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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)प्राधिकार से प्रकाशित
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No. 381]नई दिल्ली, शुक्रवार, अप्रैल 16, 2004/चैत्र 27, 1926
NEW DELHI, FRIDAY, APRIL 16, 2004/CHAITRA 27, 1926गृह मंत्रालय
अधिसूचना

नई दिल्ली, 16 अप्रैल, 2004

का.आ. 499(अ).—केन्द्रीय सरकार ने, विधि-विरुद्ध क्रिया कलाप निवारण अधिनियम, 1967 (1967 का 37) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 26 सितंबर, 2003 को स्टूडेंट्स इस्लामिक मूवमेंट ऑफ इंडिया (सिमि) को भारत सरकार के गृह मंत्रालय की अधिसूचना संख्या का.आ.1113(अ) तारीख 26 सितंबर, 2003 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 सं.1229 (अ) तारीख 23 अक्टूबर, 2003 द्वारा विधि विरुद्ध क्रिया कलाप (निवारण) अधिकरण का गठन किया था जिसमें दिल्ली उच्च न्यायालय के न्यायमूर्ति श्री आर.सी.चोपड़ा थे ;

और केन्द्रीय सरकार ने उक्त अधिसूचना की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना को तारीख 24 अक्टूबर, 2003 को इस बात का न्याय निर्णयन करने के प्रयोजन के लिए उक्त अधिकरण को निर्दिष्ट किया था कि क्या उक्त संगम को विधि-विरुद्ध घोषित करने के लिए पर्याप्त कारण था या नहीं ;

और उक्त अधिकरण ने उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, अधिसूचना सं. का.आ.1113 (अ) तारीख 26 सितंबर, 2003 में की गई घोषणा की पुष्टि करते हुए 23 मार्च, 2004 को एक आदेश किया था ;

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

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

[फा. सं. 14017/1/2004-एन आई-III]

ए. के. जैन, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS**NOTIFICATION**

New Delhi, the 16th April, 2004

S.O. 499(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 26th September, 2003 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. 1113 (E) dated the 26th September, 2003;

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 23rd October, 2003 the Unlawful Activities (Prevention) Tribunal consisting of Mr. Justice R.C. Chopra, Judge of the Delhi High Court vide notification of the Government of India in the Ministry of Home Affairs number S.O. 1229 (E) dated the 23rd October, 2003;

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 24th October, 2003 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 23rd March, 2004 confirming the declaration made in the notification number S.O. 1113 (E) dated the 26th September, 2003;

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

Before The Tribunal constituted under Section 5 of the Unlawful
Activities (Prevention) Act, 1967.

In the matter of :

Gazette Notification No.SO-1113-E dated 26.9.2003 declaring Students Islamic Movement of India an Unlawful Association under Section 3(1) of Unlawful Activities (Prevention) Act, 1967.

CORAM:

HON'BLE MR.JUSTICE R.C.CHOPRA

Present :

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

Mr. Siddharth Luthra with Mr.Marteesh Goyal, Mr.S.N.Vashisht
and Mr.H.A.Siddiqui, Advocates for SIMI

ORDER

The Students Islamic Movement of India (hereinafter referred to as "SIMI" only) was established in the year 1977 at Aligarh, U.P. On 27.9.2001, by a Gazette Notification No.SO-960-E, the Central Government banned SIMI in exercise of powers under Section 3 (3) of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the "Act" only). A Tribunal was constituted under Section 5 (1) of the

Act which confirmed the declaration made by the Central Government under Section 3(1) of the Act.

On 26.9.2003, vide notification No.S.O.-1113-B, the Central Government issued a fresh notification under Section 3 Sub-Clause (1) of the Act and again declared SIMI to be an unlawful Association. Vide notification No.S.O.-1229-B dated 23.10.2003, this Tribunal was constituted under Section 5 (1) of the Act for adjudicating as to whether or not there is sufficient cause for declaring SIMI an unlawful Association.

Vide orders dated 29.10.2003, a notice under Section 4(2) of the Act was issued to SIMI to show cause, within 30 days from the date of the service of the notice, as to why the Association should not be declared unlawful. The notice was ordered to be served upon SIMI at its principal office or by affixing a copy of the notice at some conspicuous part of the office of the Association, if any. In addition, the notice was also ordered to be served by publication in two national newspapers, one in English and one in Hindi and in one newspaper of the concerned State in which the activities of the Association were ordinarily carried on. It was further ordered that the notice be served upon the Association by way of broadcast on All India Radio and telecast on Doordarshan. The object of issuing notice under Section 4(2) of the Act by so many modes was to ensure that the Association was duly served with the notice and it

was in a position to appear before the Tribunal in the course of proceedings.

On 10.12.2003, Shri Siddharth Luthra, Shri Manish Goyal and Shri M.A.Siddiqui, Advocates, put in appearance on behalf of the Association. The Central Government placed on record an affidavit of Shri C.B. Sharma, Inspector, Special Cell, to show that the notice under Section 4(2) of the Act had been affixed/pasted at the main entrance gate of the Head Office of the Association at Zakir Nagar, New Delhi and in addition, a copy of the notice had been served upon Mohd. Ashraf Zafri as well as Shahid Badar Falai, members/activists of SIML, who refused to accept the same. The notice was published in "Hindustan Times" (English), "Navbharat Times" (Hindi) and a vernacular newspaper "Kaumi Awaz". It was telecast on Doordarshan and broadcast on All India Radio also.

Copies of the background note and other documents were supplied to learned counsel for the Association. The background note contained the grounds for issuance of notification under Section 3 (1) of the Act. Copies of those documents were not supplied, which the Central Government considered proper to withhold in terms of proviso to Section 3 (2) of the Act. The time for filing a reply to the show cause notice was extended within which a reply was filed.

The Association entered appearance through its erstwhile President Shri Shahid Badar, who was the last President of SIMI as no fresh elections of the SIMI had been held. Learned counsel for the SIMI pointed out that in terms of Article 26(c) of the Constitution of SIMI, the term of its President is for one year only but he continues to hold Office till the next President is elected. In these premises, the Association SIMI is being represented through Shri Shahid Badar, the last President of SIMI.

In the written statement/reply filed on behalf of the Association, it has been pleaded that material documents have been deliberately withheld by the Central Government and the background note does not specify the entire material that was placed before the Cabinet Committee for forming opinion under Section 3(1) of the Act. It is submitted that there is complete absence of material to show that the circumstances existed making it necessary for the Central Government to declare the Association unlawful with immediate effect. It is stated that Central Government has acted arbitrarily, with mala fide intentions and for political gains by banning the Association without giving it an opportunity to represent its case. It is pointed out that Notification has been issued mechanically by reiterating the same grounds on which first Notification of 2001 was issued. It is emphasized that the notification has been issued without application of mind, without scrutiny of the

material/documents and it suffers from suppressio veri and suggestio falsi.

It is submitted that the Association was formed on 25.4.1977 as a social, cultural and religious organization for the welfare of all persons in India and it believes in unity of God and human kind. It is stated that the activities of the Association have always been open and lawful and it has undertaken several programmes for providing help to the needy students, career guidance to students and other social events. It is denied that the Association has ever challenged the territorial integrity of India or has done anything to incite communal violence in the country. It is also pleaded that in view of the ban on 27.9.2001, it ceased to exist and as such, had no activities, which could attract the declaration of ban on 26.9.2003. It is stated that under the Act, there is no power with the Central Government to renew a ban and as such, the declaration made by the Central Government is in excess of authority. By referring to the notifications dated 27.9.2001 and 26.9.2003, it is argued that the two notifications are almost identical in language and allegations and as such, have been issued mechanically, without application of mind and without there being sufficient cause to issue the same or enforce it with immediate effect. It is also pleaded that in the past two years, there has been no incident by the Association or its erstwhile members, which may constitute unlawful activity under the provisions of the Act and the

Association is a victim of disinformation campaign by a section of media. Terming the notification mala fide and colourable exercise of powers, it is prayed that the declaration may not be confirmed.

It is also contended that the extension of ban by the notification in question is contrary to the decisions of the Supreme Court in Mohd. Jafar Vs. U.O.I. in 1994 Supplementary (2) SCC P-1 and Jamaat-E-Islami Hind Vs. U.O.I reported in (1995) 1 SCC P-428. It has been emphatically denied that SIMI has been indulging in any activity, which is prejudicial to communal harmony or hurts the religious sentiments of other communities or incites or propagates against territorial integrity of India. It is denied that the "Jehad" has anything to do with the Government established by-law. It is stated that "Jehad" is nothing but a war against evil and it means making of all possible efforts to remove evil from this earth. It is also denied that Association is receiving any financial assistance from any other country or it has any connection with any terrorist organization or outfit. It is asserted that since 27.9.2001, when the first ban came into operation, all the Offices of SIMI are sealed and this Association is not functional at all. It is denied that the Association or its members have ever advocated a right of self-determination in Kashmir or have ever taken any pro-Pakistan stand regarding Kashmir. It is submitted that it has never eugolized or glorified Islamic terrorists and fundamentalists like Osama Bin Laden, Sheikh

Mohd.Yasin or Gulbudin Hikmatyar or has ever used any derogatory language for Hindu Gods and Goddesses. It is denied that SIMI members or activists have been ever arrested with arms and ammunitions or have been involved in any terror related activity. The cases registered against its members are stated to be false. It is denied that the Association is working for an International Islamic order or is in close touch with Muslim militant outfits. It is disputed that SIMI or its activists were involved in bomb blasts in Mumbai.

After hearing learned counsel for the parties, this Tribunal vide orders dated 16.12.2003, decided to hold its sittings in different States so that the evidence produce by the Central Government, State Governments, public witnesses and SIMI may be recorded for forming its opinion under Section 4(3) of the Act. The evidence of the witnesses was to be filed on affidavits and cross-examination of the witnesses was to be permitted, if found necessary.

On 27.12.2003, the Tribunal commenced recording of evidence. Seven witnesses were produced by the Central Government at Hyderabad. PW-1 Shri S.Girdhar, Public Relations Officer, Office of Commissioner of Police, Hyderabad, proved the public notice issued by the State Government in terms of the directions issued by this Tribunal regarding its sittings. The original cuttings of the newspapers in English, Telugu and Urdu were proved as Exhibit P-1 (colly). The affidavit of

this witness is Ex.P-2. PW-2 Mohd. Jameeluddin, Inspector of Police, P.S. Kalapathar, Hyderabad produced his affidavit Ex.P-3 and stated that this affidavit may be read as his examination-in-chief. In his affidavit, he gave details of a criminal case No.51/2001 under Section 153-B IPC read with Section 10/13(1)/3 of the Unlawful Activities (Prevention) Act, 1967 registered on 30.9.2001. Two accused, who were arrested, were found sitting in a room and criticising the Government for banning SIMI. They were supporting Kashmiri militants and condemning the Government for supporting the Americans against Taliban. In the course of their interrogations, these accused gave details of the activities of SIMI and their support to the demand for cession of Kashmir to Pakistan. The office bearers of SIMI were supporting Mujahidins all over the world and creating hatred against Hinduism. From their possession, Constitution of SIMI, unused membership forms of SIMI, subscription forms, receipts of SIMI and various books, posters were recovered, which disclosed the unlawful aims and objects of SIMI. Two audio cassettes were also recovered in which Ilias Khan, regional Secretary of SIMI was making anti-Hindus and anti-India remarks. He was also eugolising Mujahidins, who had died while attacking security forces. He also referred to another case registered under Section 10 read with Section 3 of Unlawful Activities (Prevention) Act, 1967 on 30.9.2001 in which four persons were arrested. They were condemning

the Government for banning the SIMI and were supporting Kashmiri militants' demand for separate Jammu & Kashmir. They were praising Osama Bin Laden. In the course of their interrogations, they admitted that they were active members of SIMI. A poster was recovered from them in which SIMI had declared that there was great danger to Islam and Muslims around the world should resist. He also referred to a case registered on 2.10.2001 in which five accused were arrested and it was found that one of them was condemning the Government and supporting Jammu & Kashmir militants as well as Osama Bin Laden. Some literature also was recovered from them which reflected their will to globalize Islam. This witness also referred to a criminal case No.55/2001 registered on the intervening night of 2nd & 3rd October, 2001 in which one person named Mohammad Abdul Quddus was arrested. In the course of his interrogations, he confessed that he was propagating ideology of SIMI, which advocated "Jehad" as well as "Shahadat" and called Hindus as "Kafirs". SIMI also advocated cession of Kashmir to Pakistan and they supported Osama Bin Laden. He gave the names of some office bearers of SIMI, who were proposing training to Muslim youth at Militant Camps. Some literature was recovered from him also. He proved on record documents Ex. P-4 (colly), which were true and correct copies of the original official documents and included English translations of those documents, which were in vernacular. He also

added that he was dealing with SIMI activists in the State of Andhra Pradesh and had found that the office bearers and members of SIMI were misguiding and misleading Muslim youth by telling them that "Jehad" was their path and "Shahadat" was their desire. They have been telling these youths that Kashmir is not a part of India and Muslim terrorists in the State of Jammu & Kashmir are not militants but freedom fighters called "Jehadis". He also stated that SIMI activists and office bearers do not believe in secularism and democracy and they propagate global Islamization. They call upon their workers to make efforts to convert Hindus into Muslims and call Hindus "Kafirs". They also tell their workers that if a "Kafir" is killed, they will attain heaven. They do not believe in Hindu "Devi Devatas" and condemn Hinduism. It leads to communal disharmony and tension. According to him, they do all this with a view to destroy secularism in India. In his cross-examination by counsel for SIMI, he denied that the accused in case FIR No.115/2003 at P.S. Kalapathar had no links with SIMI. He also denied that this case was falsely registered with a view to provide material to the Government for banning SIMI. It is noteworthy that except putting two suggestions, which were denied, no other question was put to this witness.

PW-3 Shri B.Prakash, Inspector of Police, P.S. Narsapur, Hyderabad also proved on record his affidavit Ex.P-5 in which he had stated that his predecessor had registered criminal case No.81/2001 under

Sections 10 & 13 of the Unlawful Activities (Prevention) Act, 1967 on 2.10.2001. He had conducted raid in which he found five accused in a meeting propagating the ideology of SIMI among Muslim youth for raising funds for the activities of SIMI and achieving their goal of establishing Islamic rule in India. He had seized SIMI literature and one volunteer entry card in the name of Mohammad Aziz. He added that the accused against whom cases have been registered at Narsapur are SIMI activists. He also corroborated PW-2 to say that the SIMI members and activists do not believe in the Constitution of India and say that Kashmir is not a part of India and the Muslim activists in the State of Jammu & Kashmir are not militants but freedom fighters called "Jehadis". He also added that in spite of ban, the SIMI activists are carrying out their activities surreptitiously and in case this Organization had not been banned, its members would have destroyed the country by spreading communal disharmony and tension. In his cross-examination, he admitted that in Narsapur, only one FIR had been registered on 3.10.2001 and no FIR had been registered thereafter under the said Act. He stated that they were keeping strict surveillance to prevent such crimes. He mentioned names of so many persons in Narsapur, who were working for this Organization and were accused in the aforesaid FIR. Some of the SIMI activists had gone underground also. According to him, the accused in the FIR, had confessed that they were the members of SIMI.

PW-4 Shri M.Venkata Swamy, Circle Inspector, P.S.Haliya, A.P. proved his affidavit and documents on record and stated that the FIR under the Act had been registered on 29.9.2001. No FIR had been registered thereafter. PW-5 Shri D.Surya Prakash, Inspector of Police, P.S. Chandraghat, Andhra Pradesh, proved his affidavit and documents and stated that the activities of SIMI were continuing and had this Association not been banned, it would have created havoc in the country. He stated in his affidavit that SIMI activists believe in Islamic fundamentalism and they are working for an international Islamic order. He also stated that they promote communal hatred through their speeches and posters. He admitted that after the FIR No.284/2001 registered under Section 10 of the Act, no fresh case had been registered. PW-6 Shri Ravindra Naik, D.S.P., General Offences Wing of CID, Hyderabad proved his affidavit and documents and stated that the accused whose names were mentioned in Ex.P-12, were members of SIMI as well as an Organization known as "Indian Muslim Mohammad Mujahidin", which was having links with ISI of Pakistan. He stated that SIMI had organized a conference at Aurangabad between 5th and 7th September, 1999, which was attended by the aforesaid accused and thereafter only, they had started indulging in serious offences including Section 153-A of IPC. They were indulging in offences of murder, planting of bombs, lootings etc. in predominantly Hindu inhabited areas as well as areas of

public importance with a view to create communal disturbances. According to him, the case registered vide FIR No.39/2000 was still pending. In his affidavit, he gave details of various cases registered against SIMI activists, which were pending trial. In his cross-examination, he admitted that the said case was relating to offences committed prior to 26.9.2001 and after that date, no case had been registered. PW-7 Shri T.Raghupati Gaud, Inspector of Police, P.S. Mir Chowk, Hyderabad, also proved on record his affidavit and the documents. In his cross-examination, a suggestion was given to him that except persons mentioned at S.No.1 to 3, others were not members of SIMI and even persons mentioned at S.No.1 to 3 were only past members of SIMI. After the close of evidence at Hyderabad by the Central Government, learned counsel for SIMI also stated that he did not wish to produce any witness at Hyderabad. No public witness came forward to make any statement.

In the State of Maharashtra, PW-8 Shri Gansyamsingh T.Padwal, Inspector of Police, P.S.Kurla, Mumbai, proved his affidavit Ex.P-16 and stated that it may be read as his examination-in-chief. In his affidavit, he gave details of the activities of SIMI and stated that they propagate "Jehad" and spread hatred between Hindus and Muslims to damage secular fabric of society. He also stated that activities of SIMI are under control because of the ban and the regular surveillance kept

over them. He also proved on record documents Ex.P-17 (colly), which were true copies of the official documents. He also placed on record the translations of those documents, which were in vernacular. He deposed about a photograph on page 29 of Ex.P-17, which was attached with the challan of FIR No.1841/2001, registered at P.S.Kurla in which the SIMI activists were shown to be holding a meeting. He also proved his affidavit P-18 and documents P-19 and stated that in the course of investigation of the cases against SIMI, he had found that their main object is not to abide by the Constitution of India and the laws of India and globalize Islamization. They also try to create communal tension and proclaim that Kashmir is not a part of India. He stated that had there been no surveillance, they would have created more problems in the State. In his cross-examination, he stated that even after declaration of SIMI as an unlawful Association and arrest of some of its office bearers/members, the SIMI activities have been going on. He added that when the SIMI activists, who were arrested on 27th & 28th September, 2001, came out of the Court, they raised anti-India slogans and eugolized Osama Bin Laden.

PW-9 Shri Shrikant K.Ramdass, Sub-Inspector of Police, Detection Crime Branch, CID, Unit-VI, Mumbai, proved his affidavit Ex.P-23 and the documents P-24 (colly) and stated that he was one of the Investigating Officers in the three bomb blast cases which took place in

Mumbai on 6.12.2002, 28.1.2003 and 13.3.2003. He stated that most of the accused involved in these case were active members of SIMI. In para 3 of the affidavit, he gave the names of those SIMI activists, who were prime accused in the three bomb blast cases. The first bomb blast took place in McDonald restaurant near Mumbai Central Railway Station on 6.12.2002 in which 25 persons sustained injuries and property worth lacs of rupees was destroyed. The second bomb blast took place on 28.1.2003 at Mongibai Sabzi Market, Ville Parle, Mumbai in which one lady died and 32 persons sustained injuries. The third bomb blast took place on 13th March, 2003 in a sub-urban local train at Murund Railway Station, Mumbai in which 11 persons died and 82 suffered injuries. There was substantial damage to public property also. He stated that in the course of investigations, it was found that all these three bomb blasts were in pursuance of one criminal conspiracy and out of 16 accused, six were found to be having connections with SIMI. One accused C.A.M.Basheer, who was declared a Proclaimed Offender, was from Kerala and was having links with SIMI. C.A.M.Basheer was All India President of SIMI and accused Saquib Abdul Hamid Nachan was All India General Secretary of SIMI. He also gave names of other accused, who were found to be members of SIMI. He added that a telephonic conversation between C.A.M.Basheer and Saquib Abdul Hamid Nachan disclosed that accused Nachan had given shelter to a Pakistani terrorist

named Faizal Khan of Lashkar-E-Toeba. Said Faizal Khan was later killed in a Police operation at Goregaon, Mumbai. The accused, who were SIMI activists, had a meeting with Faizal Khan at Pune before these bomb blasts in which they decided to give training to Muslim youth for carrying out "Jihad". Thereafter, they had actually given training to some Muslim youth regarding use of weapons at Mohali Hills as well as Karvi Hills in District Thane, Mumbai. This witness stated that large quantities of arms and ammunition, live hand grenades, hand bomb shells and hazardous chemicals required for manufacturing bombs were recovered. Three of the accused whose names were given by him, gave confessions also which were recorded by a designated Officer under Section 32 of the Prevention of Terrorism Act, in which they admitted that they were SIMI activists and were involved in aforesaid bomb blasts. According to this witness, the aforesaid SIMI activists were having inter-State connections with other SIMI activists and were having links with Lashkar-E-Toeba also, which is a Pakistan based terrorist Organization. Accused Noor Abdul Malik Ansari had undergone three months' training given by Lashkar-E-Toeba at Pakistan. He also stated that in the meeting held at Pune with Faizal Khan, the aforesaid accused had hatched a conspiracy to eliminate some Hindu leaders. It was also found that accused Saquib Abdul Hamid Nachan had already been convicted in a TADA case and was awarded 10 years' sentence but after his release, he

came back to Maharashtra and got involved in unlawful activities. This witness stated that a diary was recovered from deceased terrorist Faizal Khan in which it was stated that the aforesaid accused had been paid by him and it contained accounts also of money disbursed by the terrorist Faizal Khan. This witness stated that their investigations had revealed that SIMI activists were creating havoc and tension in India and they wanted Muslim youth to carry out "Jehad". They also propagate that those Muslims, who killed non-Muslims, go to heaven. They also declare that Kashmir is not a part of India. He also added that had there been no ban on SIMI, its members would have indulged in more criminal activities and created havoc in the country. In his cross-examination, he stated that only after the arrest of the accused in the third bomb blast, their investigations revealed that the aforesaid 16 accused were involved in the earlier two bomb blasts also and there was a common conspiracy for all the three bomb blasts. It was at this stage, that they found that the above mentioned six accused were SIMI activists. He admitted that they do not have complete list/details of SIMI members/activists. He denied that the aforesaid six accused had been falsely implicated in the bomb blast cases. He denied that he was making a false statement against SIMI and its members/activists.

PW-10 Shri Raghunath T.Chalke, S.I., P.S. Park Side,
Mumbai, PW-11 Shri Rashid B.Sheikh, S.I., P.S. Dharavi, Mumbai and

PW-12 Shri Waman Mahaduji Turukmane, Under Secretary to Government of Maharashtra, Home Department, Mantralaya, Mumbai also proved their affidavits on record and the documents attached with the affidavits.

PW-13 Shri Pardeep B.Sawant, Dy. Commissioner of Police, CID, Mumbai proved his affidavit Ex.P-31 and stated that he was well aware of the activities of SIMI. In his affidavit, he stated that he was controlling and supervising various Officers dealing with communal affairs in Mumbai and as such, was well acquainted with the cases relating to SIMI. He gave details of those FIRs, which were registered against SIMI office bearers or activists after the imposition of first ban on 27.9.2001 to show that even after ban, the SIMI activists were trying to spread communal unrest and wage Islamic struggle from Ayodhya to Jerusalem. Some of the accused were found in possession of provocative pamphlets/books belonging to SIMI Organization and eulogising Osama Bin Laden. He referred to the three bomb blast cases and the involvement of SIMI members therein. He stated that in the course of investigations, it was found that the accused, who were SIMI members, were in touch with Pakistani based military Organizations such as Lashkar-E-Toeba. They were getting funds from illegal sources and propagating hatred between Hindus and Muslims. He also stated that their aim was to globalize Islam. In the course of the investigations of

bomb blast cases, they had found that the activities of SIMI were still going on. He added that after September, 2001, there have been cases against SIMI member/activists, which were mentioned in para 2 of his affidavit.

PW-14 Shri Arun Prabhakar Borude, Inspector of Police, Crime Branch, Mumbai, proved his affidavit and documents. He also stated that he was the Investigating Officer of CR.No.156/2002 registered with DCB, CID, Mumbai in connection with bomb blast in a Bus on 2.12.2002 near Ghatkopar Railway Station, Mumbai. In this bomb blast, two persons had died and 49 were seriously injured. Public property was also destroyed. In the course of investigations, 19 persons were arrested against whom a challan was filed in a POTA Court. Investigations disclosed that 11 out of 19 accused were SIMI members or having connections with SIMI and they were involved in the earlier three bomb blast cases, which had taken place in Mumbai. These accused were having links with Lashkar-E-Toeba, a Pakistani terrorist outfit as well as Muslim Defence Force, which was having its roots in Madras. He added that Muslim Defence Force was being funded by Abu Hamza, who was staying at Saudi Arabia and was wanted in Ghatkopar bomb blast case. He was, at present, Chairman of Lashkar-E-Toeba in Saudi Arabia. He stated that in the course of his confession, one accused Imran Rehman Khan had admitted that he was a member of Lashkar-E-Toeba. This

confession was recorded by a designated Officer under Section 32 of Prevention of Terrorism Act. This witness went on to say that from the custody of an accused Sheikh Mohammad Muzzammi Jameel Ahmed, 30 CDs were recovered, which contained an appeal by Maulana Azhar, a terrorist, who was involved in the hijacking of IC-814 from Nepal to Kandhahar and later released by the Government of India. These CDs contained the clippings of Godhara riots in Gujarat and interviews of victims, demolition of Babri Masjid and a Mosque in Palestine and 52 photographs of different Hindu Shrines. It contained an Al-Qaeda manual of a terrorist outfit run by Osama Bin Laden. He stated that SIMI was being funded by Abu Hamza, a terrorist, based in Saudi Arabia. According to him, prior to Ghatkopar bomb blast, 11 accused connected with SIMI were under their surveillance but still they managed to commit the aforesaid bomb blast. Out of these, 10 accused are absconding and steps are being taken to declare them Proclaimed Offenders. In his cross-examination by learned counsel for the SIMI, he stated that he could not tell the number of Officers, who were keeping surveillance over SIMI activists as this information could not be disclosed in public interest. The CDs seized by him did not contain the names of SIMI but it could be linked with SIMI because these were being viewed and used by SIMI members. Al-Qaeda literature also did not contain any stamp of SIMI.

PW-15 Shri Kishore Bhivsenrao Baviskar, Inspector of Police, Andheri Police Station, Mumbai, PW-16 Shri Ramesh Narayan Chaudhary, Asstt. Police Inspector, P.S. Andheri, Mumbai, PW-17 Shri Suhas P.Kamble, Sub-Inspector of Police, P.S. Bhandup, Mumbai and PW-18 Shri Vijay Shankarrao Dalvi, Inspector of Police, PCB, CID, Mumbai placed on record their affidavits along with documents. They also corroborated other Police Officers regarding activities of SIMI activists. They denied the suggestions given by learned counsel for SIMI that they were deposing falsely only with a view to support the ban on SIMI imposed by Central Government. After the evidence was closed at Mumbai by the Central Government, learned counsel for SIMI stated that he did not wish to produce any defence witness at Mumbai. No public witness came forward to make a statement in spite of public notices issued.

In the sitting held at Trivendram, Kerala, PWs-19 & 20 were produced by the Central Government. PW-19 Shri Rajesh Dewan, IPS, DIG of Police, CBCID, Ernakulam, proved on record his affidavits Ex.P-42 and P-44 and stated that these may be read as his examination-in-chief. He also placed on record the documents Ex.P-43 (colly) and a list of the cases registered against SIMI activists after the imposition of ban. The list is Ex.P-45. His affidavit Ex.P-42 is in regard to the issuance of public notice and the affidavit Ex.P-44 in regard to the cases registered

against SIMI activists in the State of Kerala after the ban imposed on 27.9.2001. The list Ex.P-45 gives the names and addresses of the accused and the status thereof. In his cross-examination, he admitted that some of the cases mentioned in Ex.P-45 have ended in acquittal and some are still at the stage of trial. He stated that in some of those case, SIMI had been specifically referred to. PW-20 I.P.Velappan Nair, Superintendent of Police (Intelligence), CID, Ernakulam, Kerala proved his affidavit Ex.P-46. He also proved on record the photocopy of a leaflet published by "Muslim Ikya Samithi", an Organization which was a group formed by some of the SIMI activists. Ex.P-47 is a photocopy, P-48, a true translation thereof and P-49, a photocopy of the report published in "Hindu" on 3.9.2003. In this leaflet, the "Muslim Hindi Forum" (Muslim Ikya Samithi) had called upon the Muslims to stand against Shiv Sena, Vishwa Hindu Parishad terrorists. By referring to Godhara incident, Gujarat riots, Babri Masjid, Bombay riots and some other incidents, a message was sought to be conveyed to the Muslims that with the support of the Government and Prime Minister, criminals were coming to behead the Muslims and they do not understand the language of peace and compassion and only strong retaliation could make them understand. In the newspaper "The Hindu" dated 3.9.2003, a report was published, a copy of which is Ex.P-49. It also stated that SIMI activists were re-grouping in the State of Kerala and a former President

of SIMI was a prime suspect in the bomb blasts in Mumbai. In the cross-examination of this witness, it came out that his affidavit was based on information received from the Police sources as well as Intelligence Agencies and the SIMI activists had started working under different banners. No witness was produced by SIMI at Trivendrum also. No public witness came forward.

At the sitting of the Tribunal at Bhopal, Madhya Pradesh, PW-21 Shri Dashrath Kumar, Under Secretary, Home Department, Government of Madhya Pradesh, Bhopal, PW-22 Shri Laxmi Narayan Kataria, D.S.P., Khandwa, M.P., PW-23 Shri Jitender Dwivedi, S.D.O.P., Shahjahpur, M.P., PW-24 Shri Gajendra Singh Jadon, D.S.P., P.S. Guna, M.P., PW-25 Shri T.S.Nagraj, S.D.P.O., Sheopur, M.P., PW-26 Shri N.P.Barkhade, Additional S.P., Neemach, PW-27 Shri Rajiv Mishra, City Superintendent of Police, Brahampur, M.P., PW-28 Shri I.B.Singh, D.S.P., Jabalpur, M.P., PW-29 Shri Santosh Pathak, S.D.P.O., Seoni, M.P., PW-30 Shri Avinash Singh, Deputy Superintendent of Police, Distt. Special Branch, Bhopal, PW-31 Shri Ravi Shankar Shukla, D.S.P., Indore, M.P., PW-32 Shri Manoj Kumar Srivastava, D.S.P., Ujjain, M.P. and PW-33 Shri Aditya Dubey, Asstt. Inspector General of Police, Bhopal were examined by the Central Government. They proved their affidavits as well as documents.

PW-22 Shri Laxmi Narayan Kataria, D.S.P., Khandwa, M.P.

placed on record his affidavit Ex.P-52 and the documents Ex.P-53 (colly). In his affidavit Ex.P-52, he stated that in spite of strict surveillance, the SIMI activists were still indulging in their activities secretly. According to him, SIMI activists have no faith in the Constitution of India and they intend to establish Islamic rule in the country as well as world. They also try to disturb communal harmony and creat communal tension and keep close contacts with terrorists. They believe in "Jehad" and call non-Muslims "Kafirs". They also support terrorism in Jammu & Kashmir by saying that the same is a freedom movement. He gave details of four cases registered against SIMI activists under Unlawful Activities (Prevention) Act, 1967. In his cross-examination, he stated that his affidavit is based on personal knowledge as well as documents, which had been brought to his notice. He had obtained information from intelligence sources that SIMI was having close connections with terrorist groups and the FIRs referred to in his affidavit were against those SIMI members who were having connections with terrorists.

PW-23 Shri Jitender Dwivedi proved his affidavit Ex.P-54 and the documents Ex.P-55 (colly). In his affidavit, he gave details of some cases registered against SIMI activists and stated that in spite of strict surveillance, SIMI activists were still continuing with anti-national

activities. In his cross-examination, he stated that through the records of the cases referred in his affidavit, he came to know that the accused involved therein were SIMI activists. He had not seen any document to show that the accused mentioned in the FIRs were members of SIMI. They had not been able to trace out the printers or the publishers of the pamphlets referred to in the documents filed by him. PW-24 Shri Gajendra Singh Jadon, D.S.P. proved his affidavit Ex.P-56 and documents Ex.P-57 (colly). He gave details of some cases registered against SIMI activists in District Guna, M.P. These cases were under Section 108 of Cr.PC. One of these cases was against accused Abdul Farid Khan. The allegations against him were that on 11.12.2001, he was found spreading communal hatred and was having connections with SIMI. Copies of the statements of the witnesses are found in Ex.P-57 (colly) at pages 295 to page 301. In his cross-examination, he stated that the confessions made by the accused in regard to their connections with SIMI had come to his notice through the documents as well as briefings given by the Investigating Officers.

PW-28 Shri I.B.Singh, Dy.Superintendent of Police, proved his affidavits as Ex.P-64 in which he had given details of the aims and objects of SIMI as well as the details of the cases registered against SIMI activists on 30.9.2001 and 1.10.2001. He also gave details of the literature and material seized from the accused, which included SIMI

literature as well as a photocopy in which Babri Masjid structure was shown to be shedding tears. There was a Chechnya poster also as well as an audio cassette in which SIMI activists were delivering inflammatory speeches. From Page 645 to page 825 is Exhibit P-65 (colly) containing copies of the magazines and other literature issued by SIMI in which anti-India and anti-Russia comments are contained with criticism of idol worship. He deposed in regard to certain pamphlets and admitted in his cross-examination that they had not succeeded in tracing out the printers/publishers of the said pamphlets. He denied that he was making a false statement. PW-29 Shri Santosh Pathak, S.D.O.P. proved his affidavit Ex.P-66 and the documents Ex.P-67 (colly). In his affidavit Ex.P-66, he stated that SIMI members/activists believe in "Jehad" and treat non-Muslims as "Kafirs". They do not believe in the Constitution of India and oppose idol worship. He also stated that in spite of strict surveillance and ban, SIMI activists were continuing with their activities secretly. In his cross-examination, he stated that on the basis of intelligence reports, documents recovered from the accused and confessions made by them, it was clear that the accused were having connections with SIMI. He stated that the activities of SIMI were quite secret and clandestine and as such, no list of its members was available.

PW-30 Shri Avinash Singh, D.S.P., proved his affidavit Ex.P-68 and the documents Ex.P-69 (colly). In his affidavit Ex.P-68, he

not only corroborated other witnesses regarding the aims and objects of SIMI, but also gave details of the cases registered against SIMI activists. In his cross-examination, he stated that since he is working as Deputy Superintendent of Police in Special Branch, Bhopal, he has personal knowledge about SIMI activists and he knows the names of most of them. He stated that he is in a position to identify also most of them as he is continuously monitoring them. He admitted that at present, SIMI has no office in Bhopal but before the imposition of ban, they had an office in Bhopal. PW-31 Shri Ravi Shankar Shukla, D.S.P., proved his affidavit P-70 and the documents Ex.P-71 (colly). In his affidavit, he also stated that SIMI activists are still active in spite of ban. He also deposed about their aims and objects and stated that they have no faith in the Constitution of India. They are also propagating "Jehad". He gave details of various cases registered against SIMI activists in District Indore. Some of these cases were registered on 6.10.2001, 18.10.2001 which shows that even after imposition of ban, the SIMI activists were continuing with unlawful activities. He placed on record copies of certain pamphlets also in Ex.P-71 (colly) issued by SIMI, which condemned demolition of Babri Masjid and proclaimed that Muslims were being subjected to various atrocities. The pamphlets on page 1071 of Ex.P-71 (colly) eugolized "Talibans". In his cross-examination, he stated that they could not recover any list of SIMI activists/members. He

denied that his affidavit is false. PW-32 Shri Manoj Kumar Srivastava, D.S.P., proved his affidavit Ex.P-72 and the documents Ex.P-73 (colly). In his cross-examination, he stated that on the basis of the records, he has stated that the accused mentioned in his affidavit were connected with SIML.

PW-33 Shri Aditya Dubey, Asstt. Inspector General of Police, proved his affidavit Ex.P-74 and a list of cases Ex.P-75 registered in the State of Madhya Pradesh against SIMI activists/members after the imposition of ban on 27.9.2001. In his affidavit, he deposed that SIMI activists do not believe in the Constitution of India and want to rule the country according to Islam. They do not consider Kashmir to be a part of India. They do not believe in idol worship and they try to create hatred between different religious groups. He also stated that the people were by and large afraid of them and reluctant to come forward and depose against them. According to him, actions of SIMI are a threat to national integrity and communal harmony of the country. He also stated that the SIMI activists were somewhat under control because of the ban and continuous surveillance but still, they were conducting their activities in a clandestine manner. He also stated that they were trying to re-group themselves under different names, one of which was "Tehrique-Khilafat". Ex.P-75 contains a list of 48 cases registered against SIMI activists under the Unlawful Activities (Prevention) Act, 1967 after the

imposition of ban on SIMI. In his cross-examination, he stated that he had information about some persons, who were controlling/running "Tehrique-Khilafat" but in public interest, he was not willing to disclose their names. In the list Exhibit P-75 filed by him, there was one FIR registered in January, 2003 and the cases mentioned therein were the only cases registered in the state of Madhya Pradesh after the imposition of first ban on SIMI. He also stated that the cases against SIMI activists were registered only after satisfaction that they were SIMI activists.

No witness was produced by SIMI at Bhopal also, nor anybody from public came forward to make a statement.

Another sitting of the Tribunal was held at Pune, Maharashtra, for recording the statements of the witnesses from the State of Maharashtra. PW-34 Dr.Dhyaneshwar Sadashiv Chavan, Assistant Commissioner of Police, Crime Branch and Sepcial Branch, Aurangabad, Maharashtra proved his affidavit Ex.P-76 and the documents Ex.P-77. He also tendered in evidence the affidavit Ex.P-77 of Shri Vikram, Inspector of Police, P.S. City Chowk, Aurangabad and Ex.P-79 of Mr.Ambadas B.Pote, Assstt. Commissioner of Police, Mumbai. He also placed on record the documents Exs.P-78 and P-80(colly). In Ex.P-76, P-77 and P-79, the three Police Officers have given details of the cases registered against SIMI activists after imposition of ban. They also stated about the activities of SIMI members, who were trying to create hatred

between Hindus and Muslims and create law and order problems. The CR.No.153/2002 registered at Jinsi P.S. was under Sections 153-A, 120-B IPC read with Section 10 of the Unlawful Activities (Prevention) Act, 1967. This case was merged with CR.No.156/2002, which was in connection with a bomb blast on 2.12.2002 in which two persons were killed and 49 persons were injured. On 27.12.2002, accused Dr.Mohammed Abdul Matin Abdul Basit was arrested. POTA was invoked. In the course of interrogations, he disclosed that he was a partner of M/s. Pragma Soft Technologies, Aurangabad and he and his partners were running this Company for SIMI activists. The office of M/s.Pragma Soft Technologies was raided on 28.12.2002. Computer sets, CDs, floppies, hard disks, photographs etc. were recovered, which revealed pictures of Godhara incident/riots and included appeal to Muslims to come together and declare "Jihad" against Hindus and India. The accused arrested in this case were activists of SIMI, who were advocating Islamic fundamentalism and creating hatred between Hindus and Muslims. The details of the articles seized from M/s. Pragma Soft Technologies are contained in Panchnama, which is on page 141 of Ex.P-80 (colly). Floppy No.12, which was recovered, contained scenes of the blowing of World Trade Centre at U.S.A. and out of 30 CDs, CDs No.22, 23 and 24 contained material for creating hatred in the minds of Muslim youth against Hindus. In his cross-examination by learned counsel for

the SIMI, he stated that prior to imposition of ban in the year 2001, SIMI was having its office at Murmura Masjid, Chilipura, Aurangabad. They had no official list of SIMI members. The cases registered at P.S. Aurangabad were still pending. He had no document in regard to the illegal transfer of funds to SIMI but this information was received by him through sources and interrogations of the accused. He denied that he was deposing falsely.

PW-35 Shri S.S.Deshmukh, Inspector of Police, Crime Branch, Amrawati, Maharashtra proved his affidavit Ex.P-81 and the documents Ex.P-82 (colly). In his affidavit, he stated that after the ban imposed on 27.9.2001, they had asked their staffers to keep secret watch on the activities of the accused Mujahid Sadiqui and Anish Ahmed Shafiullah Khan, both of whom were active members of SIMI. The reports came that they were still creating communal disharmony. Cases were registered against them. Newspaper articles supporting Osama Bin Laden as well as SIMI were published in an Urdu daily newspaper and accordingly, the printer and publisher thereof were challaned. He added that SIMI activists propagated self determination in Punjab and Kashmir and they also propagated "Jehad". In his cross-examination, he stated that by right of self-determination as mentioned in his affidavit, he meant that SIMI activists do not consider Kashmir as part of India. In answer to a question by learned counsel for SIMI, he stated that SIMI activists

propagate break up of Kashmir from India and in that sense, they use the word "self-determination" or "secession". He denied the suggestion that he was deposing falsely with a view to support the Central Government. No other question was put to him. PW-36 Shri Motilal Nagesh Chavan, Asstt. Inspector of Police, Special Branch-I, CID, Sholapur City, Maharashtra proved his own affidavit Ex.P-83 and the affidavits Ex.P-84, P-86, P-88, P-90, P-92, P-94 of other Police Officers, who were his colleagues. He identified the signatures of those Officers on their respective affidavits. He also proved on record the true copies of the documents attached with those affidavits. In these affidavits, details of the cases registered under Unlawful Activities (Prevention) Act, 1967 after 27.9.2001, were given. PW-36 specifically stated that the SIMI activists keep close touch with different militant Organizations and obtain funds also from illegal sources. In his cross-examination, he stated that he was not an Investigating Officer in any of the cases against SIMI activists as he was a Nodal Officer only. He had not maintained any record of the SIMI activists/members in his area. He denied that he was deposing falsely with a view to support Central Government.

PW-37 Shri Achyut Shamrao Pawal, Superintendent of Police, Camp Division, Malegaon, Nasik, Maharashtra proved his own affidavit Ex.P-100 and the affidavits Ex.P-101, P-102, P-105, P-107, P-109, P-111 and P-112, which were signed and verified by his colleagues.

He identified their signatures on their respective affidavits. He also proved on record the documents attached with affidavits, which were true copies of the official documents. This witness was controlling and supervising the communal affairs in Malegaon City. He stated that after imposition of ban, several cases were registered against the activists of SIMI and gave details thereof. He also stated that because of the control and regular surveillance, the activities of SIMI were comparatively under control but added that SIMI activists were still in touch with different militant Organizations and were propagating right of self determination in Punjab and Kashmir. In his cross-examination, he stated that SIMI had no office in the area of P.S. Malegaon but added that after the imposition of ban, SIMI activists had gone underground. He admitted that along with this affidavit, copies of seized posters had not been filed. Learned Additional Solicitor General, however, pointed out that the copies of these posters were produced before the Tribunal in the first Inquiry and the same have been produced with the charge sheet. He denied that he was deposing falsely with a view to support Central Government. PW-38 Shri Devidas Gajanan Kale, Asstt. Police Inspector, P.S. Bhingar Camp, Ahmed Nagar, Maharashtra proved his affidavit Ex.P-115 and the documents Ex.P-116(colly). In his affidavit, he also gave details of the activities of SIMI. In his cross-examination, he stated that he had never seen the list of members of SIMI and he did

not know as to whether there was or not any office of SIMI in Ahmed Nagar prior to the imposition of ban. PW-39 Shri Tejbahadur, Sub-Divisional Police Officer, Chalisgaon, Dist. Jalgaon, Maharashtra proved his own affidavit Ex.P-117 and the affidavits of his colleagues Exhibits P-118, P-120, P-122, P-125, P-127 and P-129. He identified the signatures of his colleagues on their respective affidavits as he had seen them signing many times. In all these affidavits, the Police Officers have deposed about the cases against SIMI activists and their continuing unlawful activities. They have also stated that had the ban not been there, the SIMI activists would have created more problems in country. In his cross-examination, he stated that he had a list of activists of SIMI and he knew them also. He had, however, not filed that list before the Tribunal. He denied that he was deposing falsely with a view to support Central Government. PW-40 Shri Chhagan, Inspector of Police, P.S. Shirpur, Maharashtra proved his affidavit Ex.P-131 in which, he referred to CR.NO.103/2001 under Unlawful Activities (Prevention) Act, 1967 registered on 28th September, 2001 with Shirpur Police Station. In the said case, two receipts of the Maharashtra Zone of SIMI from the personal search of the accused Sheikh Rafik Shaikh Rashid and one post card with a remark of SIMI and agenda of SIMI written in Urdu from the personal search of accused Abdul Kayyum Husein Shah, were recovered. The case was still pending. However, the receipts recovered from the