidence, contained in the Evidence Act as far as practicable, the same cannot be extended so as to negate natural justice and fair play in the name of practically. The confessions recorded before the police officers were not admissible by virtue of the bar under Section 26 of the Evidence Act. Similarly, the statements made to the Police officers by the accused, could only be used for a purpose, as provided under Section 162 Cr. P.C. i.e. for the purposes of cross-examination by the accused.

Learned Additional Solicitor General for Union of India submitted that the submissions made were misconceived in as much as Section 162 Cr. P.C. operated in the arena of an enquiry or trial in respect of offence under investigation, which refers to criminal trials. Moreover, in the instant case, most of the statements, which were recorded disclosed information which led to the discovery of further materials, documents and explosives etc. As such the statements recorded to the extent of the information given, which led to the discovery of facts, documents and materials were admissible in evidence by virtue of Section 27 of the Indian Evidence Act. This apart the statements in so far as they disclose facts, which were relevant to show or constitute a motive or preparation for an offence were admissible under Section 8 of Evidence Act. Similarly, facts disclosing actions done, taken or documents written by any one of the conspirators in reference to their common intention were admissible under Section 10 of the Evidence Act. I find merit in the above submissions of learned Additional Solicitor General. Moreover, in this case sufficient independent evidence and material has been disclosed, along with the confessional statements recorded under Section 164 Cr. P. C. for adjudication of whether or not there is sufficient cause for banning the organisation, even if the statements and confession made to the police officers were not reckoned.

(VIII) Many police reports under Section 173 Cr. P.C. do not mention offences under Sections 153-A, 153-B and 295-A IPC. Hence in respect of these offences, there would not be any case for an unlawful association within the meaning of Section 2(g)(ii) of the Act.

Learned counsel for Deendar Anjuman submitted that some of the police reports under Section 173 Cr. P. C. do not mention offences under Section 153-A, 153-B, 295-A and so on. Hence the said reports could not be considered for the purpose of whether the association was unlawful or not. It is well settled that the Court or the Tribunal is not foreclosed from considering the contents of the police report and material collected in the course of investigation

in the form of statements, confessions and documents to determine as to the commission of what offences are actually made out on the basis of investigation. Omission to mention a proper Section in the police report does not exclude the jurisdiction of Court for framing of a proper charge based on the offences, as may be disclosed by the evidence on record. As long as the contents of the reports disclosed the offences under Section 153-A, 153-B and 295-A, non-mentioning of the Section is of no consequence and the Tribunal would be well within its rights to proceed on the basis that the offences or activity punishable under Section 153-A IPC and 153-B IPC are disclosed and it could still be a case of an unlawful association whose members are indulging in unlawful activities.

(IX) Non summoning of the accused persons/ witnesses whose statements and confessions were recorded.

Another submission of learned counsel for Deendar Anjuman was that the evidence led was not credible in so far as the persons making the statements under Sections 161 Cr.P.C. and 164 Cr.P.C. were not produced before the Tribunal. It was also claimed that the Tribunal was remiss in its duty in not summoning and examining those who had made these statements. The said submission is wholly devoid of substance. The scope of proceedings under Section 4 of the Act is not that of a full scale trial. This Tribunal was not concerned with returning the finding of innocence or guilt of the accused persons. The scope of enquiry was a limited one and for which purpose the exercise as sought by the learned counsel for Deendar Anjuman was wholly unnecessary.

(22) Before proceeding to consider the evidence on record, the submissions of the learned counsel for Deendar Anjuman on the avowed aims and objectives of the association may be noted. In this connection, it is submitted that either the aims and objects of the association should be shown to be an unlawful activity within the meaning of Section 2(g) of the Act or the activity of the association or the common run of its members must be shown to be aiding, or encouraging unlawful activities. It cannot be crimes or acts of few individual members for which the association can be declared to be unlawful.

(23) Learned counsel elaborated that the unlawful activity or the acts of crime, as specified in the act, should be shown to be the objects of the association or it should be shown that the Association, as such, aids and encourages such activities. Further that members of the Association indulge in such activity. He further argued that the statute used the expression "members of the association" and not "any member of the association". Therefore, he submitted that to say that the members of the association do something can only mean that the common run of the members, do that thing as members of the association and not in their personal capacity. Accordingly, whatever is done should be done by the common run of members if not by everyone. Secondly it should be done in their capacity as members. Individual acts of unlawful activity or acts punishable under Sections 153-A and 153-B IPC by a small fraction of members or followers and that too by few dissidents cannot be sufficient to bring the association within the meaning of unlawful association under the Act.

In this connection, learned counsel reiterated the submission that the banned association had been founded by a muslim who regarded himself as Channabasveshwar, an incarnation of Basaveshwar. He submitted that reliances which were being placed on excerpts from "Imamul Jehad" and the prophesies were part of the "Kannada Kalagnanam" of the Linaayats tradition of Karnataka. The Kannada Kalagnanam while being anti Bhrahminic also incorporated the themes of Hinduism in the Islamic tradition and vice versa. Reference was made to passages reflecting hatred of Brahminical Hinduism. The propheeies with regard to desecration and destruction of temple etc. had to be understood as the prophesies of "Deendar Channabasveshwar" who was not speaking as a Muslim but as a self proclaimed reincarnation of Basaveshwar, the founder of the strong anti-brahmin cult of Lingadhar is among the sudra people of Hindu society. In this connection also emphasis is laid on the objects and bye-laws of the association, the holding of inter religious conferences, which were attended by eminent personalities of other religions as also the participation of the leaders and office bearers of the association in the function's of other religious. This was sought to urge that the Association itself believed in communal harmony, respect to other religions and oneness of humanity. The founder was author of a book on Hindu Muslim Unity.

(24) Learned Additional Solicitor General of Union of India refuted these submissions and submitted that even though the ostensible objects of the association as may be those given in the bye-laws, the hidden agenda of the association had been the attainment of Islamisation of the sub-continent rather globalisation, through Jehad. In this connection. reliance was even placed on the proceedings initiated against the founder Deendar Channabasveshwar and his disciples as far back as in 1934 under Section 108 Cr.P.C. for preaching their religion in such a way so as to promote feelings of hatred and enmity between different communities. The founder had been asked to give surety for good behaviour. Reliance

was placed on several publications of the organisation including Imamul Jehad and extracts which referred to destruction and desecration of temples as also achieving Jehad. Reference was also made by the counsel for State Government of Karnataka to a book by Sri K.M.Munshi, giving his experiences as Agent General at Hyderabad regarding the violent and unlawful acts of Deendar Channabasveshwar and his followers are narrated at pages 40-41 of the book "End of an Era" to urge that the association from the beginning had been for total islamisation of India by Jehad. Reliance was also placed on the evidence of DW.1 and DW.3 wherein DW. 1 Ameer admitted his view that islamisation as far as it could be done by Jehad was the solution for world problems. He also admitted that he believed that the prophecies contained in the book "Imamur Jehad" would come true. "These included that the Muslims will force their entry in Devasthanam in Triputi and with the wealth of the temple, Muslims will construct big tombs and mosques. Further there will be great upheaval and Hyderabad will be disintegrated and the Muslims will over-come red people and rule again". There would be end to the ideal worship and entire India will become Muslim. All the muslims of the world i.e. muslims of Russia, Rome and Kabul etc., will come out in favour of the cause.

(25) In my view, it is not necessary to dwell any further on this aspect. Even if an association is ostensibly holding inter religious meets and its leaders are participating in religious functions of other religions and sects and it claims to be working for communal harmony, if in fact, it is found that its office bearers and active members are involved in activities which are unlawful activities within the meaning of the Act or its members are carrying out activities, punishable under Sections 153-A or 153-B IPC, it would be liable to be declared an unlawful association. The use of the facilities and premises of the association for the said purposes by some of its members, with its consent, tacit or otherwise, will bring it within the ambit of Section 2(g) of the Act. In such circumstances, it would be immaterial that the official aim and object of the organisation is to promote communal harmony. The same would not be of any consequence. It may also be noted that Ameer and Secretary of Deendar Anjuman in their evidence stated that they did not have any list of members. There was no prescribed subscription fee from any member and members and followers were free to make contribution on their volition. A mailing list which included some important personalities, some office bearers and members had been seized during investigations. It was stated that any Kalima reciting Muslim can become a member. The association has been rather evasive on this aspect. DW.1 in his evidence stated that he could not say as to how many members the association had. Despite a regular hierarchy of Secretary-Treasurer, it was stated that no regular accounts were maintained. This being the situation, the Deendar Anjuman can conveniently either own or disown a person as a member. In the absence of their being any record of membership as per Deendar Anjuman an inference regarding a particular accused or person being a member or follower of Deendar Anjuman of necessity would have to be drawn from whether the said person was present at the functions or events of the association, or otherwise was associated with the office bearers or other activists of the association.

(26) It may also be noticed that there is merit in the submission of the counsel for the Central Government that the association did not take any action to dis-associate itself from its former office bearers and members who are the accused. It Is not disputed that no action was taken neither to suspend or expel the office bearers namely Jalil Chaudhry and Dr. Wajahidullah, who were accused of unlawful activities within the meaning of the Act and who had been arrested in the bomb blast cases. Similarly, no action had been taken to expel the other members and activists. Rather one of the pleas taken even before the Tribunal was that hearing should be held in Hyderabad as there was constraint of resources with the association, which had to arrange for the defence of its members who were facing prosecutions all over the states. In the press release by the association rather, release was sought of the arrested office bearers.

(27) Having noted the pleadings, contentions of the Central Government, State Governments and Deendar Anjuman as well as the legal objections and having returned my findings thereon, let us proceed to consider the evidence.

(28) The Central Government in support of its case has filed the affidavit of the Deputy Secretary, Mr. Jag Ram, who also deposed on oath. Mr. Jag Ram stated that in addition to the investigation done by the state agencies, which formed the basis for the declaration, the Central Government also had inputs from the Intelligence Bureau and CISF. The main evidence in the case has been led by the State of Andhra Pradesh, who examined the following witnesses :—

PW-2, Mr. K. Pandu Ranga Reddy. Superintendent of Police, CID, Andhra Pradesh; PW-3, Mr. N. Prasad, Zonal Inspector, CID. Vijaywada; PW-4. Mr. Palli Satyanarayana. DSP, CID, Vishakahapatnam; PW-5, Mr. K. Ravindra Babu, Zonal Inspector, CID. Krishna District; PW-6, Sri P. Sambaiah. Zonal Inspector. CID, Guntur; PM-7G. Venkateshwerlu. Sub-Inspector of Police, CID,

Nalgonda; PW-8, Mr. K. Chakradhar Rao, DSP, CID. Medak Dist.; PW-9,Mr. R. Siva Rama Raju. Sub Divisional Police Officer. Gudivada Sub Division, Krishna District; PW-10, Mr. Vasundra Rao, DSP, CID; and PW-12, H. J. Dora. Director General of Police, State of Andhra Pradesh.

The aforesaid witnesses were either the Investigating Officers in respect of the cases or were involved in the investigation at one stage or the other. The offences related inter alia to explosions in Churches, Temples and mosques. The cases were also in respect of Nifaq i.e. spreading of hatred between different communities by pasting of wall posters, pamplets etc., as also offences of Saria i.e. Collection of funds by illegal means such as robbery, threat, extortion etc. The aforesaid Investigating Officers proved the various charge sheets filed, investigation reports as also the panchnama, recording the seizure and recovery of arms, explosives, as also other case property. The confessional statements, as recorded by the Investigating Officers, as also those recorded under Section 164 Cr. P.C. before Judicial officers have been produced. The Statements of accused, giving information leading to discoveries at their instance, as recorded and admissible under Section 27 of the Evidence Act, have also been proved by these witnesses.

(29) Similarly, the State of Maharashtra examined PW-11, Sri Ranjit Dhure, Police Inspector, P.S. Meeraj, District Sangli, in respect of criminal case Nos. 128/2000 and 130/2001; PW-13, Mr. S.M. Kulkarni, Inspector, Police Station Nanalpet, in respect of RCC No. 118/98; PW-14, Sri Shaik Abdul Rauf, Assistant Police Inspector, P.S. Sonpeth, Investigating Officer of case No. 148/95; PW-15, Yeshawant Jadhav, Deputy Superintendent of Police, CID, Solapur Unit; and PW-17, Mr. Subhodh Gore, Video Recorder, who recorded the statment of Kaujalagi.

State of Goa examined PW-16, Mr. D.C. Srivastava, I.P.S. Supdt. of Police, Panaji, Goa.

State of Karnataka examined PW-18, Sri B. Mahantesh, Deputy Supdt. of Police, Bangalore; PW-19, Victor, Police Inspector, Shivaji Nagar, Traffic Zone; PW-20, Mr. M.B. Appana, Deputy Supdt. of Police; PW-21, Mr. K.S. Gabrial; PW-22, Mr. Gurulingaiah, Assistant Commissioner of Police; and PW-23, Mr. Pujar.

(30) It is not the function of this Tribunal in these proceedings to adjudicate on the plea of the association that its members have been falsely implicated or to pronounce on whether the accused are guilty or innocent, which is the function of criminal courts, where cases are pending. This Tribunal in the present reference is concerned only with the question whether there is sufficient cause for confirming or cancelling the declaration in respect of Deendar Anjuman, as an unlawful association. It is, therefore, not necessary to either evaluate or sift the evidence as is required to be done in a criminal trial or to discuss the same with regard to each of the offences for which the accused are being prosecuted. It would be sufficient in these proceedings to prima facie consider the involvement of the accused, as member of the association and their respective roles and whether the acts or activities of the association and its members are unlawful activities within the meaning of Section 2(f) of the Act or such activities, as are punishable under Section 153-A and 153-B IPC, for the association to be declared unlawful.

(31) It has been deposed by PW-2 that Zia-ul-Hassan, the eldest son of the founder, is the Chief Patron of the association, Deendar Anjuman. Though residing in Mardan, he is the person, who is the defacto Chief and controls the association and its members, who act at his behest. Jamat-E-Hizbullah Mujahiddin, a military outfit, is also controlled by him. It has been led in evidence on behalf of Central and State Governments that Deendar Anjuman although having as formal objects and its aims, as given in the bye-laws, has a hidden agenda, which is Islamisation of the sub-continent, rather global Islamisation through Jehad. Jehad is to be launched and attained by Nifaq, which is creating hatred between different religious groups. While Saria is collection of funds by illegal means. It has been deposed that in 1995, two members of the association were arrested for desecration of the statue of Dr. Ambedkar. Zia-ul-Hassan was also shown as an accused in the said case. The said accused, members of Deendar Anjuman, are also the accused in the bomb blast cases. It has been brought in evidence that Zia-ul-Hassan and his sons were actively participating in the annual Urs Ceremony. Zia-ul-Hassan and his family are treated with respect and reverence by the entire congregation. Zia-ul-Hassan used to bless the members, who used to lie prostrate before him. It has been brought in evidence that during the Urs in October, 1999, when office bearers of the association were also present at Asif Nagar Premises at Hyderabad, secret meetings were held by the activists of Deendar Anjuman. Zia-ul-Hassan has addressed the meeting, stating that the time had come for the holy war i.e. Jehad and he gave their plans for organising bomb blasts in religious places and thereby creating Nifaq i.e. hatred between the communities. The fact of the secret meetings and deliberations held there, as also the extract of the speeches of Zia-ul-Hassan i.e. causing hatred by planting of Improvised Explosive Devices at religious places of worship, is clearly established by the confessional statements of accused Khaliq-Uz-Zama (Ex. PW-2/33), recorded under Section 164 Cr. P.C., before the

Additional District Judge, Guntur, statement of Syed Hasan Ahmed (Ex. PW-2/29), recorded under Section 164 Cr. P.C., statement of Abdul Gafoor, Panwala (Ex. PW-2/31) recorded under Section 164 Cr. P.C. In the meeting, number of decisions were taken to cause large scale violence. A meeting was also conducted in the premises of Deendar Anjuman on 7-6-2000, wherein a detailed deliberations for large scale violence took place. This is evident from the statement of Chand Basha, recorded under Section 164 Cr. P.C., as also the confessional statement of Mohd. Hanif, under Section 164 Cr. P.C. There is evidence of the office bearers of Deendar Anjuman and the accused persons, who are now being tried for specific offences, being seen together on a number of social and religious functions. Besides, the video cassette of Urs of 1998, show a number of accused and office bearers/members of Deendar Anjuman sharing the same dias. It has also been brought in evidence that a number of accused persons were arrested from Asif Nagar Complex of Deendar Anjuman. The inflammatory speech made by Zakir, deceased, who was one of the persons, who died in the Maruti Van explosion, was duly videographed. The transcript of video recording is Ex. PW-2/89. The same along with cassette recording Ex. PW-2/70 to PW-2/73, Ex. PW-17/2 is video recording of the confession made by the accused Mira Saheb Chaman Saheb Kaujalgi, an office bearer of the association in Karnataka before the investigating officer. This was also screened before the Tribunal in the presence of the parties.

(32) As noted above, investigations revealed that Zia-Ul-Hassan along with accused A-2 to A-50 and other members of Deendar Anjuman entered into a criminal conspiracy with common object and design of causing dis-affection towards the Government by desecration of places of worship and disruption of religious assembles. For this purpose, the accused collected Improvised Explosive Devices and planted the same at various religious places, causing desecration and disturbance of religious congregation and communal dis-harmony thereby fomenting dis-affection towards the Government. The aforesaid actions were to foment communal dis-harmony, disturbing public peace and tranquility. Criminal case No. 35/2000 was registered, which was investigated with regard to which PW-2 has deposed. Letters titled, "Last Warning to Christian Missionaries, threatening Christian Organisation, "Leave Jesus, Burn Bible", was received by Dr. Danial Katpally of International Training Centre, Vijay District, which is the subject matter of criminal case No. 64/2000. Accused, S. M. Ibrahim, member of Deendar Anjuman, was found to be responsibile for the offence. He is sole survivor of Maruti Van blast." The aforesaid conspiracy referred to earlier was hatched by Zia-Ul-Hassan, while Jaleel Chaudhary, accused, was the General Secretary and Dr. Wazhat Ullah Khan was the Publicity Secretary at the time of Commission of the offences. These office bearers are the accused in criminal case No. 190/2000. The present office bearers of Deendar Anjuman have admittedly assumed office only in October, 2000. The conspiracy was entered into and offences committed when the accused were office bearers of Deendar Anjuman.

(33) Learned counsel for the State of Andhra Pradesh Mr. M. Rama Kishan Rao has filed along with the written submission a sequence of the meeting and the events, which have taken place and the persons who attended the same in which the conspiracy and the preparation for carrying out the series of Bomb Blasts at religious places was hatched and the manner in which the same was executed. The places where the secret meetings were held, as revealed in the investigations and the statements made by the accused, co-accused and seizures made as recorded in the Panchnamas. Analysis and study of the similarities in the manner of execution, chemicals used, chemical containers and the mechanism adopted for carrying out the bomb blasts show that these were well planned organised and executed in a systematic manner and were not stray acts of individual accused. Learned counsel for State of Andhra Pradesh has brought out in the analysis that the chemical used in the cases was Pottashium Chlotrate Gelatin. Similarly the container used was mostly either a plastic holder, with cloth or plastic box. The mechanism was Quartz Clock with electric detonator.

(34) The State of Karnataka had led evidence with regard to the series of bomb blasts that took place in Karnataka at Gulbarga District, Cr. No. 77/2000, Hubli, Keshav Pura P.S. Cr. No. 87/2000 Bangalore city Magadi Road, Cr. No. 290/2000, Bangalore City J.J. Nagar P.S. Cr. No. 113/2000. In addition to the above four cases were registered and investigated by the concerned local police of Hubli Dharwar against two accused namely Muneeruddin Mullah, Secretary of Deendar Anjuman at Hubli and Rishi Hiramath, Joint Secretary. These cases were registered by local police for the offence of distribution of threatening letters to Hindu and Christian Community heads and for promoting enmity between different communities on grounds of religion etc. The accused persons arrayed in the various charge-sheets are the members and followers of Deendar Anjuman and some of them are the office bearers. E-Mails Ex. 22/5 colly, were retrieved by the accused Rishi Hiramath in the presence of panches from the computer. Similarly letter Ex. PW. 22/6 was also found at the instance of accused. These and other documents prima facie show that the accused were corresponding as representatives of Deendar Anjuman Association branch at Hubli. The Pamphlets were addressed to the Christian and Hindu community Heads.

Copies of the said pamphlet recovered from the houses of accused Ex. PW. 22/6-A and 22/6-B *prima facie* show the involvement of the accused in spreading discontent and enmity between different religions and communities, punishable under Section 153-A, IPC. The chart prepared by one of the accused namely Fardeen as per the instructions of Zahed Pasha assigning and entrusting different duties to various accused persons to organise the illegal activities like saria, nifaq etc. For purposes of Jehad Ex. PW. 20/2 *prima facie* shows the concerted act and involvement of the accused as members of the association.

(35) Mr. K. Pandu Ranga Reddy, S.P. CID had deposed about the involvement of the accused in collecting information with regard to vital defence and other installations. Accused Hasan-Uzzama collected information on the functioning of the Air Force availability of various types of Aircrafts at any given time. Accused Fareed and Zakir collected information on defence establishments and the public undertakings. It was scanned and converted into computer floopies at Bangalore with the help of accused Abdul Rahman, Amanath Hussaini Mulla etc. A.R. Seth passed on the above information to Pakistan through internet Millennium Cyber Cafe owned by Praveen Tamker at Bangalore. Copies of the floppies were retained by A.R. Seth and Hassan-Uzzama Ex. PW. 2/27. The latest information on Life Jackets collected by Hassan-Uzzama was converted into a Compact Disc in the flat of Hashim Ali by Zahed Pasha. Farooq Ali with the help of scanner and Computer borrowed on hire from Md. Nasar. Later Farooq Ali made another copy of the CD and handed over to Hassan-Uzzama. Farooq Ali retained a copy and sent it to Pakistan on internet through Hardnet Cafe. Hassan-Uzzama concealed copies of floppies made at Bangalore and the CD made by Farooq at Hyderabad in the shed in the Mango Grove at Sunkollu Village near Nuzvid. Similarly Mr. K. Pandu Ranga Reddy also deposed that Hahsim Ali and Zakir collected vital information on defence establishments in Kanchanbagh area of Hyderabad and prepared a floppy and sent it to Mardan, Pakistan through internet. Copy of the said floppy was recovered, which had been concealed underground at Sunkollu Ex. PW. 2/27. colly has been produced on record relating to the above documents.

(36) From the foregoing discussion, it would be seen that the members and office bearers of the Association had been indulging in unlawful activities in a concerted manner and in activities, punishable under Sections 153-A and 153-B, IPC. There is sufficient material on record and justification for the Central Government with regard to the grounds for taking action for declaring Deendar Anjuman as an unlawful association under Sub-section (1) of Section 3 of the Act. The evidence has been led in respect of the various grounds mentioned in the notification issued under Section 3 of the Act.

(37) I may also notice that apart from the evidence lead by the Central Government and the State Governments, which was made available to Deendar Anjuman, the original records of the Central Government had also been produced before me. This was done in the context of the submissions made by the Deendar Anjuman Association that the State Government of Andhra Pradesh and its police functionaries were of the view that the association was not required to be declared an unlawful one for the acts of few members. This was based on certain press statements attributed to the State Home Minister and the Director General of Police. Though the Director General of Police and the State Government had in the affidavit clarified the position that it was for the Central Government to decide whether or not to impose the ban and the press report did not correctly report their views. The record also does not show that the State Government had made any recommendation either for or against the ban on the association. The factual position is that the Central Government had sought information from the State Governments and its agencies and the information sought had been duly supplied. In addition to the information as was supplied by the State Government and the Police, the Central Government had received intelligence reports from agencies such as the Intelligence Bureau and the Central Industrial Security Force together with material which was available to the Central Government for forming its opinion regarding declaring Deendar Anjuman as an unlawful association and imposing a ban with immediate effect. The Central Government had acted on the basis of the material as made available by the reports from the State Government as also its own intelligence agencies.

(38) In view of the foregoing discussion, the findings on the legal submissions and analysis of evidence and records, as produced by the Central Government and State Governments, as noted above, I am satisfied that there is sufficient cause for confirming the declaration of Deendar Anjuman as a banned association issued under Sub-section (1) of Section 3 of the Act. Accordingly the declaration dated 28-4-2001, declaring Deendar Anjuman as an unlawful association is confirmed in terms of Section 4 of the Act. The reference is answered accordingly.

Justice Manmohan Sarim

Unlawful Activities (Prevention) Tribunal.

October 27th, 2001

[F. No. II-14017/14/2000-NI(DV)]

B.K. HALDER, Jt. Secy.

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