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EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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गृह मंत्रालय

अधिसूचना

नई दिल्ली, 25 सितम्बर, 2019

का.आ. 3460(अ).—जबकि, केन्द्रीय सरकार ने, विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) (जिसे यहां इसके बाद उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उप-खंड (ii) में प्रकाशित दिनांक 22 मार्च, 2019 की अधिसूचना संख्या का.आ. 1403 (अ) (जिसे इसमें इसके बाद उक्त अधिसूचना कहा गया है) के तहत जम्मू और कश्मीर लिबरेशन फ्रंट (मो. यासीन मलिक गुट) (जेकेएलएफ-वाई) को विधि-विरुद्ध संगम घोषित किया है;

और, जबकि, केन्द्रीय सरकार ने उक्त अधिनियम की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की दिनांक 29 मार्च, 2019 की अधिसूचना संख्या का.आ. 1491 (अ) के तहत विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण (जिसे यहां इसके बाद उक्त अधिकरण कहा गया है) का गठन किया था, जिसमें दिल्ली उच्च न्यायालय के माननीय न्यायमूर्ति श्री चन्द्र शेखर शामिल थे;

और, जबकि, केन्द्रीय सरकार ने उक्त अधिनियम की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस न्यायनिर्णयन के प्रयोजन के लिए कि क्या जम्मू और कश्मीर लिबरेशन फ्रंट (मो. यासीन मलिक गुट) (जेकेएलएफ-वाई) को विधिविरुद्ध संगम घोषित किए जाने का पर्याप्त कारण है या नहीं, दिनांक 16 अप्रैल, 2019 को उक्त अधिकरण को उक्त अधिसूचना भेजी थी;

और, जबकि, उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना में की गई घोषणा की पुष्टि करते हुए दिनांक 20 सितम्बर, 2019 को एक आदेश दिया था।

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

(अधिकरण का आदेश अंग्रेजी भाग में छपा है)

[फा.सं. 14017/33/2019-एन.आई.-III]

एस. सी. एल. दास, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS**NOTIFICATION**

New Delhi, the 25th September, 2019

S.O. 3460(E).—Whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as the said Act), declared the Jammu and Kashmir Liberation Front (Mohd. Yasin Malik faction) (JKLF-Y) as an unlawful association *vide* notification of the Government of India in the Ministry of Home Affairs number S.O. 1403 (E), dated the 22nd March, 2019 (hereinafter referred to as the said notification), published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section(ii), dated 22nd March, 2019;

And, whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 5 of the said Act constituted the Unlawful Activities (Prevention) Tribunal (hereinafter referred to as the said Tribunal) consisting of Hon'ble Mr. Justice Chander Shekhar, Judge of the High Court of Delhi *vide* notification of the Government of India in the Ministry of Home Affairs number S.O. 1491 (E), dated 29th March, 2019, published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii), dated 29th March, 2019;

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 16th April, 2019 for the purpose of adjudicating whether or not there was sufficient cause for declaring the Jammu and Kashmir Liberation Front (Mohd. Yasin Malik faction) (JKLF-Y) as 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 20th September, 2019, confirmed the declaration made in the said notification;

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

UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL**COURT NO. 30: DELHI HIGH COURT, NEW DELHI**

Date of decision: 20th September, 2019

Re: Notification No. S.O. 1403(E) dated 22nd March, 2019 issued by the Central Government under sub-sections (1) & (3) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 declaring the Jammu and Kashmir Liberation Front (Mohd. Yasin Malik faction) (JKLF-Y), as an unlawful association, read with Notification No. S.O. 1491(E) dated 29th March, 2019.

IN THE MATTER OF:**UNION OF INDIA**

Through: Mr. K.M.Nataraj, Addl. Solicitor General of India with Mr.Sachin Datta, Senior Advocate, Mr.Anil Soni and Mr.Anurag Ahluwalia, Central Government Standing Counsel, Ms.Aakansha Kaul, Mr.Anmol Chandan, Mr.Sharath Nambiar, Mr.Jay Prakash Singh, Mr.Deepak Chaudhary, Mr.Abhigyan Siddhant & Mr.Kartikeya Rastogi, Advocates for Union of India.

Mr.V.S.Rana, Deputy Secretary with Mr.Hiranmay Biswas, Research Officer and Mr.Manoj Kumar Singh, Technical Officer from Ministry of Home Affairs

Versus

JAMMU AND KASHMIR LIBERATION FRONT (MOHD. YASIN MALIK FACTION) (JKLF-Y)

Through: Mr.R.M.Tufail, Advocate with Ms.Astha, Mr.Farooq Chaudhary, Mr.Equabal Nasir and Mr.Naahid Naasir, Advocates

CORAM:**HON'BLE MR. JUSTICE CHANDER SHEKHAR****ORDER**

1. This order will answer the reference made to this Tribunal under Section 4 of the Unlawful Activities (Prevention) Act, 1967 (Act No. 37 of 1967) (hereinafter referred to as the 'Act').

2. The Central Government, in exercise of powers conferred by sub-sections (1) and (3) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as 'the Act'), vide Notification No. S.O. 1403(E) dated 22nd March, 2019, declared the Jammu and Kashmir Liberation Front (Mohd. Yasin Malik faction) [for short 'JKLF-Y'] as an 'Unlawful Association' and directed that this notification shall, subject to any order that may be made under Section 4 of the said Act, have effect for a period of five years from the date of its publication in the Official Gazette.

3. Thereafter, the Central Government, in exercise of the powers conferred by Section 5(1) of the Act, vide Notification No. S.O. 1491(E) dated 29th March, 2019, constituted this Tribunal for the purpose of adjudicating whether or not there is 'sufficient cause' for declaring JKLF-Y as an Unlawful Association, which has already been declared as such by the Central Government vide its notification No. S.O. 1403(E) dated 22nd March, 2019. The reference made to this Tribunal under the provisions of Section 4 of the Act, was received by this Tribunal on 16th April, 2019.

4. In the Notification dated 22nd March, 2019, the Central Government has opined as under:

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

The Central Government has further opined that if the unlawful activities of JKLF-Y are not curbed and controlled immediately, it is likely to:-

- (a) escalate its subversive activities including attempt to carve out a separate State out of the territory of Union of India by destabilizing the Government established by law;
- (b) continue advocating the secession of the State of Jammu and Kashmir from the Union of India while disputing the accession of the State with the Union;
- (c) propagate anti-national and separatist sentiments prejudicial to the territorial integrity and security of the country; and
- (d) escalate secessionist movements, support militancy and incite violence in the country.

5. Along with the aforesaid Notification, the Central Government had furnished to the Tribunal a Background Note on JKLF-Y stating the objectives, activities and criminal cases registered against JKLF-Y activists by the State of Jammu & Kashmir and NIA, as also the justification for declaring JKLF-Y as an unlawful association. The historical background and the activities of JKLF-Y, as stated in the Background Note, are as under:

- (i) The Jammu & Kashmir National Liberation Front (JKNLF) was formed in Pakistan in 1964 and was rechristened as Jammu & Kashmir Liberation Front (JKLF) in 1971. The Kashmir Valley unit of JKLF was formally established in February, 1988 with the ideology and objective of liberation and re-unification of independent Jammu & Kashmir comprising Jammu and Kashmir, Pakistan Occupied Kashmir, Gilgit, Baltistan, Hunza and Aksai Chin, through armed struggle.
- (ii) The JKLF-Y was founded by Mohd. Yasin Malik who came into prominence from the beginning of militancy of Kashmir Valley in 1988, with the slogan of 'Azadi', with the objective to achieve independence for Kashmiris. He was involved in various cases including murder of 4 Indian Air Force personnel, masterminding the kidnapping of Dr. Rubaiya Sayeed and funneling of funds illegally for fomenting terrorism in the State of Jammu and Kashmir. He was arrested in Srinagar on 6th August, 1990 along with

some of his associates. On split in the All Party Hurriyat Conference (APHC) in 2003, he remained independent and made efforts for its unification. Yasin Malik announced merger of the two major factions of JKLF led by him and Amanullah Khan in October, 2011.

- (iii) In recent times, in order to gain the political space, Yasin Malik and his activists are glorifying the activities of terrorism and justifying the acts of terror, by virtue of which the organization is motivating the youth for professing the acts of terrorism. Besides this Chairman is backbone of JRL who is giving *Hartal* and Demonstration calls with the objective to avenge the Constitution of India. His activities pose direct threat to the security of State and Nation, and organization and its Chairman is feeding the acts of terrorism in the State of Jammu and Kashmir.
- (iv) The activities of JKLF-Y have persistently posed threat to security of nation. Further, the organization is reportedly generating funds for furthering its agenda of terror in order to achieve secession of Kashmir from India.

6. The Central Government in the Background Note has summarized the cases involving the activists/members of JKLF-Y, which are summarized as under:-

1. FIR/Case Crime No. 654/1987 of PS-Shergari, District Srinagar under Section 4(2) & 3(1) of TADA Act and Section 3 of Dishonour of National Flag Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
2. FIR/Case Crime No. 730/1987 of PS-Shergari, District Srinagar under Section 153(B) of the Ranbir Penal code, Section 13 of the Unlawful Activities (Prevention) Act and Section 4(2) & 3(1) of TADA Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
3. FIR/Case Crime No. 732/1987 of PS-Shergari, District Srinagar under Section 153A of the Ranbir Penal Code, Section 3(2) of the TADA Act and Section 13(2) of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
4. FIR/Case Crime No. 28/1987 of PS-Maisuma, District Srinagar under Section 148, 149, 336 and 427 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
5. FIR/Case Crime No. 36/1987 of PS-Maisuma, District Srinagar under Section 147, 148, 336, 332 and 427 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
6. FIR/Case Crime No. 45/1987 of PS-Maisuma, District Srinagar under Section 148, 149, 336, 427, 332 and 153A of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
7. FIR/Case Crime No. 52/1987 of PS-Maisuma, District Srinagar under Section 148, 149, 336, 452, 120 and 120B of the Ranbir Penal Code and Section 3(3) of the TADA Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
8. FIR/Case Crime No. 53/1987 of PS-Maisuma, District Srinagar under Section 148, 149, 336, 452, 120 and 120B of the Ranbir Penal Code and Section 3(3) of the TADA Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
9. FIR/Case Crime No. 136/1987 of PS-Maisuma, District Srinagar under Section 341, 336 and 427 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
10. FIR/Case Crime No. 81/1988 of PS-Maisuma, District Srinagar under Section 148, 149, 336, 332, 427 and 435 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
11. FIR/Case Crime No. 82/1988 of PS-Maisuma, District Srinagar under Section 407, 148, 147, 436, 336, 395, 392 and 427 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
12. FIR/Case Crime No. 46/1989 of PS-Nowhatta, District Srinagar under Section 3 & 4 of the Explosive Substances Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
13. FIR/Case Crime No. 42/1989 of PS-Nowhatta, District Srinagar under Section 3/2 of TADA Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
14. FIR/Case Crime No. 150/1989 of PS-Maisuma, District Srinagar under Section 302 of the Ranbir Penal Code, Section 25 of the Indian Arms Act and Section 4/3 of TADA Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;

15. FIR/Case Crime No. 212/1989 of PS-MR Gunj, District Srinagar under 302 of the Ranbir Penal Code and Section 3/2 of TADA Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
16. FIR/Case Crime No. 307/1989 of PS-Sheergadi, District Srinagar under Section 302, 307 and 452 of the Ranbir Penal Code, Section 4/25 of Indian Arms Act and Section 3(2) of TADA(P) Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
17. FIR/Case Crime No. 310/1989 of PS-Soura, District Srinagar under Section 307, 506, 382, 435, 427, 148 and 336 of the Ranbir Penal Code, Section 3/25 of Arms Act and Section 3(2) of TADA Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
18. FIR/Case Crime No. 339/1989 of PS-Sadder, District Srinagar under Section 364 and 368 of the Ranbir Penal Code, Section 3 of TADA Act and Section 25 of Indian Arms Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
19. FIR/Case Crime No. 15/1990 of PS-Nowhatta, District Srinagar under Section 3 & 4 of the Explosive Substances Act and Section 3(2) of the TADA Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
20. FIR/Case Crime No. 15/1990 of PS-Maisuma, District Srinagar under Section 302 of the Ranbir Penal Code, Section 25 of the Indian Arms Act and Section 3 of TADA(P) Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
21. FIR/Case Crime No. 24/1990 of PS-Maisuma, District Srinagar under Section 302 of the Ranbir Penal Code, Section 25 of the Indian Arms Act and Section 3 of TADA(P) Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
22. FIR/Case Crime No. 22/1990 of PS-Sadder, District Srinagar under Section 307 of the Ranbir Penal Code, Section 25 of the Indian Arms Act and Section 3(1) of TADA(P) Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
23. FIR/Case Crime No. 30/1990 of PS-Sadder, District Srinagar under Section 302 of the Ranbir Penal Code and Section 3(1) of TADA(P) Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
24. FIR/Case Crime No. 44/1990 of PS-Sadder, District Srinagar under Section 302 & 307 of the Ranbir Penal Code, Section 25 of the Indian Arms Act and Section 3 of TADA(P) Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
25. FIR/Case Crime No. 166/1990 of PS-Sadder, District Srinagar under Section 302 of the Ranbir Penal Code and Section 3(1) of TADA(P) Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
26. FIR/Case Crime No. 72/1996 of PS-Safakadal, District Srinagar under Section 124A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
27. FIR/Case Crime No. 208/1996 of PS-Sadder, District Srinagar under Section 147, 153A and 341 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
28. FIR/Case Crime No. 151/1997 of PS-Maisuma, District Srinagar under Section 147, 148, 336, 427 and 341 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
29. FIR/Case Crime No. 218/1998 of PS-RM Bagh, District Srinagar under Section 147, 353 and 332 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
30. FIR/Case Crime No. 37/1998 of PS-Nishat, District Srinagar under Section 188 of the Ranbir Penal Code and Section 132B of the Representatives of Peoples Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
31. FIR/Case Crime No.108/2004 of PS-Batmaloo, District Srinagar under Section 353, 336 and 427 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
32. FIR/Case Crime No. 84/2004 of PS-Maisuma, District Srinagar under Section 148, 336, 427 and 332 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;

33. FIR/Case Crime No.81/2006 of PS-Maisuma, District Srinagar under Section 147, 148, 336 and 427 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
34. FIR/Case Crime No.24/2011 of PS-Maisuma, District Srinagar under Section 307, 353 and 452 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
35. FIR/Case Crime No.80/2012 of PS-Maisuma, District Srinagar under Section 147, 148, 336, 332 and 427 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
36. FIR/Case Crime No.142/2014 of PS-RM Bagh, District Srinagar under Section 353 and 332 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
37. FIR/Case Crime No.30/2014 of PS-Maisuma, District Srinagar under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
38. FIR/Case Crime No.52/2014 of PS-Maisuma, District Srinagar under Section 147, 148 and 153 of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
39. FIR/Case Crime No.01/2015 of PS-Kothibagh, District Srinagar under Section 353 and 506 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
40. FIR/Case Crime No.06/2015 of PS-Maisuma, District Srinagar under Section 307, 148, 149 and 332 of the Ranbir Penal Code and Section 3 of PPD Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
41. FIR/Case Crime No.47/2015 of PS-Maisuma, District Srinagar under Section 307, 148, 149, 332, 427 and 152 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
42. FIR/Case Crime No.17/2016 of PS-Maisuma, District Srinagar under Section 153 and 505 of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
43. FIR/Case Crime No.19/2016 of PS-Maisuma, District Srinagar under Section 307, 148, 149, 186 and 172 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
44. FIR/Case Crime No.20/2016 of PS-Maisuma, District Srinagar under Section 307, 148, 149, 188 and 172 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
45. FIR/Case Crime No.36/2015 of PS-Magam, District Budgam under Section 147, 148, 336 and 341 of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
46. FIR/Case Crime No.51/2007 of PS-Kokernag, District Anantnag under Section 121 of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
47. FIR/Case Crime No.15/2009 of PS-Kokernag, District Anantnag under Section 498A of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
48. FIR/Case Crime No.149/2013 of PS-Kokernag, District Anantnag under Section 147, 148 and 336 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
49. FIR/Case Crime No.198/2004 of PS-Anantnag, District Anantnag under Section 132B of the Representation of People Act, 1957 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
50. FIR/Case Crime No.79/2014 of PS-Anantnag, District Anantnag under Section 147, 148, 149, 341, 336 and 353 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
51. FIR/Case Crime No.101/1996 of PS-Tral, District Awantipora under Section 152, 148, 147, 336, 109 and 332 of the Ranbir Penal Code and Section 25 & 27 of Arms Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
52. FIR/Case Crime No.103/2009 of PS and District Pulwama under Section 153A and 153B of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;

53. FIR/Case Crime No.30/2018 of PS and District Shopian under Section 148, 149, 336, 353, 332, 307, 341, 188 and 427 of the Ranbir Penal Code, Section 13 of the Unlawful Activities (Prevention) Act, 1967 and Section 3(1) of PPPD Act against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
54. FIR/Case Crime No.95/2011 of PS-Kunzar, District Baramulla under Section 120B and 153 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
55. FIR/Case Crime No.260/2008 of PS-Sumbal, District Bandipora under Section 121A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
56. FIR/Case Crime No.239/2009 of PS-Sumbal, District Bandipora under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
57. FIR/Case Crime No.109/2010 of PS-Sumbal, District Bandipora under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
58. FIR/Case Crime No.278/2010 of PS-Sumbal, District Bandipora under 188 and 353 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
59. FIR/Case Crime No.185/1997 of PS-Handwara, District Handwara under Section 188 of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
60. FIR/Case Crime No.289/2003 of PS-Handwara, District Handwara under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
61. FIR/Case Crime No.258/2004 of PS-Handwara, District Handwara under Section 147, 427 and 336 of the Ranbir Penal Code against the accused Mohd. Yasin Malik, Chairman, JKLF-Y;
62. FIR/Case Crime No.135/1989 of PS-Shaheed Gunj, District Srinagar under Section 307 and 201 of the Ranbir Penal Code against the accused Farooq Ahmad Dar @ Bitra Karate;
63. FIR/Case Crime No.33/1990 of PS-Praimpora, District Srinagar under Section 332, 342, 392 and 307 of the Ranbir Penal Code and Section 2/3 of TADA Act against the accused Farooq Ahmad Dar @ Bitra Karate;
64. FIR/Case Crime No.24/1990 of PS-Maisuma, District Srinagar under Section 302 and 307 of the Ranbir Penal Code, Section 25 of Indian Arms Act and Sections 3, 3(1) & 2(1) of TADA Act against the accused Farooq Ahmad Dar @ Bitra Karate;
65. FIR/Case Crime No.45/1990 of PS-Safakadal, District Srinagar under Section 302 of the Ranbir Penal Code, Section 3/25 of Arms Act and Section 3(2) of TADA Act against the accused Farooq Ahmad Dar @ Bitra Karate;
66. FIR/Case Crime No.58/1990 of PS-Safakadal, District Srinagar under Section 302 of the Ranbir Penal Code, Section 3/25 of Arms Act and Section 3(2) of TADA Act against the accused Farooq Ahmad Dar @ Bitra Karate;
67. FIR/Case Crime No.44/1990 of PS-MR Gunj, District Srinagar under Section 302 and 452 of the Ranbir Penal Code, Section 2/3 of TADA Act and Section 2/23 of Indian Arms Act against the accused Farooq Ahmad Dar @ Bitra Karate;
68. FIR/Case Crime No.53/1990 of PS-MR Gunj, District Srinagar under Section 3/5 of Explosive Substances Act, Section 2/3 of TADA Act and Section 3/25 of Indian Arms Act against the accused Farooq Ahmad Dar @ Bitra Karate;
69. FIR/Case Crime No.08/1990 of PS-Karan nagar, District Srinagar under Section 3/5 of Explosive Substances Act, Section 3(1) of TADA Act, POTA Act and Section 427 of the Ranbir Penal Code against the accused Farooq Ahmad Dar @ Bitra Karate;
70. FIR/Case Crime No.34/1990 of PS-Karan Nagar, District Srinagar under Section 302 of the Ranbir Penal Code, Section 3(1) of TADA Act and Section 25 of Indian Arms Act against the accused Farooq Ahmad Dar @ Bitra Karate;

71. FIR/Case Crime No.09/1990 of PS-Shaheed Gunj, District Srinagar under Section 3 of Explosive Substances Act against the accused Farooq Ahmad Dar @ Bitra Karate;
72. FIR/Case Crime No.16/1990 of PS-Shaheed Gunj, District Srinagar under Section 436 of the Ranbir Penal Code and Section 3(1) of TADA Act against the accused Farooq Ahmad Dar @ Bitra Karate;
73. FIR/Case Crime No.22/1990 of PS-Shaheed Gunj, District Srinagar under Section 302 of the Ranbir Penal Code, Section 3 of TDAP Act and Section 3/25 of Arms Act against the accused Farooq Ahmad Dar @ Bitra Karate;
74. FIR/Case Crime No.32/1990 of PS-Shaheed Gunj, District Srinagar under Section 302 of the Ranbir Penal Code, Section 3 of TDAP Act and Section 3/25 of Arms Act against the accused Farooq Ahmad Dar @ Bitra Karate;
75. FIR/Case Crime No.38/1990 of PS-Shaheed Gunj, District Srinagar under Section 302 of the Ranbir Penal Code, Section 3 of TDAP Act and Section 3/25 of Arms Act against the accused Farooq Ahmad Dar @ Bitra Karate;
76. FIR/Case Crime No.43/1990 of PS-Shaheed Gunj, District Srinagar under Section 302 of the Ranbir Penal Code, Section 3 of TDAP Act and Section 3/25 of Arms Act against the accused Farooq Ahmad Dar @ Bitra Karate;
77. FIR/Case Crime No.44/1990 of PS-Shaheed Gunj, District Srinagar under Section 392, 364, 354 and 201 of the Ranbir Penal Code and Section 3(1) of TADA Act against the accused Farooq Ahmad Dar @ Bitra Karate;
78. FIR/Case Crime No.45/1990 of PS-Shaheed Gunj, District Srinagar under Section 302 of the Ranbir Penal Code, Section 3 of TDAP Act and Section 3/25 of Arms Act against the accused Farooq Ahmad Dar @ Bitra Karate;
79. FIR/Case Crime No.50/1990 of PS-Shaheed Gunj, District Srinagar under Section 302 and 307 of the Ranbir Penal Code, Section 3(1) of TADA Act and Section 3/25 of Arms Act against the accused Farooq Ahmad Dar @ Bitra Karate;
80. FIR/Case Crime No.51/1990 of PS-Shaheed Gunj, District Srinagar under Section 302 of the Ranbir Penal Code, Section 3 of TDAP Act and Section 3/25 of Arms Act against the accused Farooq Ahmad Dar @ Bitra Karate;
81. FIR/Case Crime No.41/1991 of PS-Shaheed Gunj, District Srinagar under Section 302 and 364 of the Ranbir Penal Code and Section 3(1) of TADA Act against the accused Farooq Ahmad Dar @ Bitra Karate;
82. FIR/Case Crime No.98/2006 of PS-Shaheed Gunj, District Srinagar under Section 147, 341 and 34 of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Farooq Ahmad Dar @ Bitra Karate;
83. FIR/Case Crime No.31/2012 of PS-Safakadal, District Srinagar under Section 153 of the Ranbir Penal Code against the accused Farooq Ahmad Dar @ Bitra Karate;
84. FIR/Case Crime No.128/1992 of PS-Khanyar, District Srinagar under Section 3/4 of TADA Act and Section 3/25 of Arms Act against the accused Noor Mohammad Kalwal;
85. FIR/Case Crime No.37/2005 of PS-MR Gunj, District Srinagar under Section 147, 148, 336 and 427 of the Ranbir Penal Code against the accused Noor Mohammad Kalwal;
86. FIR/Case Crime No.111/2009 of PS-Safakadal, District Srinagar under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Noor Mohammad Kalwal;
87. FIR/Case Crime No.81/2006 of PS-Maisuma, District Srinagar under Section 147, 148, 336, 427 and 332 of the Ranbir Penal Code against the accused Noor Mohammad Kalwal;
88. FIR/Case Crime No.06/2015 of PS-Maisuma, District Srinagar under Section 307, 147, 148, 149, 336 and 427 of the Ranbir Penal Code against the accused Noor Mohammad Kalwal;
89. FIR/Case Crime No.47/2015 of PS-Maisuma, District Srinagar under Section 307, 148, 149, 332, 353 and 152 of the Ranbir Penal Code against the accused Noor Mohammad Kalwal;

90. FIR/Case Crime No.60/2016 of PS-MR Gunj, District Srinagar under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Noor Mohammad Kalwal;
 91. FIR/Case Crime No.25/2017 of PS-Maisuma, District Srinagar under Section 307, 148, 149, 332 and 353 of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Noor Mohammad Kalwal;
 92. FIR/Case Crime No.68/2018 of PS-Shergari, District Srinagar under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Noor Mohammad Kalwal;
 93. FIR/Case Crime No.310/1989 of PS-Soura, District Srinagar under Section 307, 506, 382, 435, 427, 148 and 336 of the Ranbir Penal Code, Section 3/25 of the Arms Act and Section 3(2) of TADA Act against the accused Javid Ahmad Mir @ Javid Nalka;
 94. FIR/Case Crime No.37/1998 of PS-Nishat, District Srinagar under Section 188 of the Ranbir Penal Code and Section 132B of the Representatives of Peoples Act against the accused Javid Ahmad Mir @ Javid Nalka;
 95. FIR/Case Crime No.218/1998 of PS-RM Bagh, District Srinagar under Section Section 147, 353 and 332 of the Ranbir Penal Code against the accused Ahmad Mir @ Javid Nalka;
 96. FIR/Case Crime No.55/2003 of PS-Khanyar, District Srinagar under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Javid Ahmad Mir @ Javid Nalka;
 97. FIR/Case Crime No.98/2006 of PS-Shaheed Gunj, District Srinagar under Section 147 and 341 of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Javid Ahmad Mir @ Javid Nalka;
 98. FIR/Case Crime No.173/2012 of PS-Shopian, District Shopian under Section 148, 149, 336, 332, 341 and 427 of the Ranbir Penal Code against the accused Javid Ahmad Mir @ Javid Nalka;
7. Details of the other cases registered by National Investigation Agency (NIA) and Central Bureau of Investigation (CBI) against various persons claiming involvement of members of JKLF as well are as under:
1. RC-10/2017/NIA/DLI;
 2. 339/1989 of PS Sadar, Srinagar; and
 3. 22/1990 of PS-Sadar, District Srinagar.

8. On the afore-noted grounds, the Central Government formed the opinion that JKLF-Y is bent upon working towards secession and separation of the State of Jammu and Kashmir from the Union of India. It has been actively and continuously encouraging the armed insurgency aimed at causing disaffection, disloyalty, disharmony by promoting feelings of enmity and hatred against the lawful Government and is acting in a manner prejudicial to the territorial integrity and sovereignty of the Indian Union. It has been defaming the country on different international forums and has been organizing protests and glorifying insurgency in the State.

Thus, in exercise of powers conferred by sub-sections (1) and (3) of Section 3 of the Act, the Central Government declared the JKLF-Y as an “unlawful association” with immediate effect, which was followed by the Notification under Section 5(1) of the Act, constituting the Unlawful Activities (Prevention) Tribunal, which was received by this Tribunal on 16th April, 2019. This Tribunal listed the reference for preliminary hearing on 24th April, 2019.

9. On 24th April, 2019, on consideration of the material placed on record by the Central Government, this Tribunal was, *prima facie*, satisfied that a notice under Section 4(2) of the Act should be issued to JKLF-Y to show cause, within 30 days from the date of service of notice, as to why it be not declared as “Unlawful Association”. Hence, the Notice was issued for 30th May, 2019. The notice was directed to be served upon JKLF-Y in the following manner:

- I. By affixing a copy of the notice at some conspicuous part of the office(s), if any, of the Association;
- II. By serving a copy of the notice, wherever possible, on the principal office-bearers, if any, of the Association;

- III. The notice be also served by registered post/speed post/courier;
 - IV. By proclaiming by beat of drums or by means of loudspeakers, the contents of the note, in the area in which the activities of the Association are ordinarily carried on;
 - V. By making an announcement over the radio from the local or nearest broadcasting station of the All India Radio/Doordarshan;
 - VI. By pasting the notice on the Notice Board of the office of the Deputy Commissioners at the Headquarters of each of the Districts in the State, where the activities of the Association are undertaken; and
 - VII. By publication in two National Newspapers in English and in two vernacular newspapers of the State of Jammu & Kashmir.
10. Pursuant to the directions given by the Tribunal, the State of Jammu & Kashmir filed affidavits of service, putting on record the factum of service of notice.
11. On 30th May, 2019, Mr. R.M. Tufail, Advocate entered appearance on behalf of JKLF-Y and filed his vakalatnama.
12. At the outset, it would be appropriate to notice Sections 3, 4, 5 and 9 of the Unlawful Activities (Prevention) Act, 1967 and Rules 3 & 5 of the Unlawful Activities (Prevention) Rules, 1968:

Sections 3, 4, 5 and 9 of the UAPA read as under:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rules 3 & 5 of the UAP Rules read as under:

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

[(2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), where any books of account or other documents have been produced before the Tribunal or the Court of the District Judge by the Central Government and such books of account or other documents are claimed by that Government to be of a confidential nature then, the Tribunal or the Court of the District Judge, as the case may be, shall not,—

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

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

- (i) *a copy of the notification made under sub-section (1) of section 3, and*
- (ii) *all the facts on which the grounds specified in the said notification are based:*

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

13. A bare perusal of sub-Section (5) of Section 5 of the Act provides that subject to Section 9, the Tribunal is empowered to regulate its own procedure in all matters during the discharge of its function. Section 9 of the Act lays down the procedure for disposal of the applications under the Act. It provides that subject to the Rules made under the Act, the procedure to be followed by the Tribunal in holding any inquiry under Section 4(3) or any application under Section 7(4) or Section 8(8), so far as may be, be the procedure laid down in the Code of Civil Procedure, 1908; for the investigation of claims. Rule 3 of the UAP Rules provides that subject to the provisions of sub-rule (2), the Tribunal shall follow “*as far as practicable*” the rules of evidence laid down in the Indian Evidence Act, 1872. The words “*as far as may be practicable*” have their own significance so far as applicability of the Code of Civil Procedure, 1908 and Indian Evidence Act, 1872 in the light of the UAPA are concerned, as observed by the Supreme Court in ***Jamaat-e-Islami Hind v. Union of India, (1995) 1 SCC 428***, wherein it has been held that the Tribunal can devise a suitable procedure whereby it can itself examine and test the credibility of such a material before it decides to accept the same for determining the existence of sufficient cause for declaring the association to be unlawful. It has further been held by the Supreme Court in ***Jamaat-e-Islami Hind (supra)*** that the material need not be confined only to legal evidence in the strict sense and such a procedure would ensure that the decision of the Tribunal is made after assessing the credibility of the material while protecting the rights of association and its members without compromising and/or jeopardizing the public interest, following the principles of natural justice and not merely accepting the opinion already formed by the Central Government. It has also been held that the materials in such matters are not confined to legal evidence in the strict sense and that the scrutiny and the procedure required to be followed as well as appreciation of the evidence and the material brought on the record is not akin to criminal trial.

14. At this stage, it would be appropriate, in the fitness of things, to discuss the guidelines for holding the enquiry of this nature. The benchmark in this behalf is laid down by the Supreme Court in ***Jamaat-e-Islami Hind (supra)*** wherein the Hon’ble Court has laid down the principles which ought to govern holding of such enquiry and the manner of adjudicating the sufficiency of cause to ban an organization. In para 11 of the judgment, the Hon’ble Supreme Court has observed as under:-

“11.The nature of inquiry contemplated by the Tribunal requires it to weigh the material on which the notification under sub-section (1) of Section 3 is issued by the Central Government, the cause shown by the Association in reply to the notice issued to it and take into consideration such further information which it may call for, to decide the existence of sufficient cause for declaring the

Association to be unlawful. The entire procedure contemplates an objective determination made on the basis of material placed before the Tribunal by the two sides; and the inquiry is in the nature of adjudication of a lis between two parties, the outcome of which depends on the weight of the material produced the them.....”

Further, in para 17 of the judgment, the Hon’ble Supreme Court has observed as under:-

“17.the materials on which the adjudication is to be made with opportunity to show cause given to the association, must be substantially in consonance with the materials required to support a judicial determination....”

In para 19 of the judgment, the Hon’ble Supreme Court has dealt with the issue of appreciation of material based on which the Central Government decided to ban the organization. The said para reads as under:-

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

In para 26 of the said judgment, the Hon’ble Court pronounced on the requirement of application of the principles of natural justice to ensure that the decision of the Tribunal is its own opinion, formed on the basis of entire available material. The observations made by the Hon’ble Court read as under:

“26. the provision for adjudication by judicial scrutiny, after a show-cause notice, of existence of sufficient cause to justify the declaration must necessarily imply and import into the inquiry, the minimum requirement of natural justice to ensure that the decision of the Tribunal is its own opinion, formed on the entire available material, and not a mere imprimatur of the Tribunal affixed to the opinion of the Central Government. Judicial scrutiny implies a fair procedure to prevent the vitiating element of arbitrariness. What is the fair procedure in a given case, would depend on the materials constituting the factual foundation of the notification and the manner in which the Tribunal can assess its true worth. This has to be determined by the Tribunal keeping in view the nature of its scrutiny, the minimum requirement of natural justice, the fact that the materials in such matters are not confined to legal evidence in the strict sense, and that the scrutiny is not a criminal trial. The Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the association, if the public interest so requires.”

15. Learned counsel for the respondent Association orally prayed for supply of copies of the Background Note and the service affidavits on the ground that the same are required for the purpose of its defence. The said prayer was allowed vide order dated 30th May, 2019, with directions to make available to the respondent Association copies of all the orders passed by the Tribunal as also the copy of the Background Note filed by the Union of India. So far as supply of the copy of files containing proof of service is concerned, only proof of service along with the affidavit was directed to be supplied. The respondent Association was also directed to file its reply to the show cause notice before 7th June, 2019.

16. On 7th June, 2019, learned counsel for the respondent Association submitted that there are not enough details in the Background Note and the documents supplied to him so as to put up their defence by way of a reply. The said contention was objected to by the learned counsel for the Union of India. After hearing the counsel for both the parties, the respondent Association was directed to file its reply to the Show Cause Notice within four days and the matter was re-notified for 14th June, 2019.

17. On 14th June, 2019, the hearing of the Tribunal was cancelled and the matter was re-notified for 2nd July, 2019. On 2nd July, 2019, it was noted that the respondent Association had filed its reply and the Union of India had also filed its rejoinder thereto. Thereafter, the matter was re-notified for 16th July, 2019 with a direction to Union of India to file the

affidavits by way of examination-in-chief, and on 16th July, 2019, the matter was adjourned to 30th July, 2019 at the request of the Union of India.

18. On 30th July, 2019, the Union of India moved an application being IA 01/2019 seeking permission that the witnesses being produced by them in these proceedings be treated as “protected witnesses” and their names, addresses and identity be not disclosed to the public and that the proceedings of this Tribunal be not published in any manner. Further, permission was also sought to redact the names of three official witnesses and also directions for ensuring the safety of the witnesses. The prayers sought by the Union of India were allowed by the Tribunal vide a detailed order dated 30th July, 2019 itself.

19. On the said date, the Union of India had also moved an application being IA 02/2019 seeking directions that the documents to be produced by the witnesses in sealed cover be not made a part of the records of the proceedings before this Tribunal and access to the contents of the documents be not granted to any person, including the respondent Association. Keeping in view the stand of the Central Government claiming “privilege” over the documents to be furnished by the witness in sealed cover and the relevant Rules in this behalf in the UAP Rules, the said issue was left open by the Tribunal to be decided at the stage of final arguments. However, the sealed envelopes which would be submitted by the witnesses during their examinations were directed to be taken on record and the application was disposed of.

20. The matter was thereafter listed before the Tribunal on various dates for examination of the witnesses on behalf of the Union of India. During the hearing on 5th September, 2019, learned counsel for the respondent Association submitted that he would be moving an application for examination of one witness. Thus, the matter was re-notified for 12th September, 2019 for hearing the said application. Instead, the respondent Association filed an application being IA 04/2019 seeking permission to procure the following documents from the Union of India:

- I. Documents related to Yasin Malik’s meetings with ex-Prime Ministers Late Shri Atal Bihari Vajpayee and Shri Manmohan Singh;
- II. Record pertaining to the statement of Late Shri Atal Bihari Vajpayee in the Lok Sabha releasing the passport of Yasin Malik to enable him to go abroad in September, 2011;
- III. Documents related to the visit of Yasin Malik to POK (Pakistan Occupied Kashmir)/Pakistan between 2005 and 2014;
- IV. Record pertaining to the ban on JKLF which was imposed in the year 1991. The appointment letter of Hon’ble Ms. Justice Usha Mehra (Retd.) as the head of the said Tribunal;

OR

In the alternative, Hon’ble Justice Ms. Usha Mehra (Retd.) be requested to depose about the issue of earlier imposing a ban on the JKLF.

21. Reply to the said application was filed by the Union of India, opposing the prayers. After hearing the learned counsel for both the parties, the said application was dismissed vide order dated 12th September, 2019 and the matter was listed for arguments on 16th September, 2019.

22. In the aforesaid background, it would be appropriate at this stage to deal with the issue of “privilege” claimed by the Central Government in respect of documents submitted by two of the witnesses in sealed cover, the contents whereof have not been disclosed to the respondent Association or to its counsel.

23. Mr. K.M. Nataraj, learned ASG for the Union of India argued that apart from the FIRs registered in respect of incidents involving members, supporters and sympathizers of the respondent Association, the Central Government also received specific classified inputs from the intelligence agencies about the involvement and support of the respondent Association to activities and articulations intended to disrupt the territorial integrity of India. The said inputs have been placed before the Tribunal during the course of recording of evidence of the witnesses and the Union of India has claimed privilege over those documents since they cannot be disclosed either to the respondent Association or even the counsel representing the Association. It is argued that for adjudication of sufficiency of cause, the Tribunal can examine the same to assess the credibility of the information and satisfy itself on the sufficiency of cause. Referring to Rule 5 of the UAP Rules, it was argued that the proviso to the said Rule authorizes the Central Government to hold back information on which it has relied and not to disclose any information which is against public interest to disclose. The observations made in this behalf by the Hon’ble Supreme Court in *Jamaat-e-Islami Hind (supra)* were also referred to, wherein the Hon’ble Court has observed that “unlawful activities of an association may quite often be clandestine in nature and, therefore, the

source of evidence of the unlawful activities may require continued confidentiality in public interest and in such a situation disclosure of the source of such information and may be, full particulars thereof, is likely to be against the public interest". The Hon'ble Court has further observed that in order to perform its task of adjudication as required by the Act, the Tribunal can look into the same for the purpose of assessing the credibility of the information and satisfying itself that it can safely act on the same. Based on the said observations, it was argued that intelligence reports and other inputs placed before the Tribunal in sealed cover are sensitive privileged documents, hence, in public interest they cannot be disclosed to the respondent Association or its counsel.

24. Mr. R.M. Tufail, learned counsel for the respondent Association argued that Union of India has wrongly misused the doctrine of confidentiality by producing certain documents in sealed covers thereby depriving the respondents of their rights of a fair trial. It is submitted that the documents in favour of the respondents are in the custody of the Government and they have claimed privilege over them in order to conceal the facts from this Tribunal. It is argued that non-disclosure of documents produced in sealed cover for reliance by the Tribunal to assess sufficiency of cause to ban the respondent Association works to the detriment of the respondent Association and takes away their fundamental right of effective and proper representation before the Tribunal. In the absence of the knowledge of the contents of the sealed documents, the respondent Association is prevented from meeting the grounds sought to be presented before this Tribunal for assessing and adjudicating whether the Central Government had sufficient cause and material before it to ban the respondent Association with immediate effect. It is argued that unless the respondent Association is made aware of the grounds and material being placed by the Union of India before this Tribunal in sealed cover claiming privilege, the respondent Association cannot be expected to appropriately defend itself against the allegations contained in those documents being presented in sealed covers. He submitted that such a denial of the right to defend in respect of the information conveyed through documents in sealed covers violates the principles of natural justice since it effectively forecloses their basic right to defend against such documents.

25. It is, thus, argued that the material submitted by the witnesses of the Central Government in sealed envelopes is liable to be ignored while examining the sufficiency of material before the Central Government for banning JKLF-Y.

26. During the course of recording of evidence of the witnesses, the witnesses namely Mr. Arvind Digvijay Negi, Superintendent of Police, National Investigation Agency, CGO Complex, Lodhi Road, New Delhi (PW-3) and Mr. S.C.L. Das, Joint Secretary, Ministry of Home Affairs, Government of India (PW-8) handed over to the Tribunal a set of documents each in sealed envelopes, claiming their contents to be confidential and, thus, claiming privilege on disclosure of these documents to the respondent Association on the ground of public interest in terms of proviso to Rule 5 of the UAP Rules.

27. Proviso to Rule 5 of the UAP Rules, which provides for the documents which should accompany reference to the Tribunal, provides that the Central Government is under no obligation to disclose any fact to the Tribunal which the Central Government considers against the "public interest" to disclose. The said proviso to Rule 5 of the Rules reads as under:-

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

The Hon'ble Supreme Court while dealing with this issue as also the proviso to sub-section (2) of Section 3 of the Act in **Jamaat-e-Islami Hind (supra)** has observed as under:-

"20.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 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."

21.The procedure to be followed by the Tribunal must, therefore, be such which enables the Tribunal to itself assess the credibility of conflicting material o any point in controversy and evolve a process by which it can decide whether to accept the version of the Central Government or to reject it in the light of the other view asserted by the association.....”

28. There is no doubt that every document produced by the Central Government cannot be accepted on its face value, particularly those which are produced in a sealed cover. While safeguarding the rights of the banned Association, it is necessary that each and every document produced by the Central Government must be made available to the respondent Association. At the same time, it is also necessary, as observed by the Supreme Court that sensitive information and intelligence inputs or their sources are not to be placed in public domain. But the credibility of each of the documents produced before the Tribunal in sealed cover must be assessed and examined by it. Even in *S.P. Gupta Vs. Union of India & Ors, 1981 (Supplementary) SCC 87*, the Supreme Court has, in paras 69 and 73, observed as under:-

“69.it does appear that cabinet papers, minutes of discussions of heads of departments, and high level documents relating to the inner working of the Government machine or concerned with the farming of Government policies belong to this class which in the public interest must be regarded as protected against disclosure.”

“73. We have already pointed out that whenever an objection to the disclosure of a document under Section 123 is raised, two questions fall for the determination of the court, namely, whether the document relates to affairs of State and whether its disclosure would, in the particular case before the court, be injurious to public interest. The court in reaching its decision on these two questions has to balance two competing aspects of public interest, because the document being one relating to affairs of State, its disclosure would cause some injury to the interest of the State or the proper functioning of the public service and on the other hand if it is not disclosed, the nondisclosure would thwart the administration of justice by keeping back from the court a material document. There are two aspects of public interest clashing with each other out of which the court has to decide which predominates. The approach to this problem is admirably set out in a passage from the judgment of Lord Reid in *Conway v. Rimmer*:

“It is universally recognised that there are two kinds of public interest which may clash. There is the public interest that harm shall not be done to the nation or the public service by disclosure of certain documents, and there is the public interest that the administration of justice shall not be frustrated by the withholding of documents which must be produced if justice is to be done. There are many cases where the nature of the injury which would or might be done to the nation or the public service is of so grave a character that no other interest, public or private, can be allowed to prevail over it. With regard to such cases it would be proper to say, as Lord Simon did, that to order production of the document in question would put the interest of the State in jeopardy. But there are many other cases where the possible injury to the public service is much less and there one would think that it would be proper to balance the public interests involved.”

[Emphasis supplied]

29. To test the credibility of the documents produced in sealed covers by the two witnesses, which were not disclosed to the respondent Association or their counsel, the Tribunal opened the sealed covers and examined the documents therein to assess its corroborative value as to the grounds stated by the Central Government to ban the respondent Association. Having gone through each of the documents in sealed covers separately and having examined the character, content and source of the documents, I am convinced that these are credible documents which deserve to be taken into consideration while assessing the sufficiency of cause before the Central Government while banning the respondent Association and that these credible documents worthy of reliance and corroboration cannot be put in public domain, in public interest as it may invite danger and harm to the vulnerable identities. The documents were re-sealed after examination.

30. In view of the law laid down by the Supreme Court in the matter of *Jamaat-e-Islami Hind (supra)* and other judgments as well as taking into consideration the provisions of UAPA, there is no doubt that the inquiry before this Tribunal is not in the nature of adjudicating the guilt of the accused but to determine the sufficiency of material before the Central Government to declare the respondent or any other association as an unlawful association. The enactment and the provisions of UAPA are clearly extraordinary and preventive in nature and thus provide for a departure from the regular

procedure prescribed, in conformity with the preamble of the Act. The Statement of Objects and Reasons as well as the provisions of UAPA and the Rules made thereunder itself provide for the procedure, for the purpose of taking evidence, in order to determine the sufficiency of grounds, for upholding the ban. The UAPA is a special enactment, hence, its provisions and the special procedure prescribed thereunder has to prevail on the general provisions of the law applicable.

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

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

32. The aforesaid Section permits the Government to claim privilege in regard to the documents relating to the affairs of the State, disclosure whereof is injurious to the public interest.

33. The procedure adopted by the Tribunal sufficiently satisfies the requirements of Section 123 of the Indian Evidence Act which, in any case, is not applicable *stricto sensu*. Thus, the plea of privilege raised by the Central Government deserves to be allowed and, hence, is accordingly allowed.

34. The Central Government, in support of the Notification banning JKLF-Y, examined the following eight witnesses:-

- (i) Mr. Shriram Dinkar Ambarkar, SP, Kupwara (PW-1);
- (ii) Mr. Tanmay Behera, SP, CBI, ACB, Jammu (PW-2);
- (iii) Mr. Arvind Digvijay Negi, SP, NIA (PW-3);
- (iv) Mr. Atul Goel, DIG, South Kashmir Range, Anantnag (PW-4);
- (v) Mr. Amod Ashok Nagpure, SP, Budgam (PW-5);
- (vi) Mohd. Suleman Choudhary, DIG, North Kashmir Range (PW-6);
- (vii) Mr. M. Haseeb Mughal, SSP, Srinagar (PW-7); and
- (viii) Mr. S.C.L. Das, Joint Secretary, Ministry of Home Affairs, Government of India (PW-8).

35. PW-1, Mr. Shriram Dinkar Ambarkar, SP, Kupwara, J&K appeared and produced his affidavit exhibit PW-1/A. The said witness has deposed in respect of charge-sheet No.43 dated 05.08.1991 (Ex. PW-1/1); charge-sheet No.32 dated 07.05.1991 (Ex. PW-1/2); charge-sheet No.63 dated 15.12.2012 (Ex. PW-1/3); FIR No.71/2016 [Ex. PW-1/4]; statement of witnesses in FIR No.71/2016 (Ex.PW-1/5); FIR No.68/2016 (Ex.PW-1/6); statement of witnesses in FIR No.68/2016 (Ex.PW-1/7); FIR No.1/2018 (Ex.PW-1/8) and statement of witnesses in FIR No.1/2018 (Ex.PW-1/9).

36. The witness in his affidavit has stated that some local domiciles of the State of J&K had illegally crossed the border/Line of Control thereby went to territory of Pakistan and got militant training in Pakistan with regard to preparation and handling of arms, ammunition and various explosive devices so as to use the said training and arms against the sovereignty of Union of India and thereby to separate the State of J&K from Union of India. After having attained the training and equipped with arms and explosives, they returned to the State of Jammu and Kashmir and the said arms and explosives were being used by them at various places in order to terrorize and destabilize the administration and justice system in the State of J&K and further to aid the illegal and anti-national motive and to separate the state of Jammu and Kashmir from the Union of India. Thus, FIR No.90/1988 at PS Trehgam was registered against 15 accused persons and after investigation, charge-sheet No.43 was filed on 05.08.1991. The investigation revealed that accused No.2 is a senior member of JKLF and accused No.8 is the Vice-President of JKLF, District Kupwara. He has further stated that some separatists have exploded a bomb near Hospital Trehgam to terrorise the people and following the blast, they called for a shut down in Bazar Trehgam on the eve of death anniversary of Late Mohd.Maqbool Bhat who was the founder of JKLF. The investigation revealed that the said attack has been committed by one Zahoor Ahmad Bhat, who is an active senior member of JKLF. Thus, a charge-sheet No.32 has been filed on 07.05.1991. He has further stated that on 13.08.2010, separatists (including organization JKLF) had given a call (Trehgam Chalho) for illegal assembly of the separatists.

Further, it was found that an unruly mob, armed with deadly weapons headed by Zahoor Ahmad Bhat, a senior member of JKLF, along with other separatists defied the order of District Magistrate imposing curfew and further by using stones, lathis, axes etc. attempted to kill the officials of police deployed for maintenance of peace and order thereby engaged in activity against territorial integrity of Union of India. On investigation, three accused were found to be senior members of JKLF-Y. Thus, charge-sheet No.63 was filed on 15.12.2012.

37. The witness has further stated that on 07.10.2016 after the Friday prayers, senior member of JKLF-Y Zahoor Ahmad Bhat addressed a speech to the group of miscreants, in Jamia Masjid Trehgam, appealing to act against the sovereignty/integrity of the Union of India and also instigated/ provoked the group of people to support the ongoing agitation for separation of the State of J&K from the Union of India. It was further found that they raised anti-national slogans as well, thereby calling for the Indian Armed Forces to leave the state of Jammu & Kashmir. On investigation, two more accused persons namely Mohd. Afzal Sheikh, Vice President of JKLF-Y and Mohd. Afzal Mir, a senior member of JKLF-Y were also involved in the said incident. The matter is under investigation and statements of 06 eye witnesses under Section 161 Cr.P.C. have been recorded. From the perusal of the said statements, it is found that aforesaid accused along with Zahoor Ahmad Bhat are affiliated with JKLF-Y and were instigating the assembly of people against the Armed Forces of India and were appealing and instigating them for secession of J&K state from Union of India. The witness has further submitted that a similar incident also happened on 30.09.2016, wherein senior members of JKLF-Y delivered a speech to the group of people after Friday prayers and instigated/provoked the group to observe complete bandh in the State of J&K so that the State of J&K could get separated from the Union of India. Thus, FIR No.68/2016 was registered in the matter and statements of 05 eye witnesses were recorded. The witness has further submitted that on 10.02.2018, Zahoor Ahmad Bhat, senior member of JKLF-Y, led a group of youth armed with deadly weapons, who raised anti-national slogans and agitated against the sovereignty and integrity of the Union of India and further called the separation of the State of J&K from the Union of India. The unruly mob pelted stones on paramilitary forces/police. Thus, FIR No.01/2018 was registered in the matter.

38. In his cross-examination, the witness has stated that he is not the Investigating Officer in any of these cases and that he had not inquired about the status of the cases before coming to depose before this Tribunal. He has further stated that he was not aware when the respondent was firstly banned by the petitioner and when the said ban was lifted. He has further stated that his legal staff in the office had translated all the Urdu documents, which are annexed with his affidavit, into English. He has further stated that he is deposing on the basis of the record and that he was only aware about the JKLF (Yasin Malik group) and that he was not aware how many groups by the name of JKLF (Yasin Malik Group) are operating. He has further stated that he was not aware whether Yasin Malik had given up arms at any point of time. He has also stated that more than 20 criminal cases were registered against the members of the respondent association in the District Kupwara after 1991.

39. PW-2, Mr. Tanmay Behera, SP, CBI, ACB, Jammu appeared and produced his affidavit exhibit PW-2/A. The said witness has deposed in respect of FIR and charge-sheet of RC-1(S)/1990/SIU.V/CBI (Ex. PW-2/1 and 2/2); statement of Nazir Ahmad Shah (Ex. PW-2/3); FIR and charge-sheet of RC-7(S)/1990/SIU.V/CBI (Ex. PW-2/4 and 2/5) and confessional statement of Wazahad Bashir Qureshi @ Mohd. Salim Khan (Ex. PW-2/6).

40. The witness in his affidavit has stated that in the morning of 25.01.1990 at about 07:30 am, when the Air Force employees who were living as tenants in the private house in Rawalpora had gathered and were waiting on the road at Sanat Nagar crossing, for the Air Force vehicles to go to their offices, some unknown terrorists fired with automatic weapons indiscriminately upon them with the criminal intention of killing them and as a result of such firing, about 14 Air Force employees including a lady were seriously injured while two of them died on the spot. Thus, FIR No.RC-1(S)/1990/SIU.V/CBI was registered on 01.03.1990 and after completion of investigation, charge-sheet was filed against seven accused persons including Mohd. Yasin Malik. He has further stated that around the first week of December of 1989, criminal conspiracy was hatched by some persons to kidnap Dr. (Miss) Rubia Sayeed, D/o Late Mufti Mohd. Sayeed (the then Union Home Minister) who at that time was undergoing Resident Rotatory Internship Training in Lalladed Hospital, Srinagar and to wrongfully conceal and confine her with the ulterior motive of getting five of their associates released from custody in exchange of her release. Thus, FIR No.RC-7(S)/1990/SIU.V/CBI was registered on 08.05.1990 and after completion of investigation, charge-sheet was filed against ten accused persons including Mohd. Yasin Malik.

41. In his cross-examination, the witness has stated that whatever has been stated in his affidavit is based on official record only. He has further stated that the aforesaid matters are still sub-judice and are fixed for arguments on the point of charge before the TADA Court. He has further stated that he was not aware when Yasin Malik was granted bail in these

cases or when he was allowed to go to USA or not. He was also not aware when Yasin Malik was arrested in the criminal cases stated in his affidavit. He denied the suggestion that he has deposed just to support the ban on the instructions of the petitioner.

42. PW-3, Mr. Arvind Digvijay Negi, SP, National Investigating Agency appeared and produced his affidavit Ex.PW-3/A. The said witness has deposed in respect of case No.RC-10/2017/NIA/DLI.

43. The witness in his affidavit has stated that Hafiz Muhammad Saeed, Amir of Jamaat-ud-Dawah and the secessionist and separatist leaders, including the members/cadres of the Hurriyat Conference, have been acting in connivance with active militants of terrorist organizations viz. Hizb-ul-Mujahideen (HM), Dukhtaran-e-Millat, Lashkar-e-Taibha (LeT) and other terrorist organizations for raising, receiving and collecting funds domestically and abroad through various illegal channels, including *hawala*, for funding separatist and terrorist activities in Jammu and Kashmir through the funds so collected and as such, have entered into a larger criminal conspiracy for causing disruption in the Kashmir valley by way of pelting stones on the security forces, systematically burning of schools, damage to public property and waging war against India. Thus, NIA had registered the aforesaid FIR. He has further stated that during the investigation, it has come on record that accused Yasin Malik as JKLF Chief has been an associate of accused Zahoor Ahmed Shah Watali since 1990's till date, who has been charge-sheeted for being the fulcrum vis-à-vis receiving funds from Pakistani establishment, from Haifz Syed and transferring the same to Hurriyat leaders including Yasin Malik for fuelling secessionist and terrorist activities in Kashmir Valley. He has further stated that terrorist activities in the State were initially started by the Jammu and Kashmir Liberation Front (JKLF) and JKLF has been responsible for a number of killings and subversive activities in Kashmir valley since 1990s and the aim and objective behind carrying out these killings and other subversive activities has been to achieve the so-called Azadi for the State of J&K. He has further stated that during the course of investigation, it has been revealed that since the killing of one Hizbul Mujahideen terrorist namely Burahan Wani in July, 2016, the JKLF joined the two main factions of APHC headed by Syed Ali Shah Geelani and Mirwaiz Umar Farooq under an umbrella group styled as Joint Resistance Leadership of Kashmir, which espouses the causes of secession of Jammu & Kashmir from the Union of India. The investigation further established that the separatist leaders in Kashmir valley are the political face of the terrorist activities in Jammu & Kashmir including the members and cadres of JKLF. He has further stated that there is ample evidence pointing to the nexus between the terrorists and the separatist leaders led by the All Parties Hurriyat Conference, who share the common ideology of secession and have jointly devised strategies as a part of their larger plot to secede the state of Jammu & Kashmir away from India. All evidences in this regard were produced by the witness in a sealed cover.

44. In his cross-examination, the witness has stated that he has been investigating this case for the last 2½ years and that he had information about the JKLF (Yasin Malik Group) from the time criminal case was registered against it and that he interrogated certain people in this connection. He volunteered that all the information he received regarding JKLF (Yasin Malik Group) is based upon the information received from J&K Police since NIA came into existence in 2008-09. He stated that he was not aware about any previous history of earlier banning of JKLF or challenging the ban before the Tribunal. He denied the suggestion that NIA was not having any material to prove that the respondent or Yasin Malik was involved in the conspiracy as stated in his affidavit. He further denied the suggestion that there is no conspiracy charged against Yasin Malik or that it is a concoction. He also denied the suggestion that no money in any form through any conduit or *hawala* has been received by Yasin Malik in furtherance of any motive of creating unrest in J&K. He also denied the suggestion that the State is using undue pressure against the democrats in the State and that is why false case, allegations and charges have been imposed and/or now being leveled against JKLF and its members.

45. PW-4, Mr. Atul Goel, DIG, South Kashmir Range, Anantnag, J&K appeared and produced his affidavit exhibit PW-4/A. The said witness has deposed in respect of three FIRs being FIR Nos.30/2018, 51/2007 and 79/2014 and statements of three witnesses exhibit A, B, C, D, E & F respectively.

46. The witness in his affidavit has stated that over the last three decades, JKLF has engaged in several activities that are intended to bring about the cession of Jammu & Kashmir from India and to incite people to bring about cession or secession; intended to disrupt the sovereignty and territorial integrity of India and which are intended to cause disaffection against India. He has further stated that JKLF has not only directly engaged in such acts but also aided and abetted acts of the separatist intended to bring about the cession of Jammu & Kashmir from India and to incite people to bring about cession or secession or to disrupt the sovereignty and territorial integrity of India or which are intended to cause disaffection against India. He has further stated that on 02.02.2018 after the Friday prayers from Jamia Masjid, the JKLF Chief Mohd. Yasin Malik led a mob along with Ghulam Jeelani, Faisil Ameen, Arsalan Turay and others appealing

against the sovereignty/integrity of the Union of India. Besides raising anti-national slogans, the miscreants led by Yasin Malik started pelting stones upon the police and security force personnel who were deployed to maintain law and order. Thus, FIR No.30/2018 was registered in the matter, which is under investigation. He has further stated that on 20.05.2007 at about 2:00 p.m., when the officials of police were performing patrolling duty, on reaching the cricket field near CRPF 157 Bn camp Kokernag, they found that the JKLF Chief Mohd. Yasin Malik along with other JKLF leaders had made the general public assembled and they were chanting slogans against India on loud speakers and were making speeches in favour of secession of Jammu & Kashmir from India. Accordingly, FIR No.51/2007 was registered. He has further stated that on 14.04.2014, a group of JKLF activists headed by Chairman JKLF Mohd. Yasin Malik assembled at Lal Chowk, Anantnag opposite Masjid Rehat Dedi with stones and lathis and stopped the movement of traffic. They pelted stones and used criminal force on the deployed nafri of Police/security forces. Accordingly, FIR No.79/2014 was registered.

47. In his cross-examination, the witness has stated that he is not the Investigating Officer in any of the FIRs mentioned in his affidavit and that he is only a supervising officer. He further stated that his staff has translated the FIR No.30/2018 from Urdu to English and that he was not aware whether the translators are authorized by the Government to translate the Urdu version into English or not. He denied the suggestion that all the cases and the FIRs exhibited A, C and E are false and concocted after the imposition of the ban upon the respondent. He also denied the suggestion that he had not mentioned about the status of the cases since the same are false.

48. PW-5, Mr. Amod Ashok Nagpure, SP, Budgam, Jammu & Kashmir appeared and produced his affidavit exhibit PW-5/A. The said witness has deposed in respect of FIR No.36/2015 (exhibit A-1) and statements of witnesses (exhibit A-2 to 6). The documents Ex.A-2 to 6 were objected to by the learned counsel for the respondent Association at the time of recording of the examination-in-chief of PW-5, however, the counsel has not made any submission in this regard at the time of final arguments. Thus, the said objection seems to have been given up/waived by the learned counsel for the respondent Association. Even otherwise, this Tribunal does not find any substance in the objection.

49. The witness in his affidavit has stated that on 20.04.2015, the JKLF Chief Mohd. Yasin Malik along with other separatist leaders visited residence of deceased Suhail Ahmad Sofi for condolence purpose. In the said condolence meet, other separatist leaders delivered anti-national speech and also raised anti-Indian & Pro-Pakistan slogans. Further, they blocked Srinagar-Gulmarg road and started pelting stones upon CRPF and police personnel deployed there. Thus, FIR No.36/2015 was registered, which is still under investigation. During investigation, statements of eye witnesses were recorded wherein it has been stated that JKLF Chief Mohd. Yasin Malik, along with other separatist leaders, who came for condolence, started delivering anti-national speech and pro-Pakistan slogans, thereby instigated the people gathered out there.

50. In his cross-examination, the witness has stated that he was not the Investigating Officer of the FIR and had not arrested any person in the said FIR. He had further stated that whatever is stated in his affidavit is on the basis of the record and not from his personal information. He has further stated that the translation of the FIR was done by the stenographers and the prosecutors.

51. PW-6, Mohd. Suleman Choudhary, DIG, North Kashmir, J&K appeared and produced his affidavit exhibit PW-6/A. The said witness has deposed in respect of the documents annexed with his affidavit and exhibit A to L.

52. The witness in his affidavit has stated that on 25.12.2009 after Friday prayer, Mohd. Yasin Malik started raising anti-national slogans like '*Hum kya chahtay Azadi*' & '*Hindustan Hi Hi*'. On hearing such slogans, a gathering of about 200 to 250 people assembled at Bus Stand Hajin. While raising anti-national slogans, Mohd.Yasin Malik began provoking the people gathered there and spreading hatred amongst them against India. Consequently, FIR No.239/2009 was registered. He has further stated that on 22.10.2008, Mohd. Yasin Malik along with some of his companions including Molvi Showkat Ahmad Shah, appeared at Hajin Chowk and raised anti-national slogans. Consequently, a large number of people assembled at Hajin Chowk who were being provoked by Mohd.Yasin Malik and Molvi Showkat Ahmad Shah against the Indian State. Thus, FIR No.260/2008 was registered and both of them were arrested. He has further stated that similar incidents of provoking people and delivering anti-national slogans and speeches happened on various dates i.e. on 30.04.2010, 09.09.2011 and 14.11.2003 involving Mohd. Yasin Malik and other persons and thus, FIR Nos.109/2010, 95/2011 and 289/2003 respectively were registered against these persons.

53. In his cross-examination, the witness has stated that he was not aware whether the respondent was banned at any point of time earlier. He further stated that he is not the Investigating Officer of the FIRs annexed with his affidavit and he is not aware when the accused mentioned in the FIRs were arrested and/or granted bail but he denied the suggestion that he is not aware about the incidents recorded in the said FIRs. However, he admitted that whatever has been stated in his

affidavit is on the basis of the information received from the records and not from his personal knowledge. He denied the suggestion that the protests were against the human rights violation by the State against the people of Kashmir.

54. PW-7, Mr. M. Haseeb Mughal, SSP, Srinagar appeared and produced his affidavit exhibit PW-7/A. The said witness has deposed in respect of the FIR Nos.60/2016, 52/2014, 17/2014, 30/2014 and 17/2016 annexed with his affidavit as exhibit A to E.

55. The witness in his affidavit has stated that on 13.07.2016, PS Mahraj Gunj, District Srinagar received a docket from Sgct. Reyaz Ahmad, No.1122/S of Police Post Banamohalla requesting the In-charge of Police Post Banamohalla to lodge an FIR that some miscreants, organized in the form of mob, headed by Noor Mohammad Kalwal and Abid Beigh, were raising anti-national slogans and committing offences under the UAP Act. Upon this information, FIR No.60/2016 was registered and both the accused were arrested. It is further stated that both the accused are active members of JKLF and have been involved in various stone pelting cases. He has further stated that a written docket was also received on 23.06.2014 through Sgct. Mohammad Yousuf that while they were performing law and order duties at Budshah Chowk, Srinagar, a violent mob, rioting on the way, came out of Maisuma chanting slogans like "Leave Kashmir" and "Quit Kashmir". The violent mob of rioters was led by Mohd.Yasin Malik and Bashir Ahmad Bhat who are the office-bearers of JKLF. Thus, FIR No.52/2014 was registered. He has further stated that on 12.02.2014, PS Khanyar received information that one person namely Fayaz Ahamd Lone @ Douda has pasted provocative posters of banned organization JKLF on Government property which hurts the sentiments of general public. Thus, FIR No.17/2014 was registered and the accused was arrested who confessed the crime. He has further stated that on 11.04.2014, information was received that some unknown persons were distributing election boycott posters of JKLF to create panic in the area and to stop general public from casting their votes. Thus, FIR No.30/2014 was registered. During investigation, it was revealed that Mohd. Yasin Malik was involved in the commission of this offence. The case is under investigation and the search is on to identify other culprits involved in the case. He has further stated that on 26.05.2016, information was received that JKLF Chief Mohd. Yasin Malik in league with his peers was planning to form a platform by uniting Hurriyat Leadership against Government policies and unity of the Indian State. Thus, FIR No.17/2016 was registered. During investigation, it was revealed that the platform created by Yasin Malik was a joint resistance leadership to challenge the unity and integrity of India. The case is still under investigation.

56. In his cross-examination, the witness has stated that he is not the Investigating Officer in any of the FIRs annexed with his affidavit and the details of the same were conveyed to him by the IO during the crime review meetings from time to time in his office. He denied the suggestion that the FIRs are just to suppress the protest, killings or maiming of the public. He stated that he never came across any record showing the ban upon the respondent or lifting of the ban in the year 1991. He further stated that he was not aware whether Yasin Malik was allowed to go to POK through Kaman Bridge or not. He further stated that J&K Police maintains the record of the person crossing over the Kaman Bridge but he had not seen that record. He denied the suggestion that he had seen the record and that he was deposing falsely to conceal the fact regarding Yasin Malik crossing the Kaman Bridge. He also denied the suggestion that he was deposing at the command of his senior officers and that his statement was not voluntary. He also denied the suggestion that the cases that he had annexed with his affidavit were false cases and counterblast to the protests against the killings of the civilians by the State.

57. PW-8, Mr. S.C.L. Das, Joint Secretary, Ministry of Home Affairs, Government of India had appeared and produced his affidavit exhibit PW-8/A. The said witness has deposed regarding the procedure adopted in issuance of Notification dated 22nd March, 2019 as also in respect of intelligence inputs and reports, copies of which were placed before the Tribunal in sealed cover.

58. In his affidavit, the witness has stated that the Notification dated 22nd March, 2019 is based on the information, material and inputs received from the Government of Jammu & Kashmir, National Investigation Agency (NIA), Central Bureau of Investigation (CBI) and Intelligence Bureau (IB) with regard to the entrenched and continued involvement of Jammu and Kashmir Liberation Front (Mohd.Yasin Malik faction) in unlawful activities. He has further stated that the inputs received from the aforesaid are analyzed on a regular basis which, *inter alia*, indicate that JKLF-Y is consistently engaged in unlawful activities pursuant to a well deliberated agenda of endorsing and actively encouraging separatism and militancy in Jammu and Kashmir. He has further stated that JKLF-Y is involved in various anti-national and subversive activities; is supporting and inciting claims of secession of a part of the Indian Territory from the Union, and is supporting terrorist and separatist groups for the purpose, by indulging in activities and articulations intended to disrupt the sovereignty and territorial integrity of the country. He has further stated that since the unlawful activities of JKLF-Y were

found to have been continuing unabated, a Note was prepared in consultation with the Departments concerned, for the consideration of the Cabinet Committee on Security. Thereafter, the Cabinet Committee on Security deliberated on the proposal contained in the above Note in the meeting held on 22nd March, 2019 and took the considered decision to declare JKLF-Y as an unlawful association under the provisions of the UAP Act. Accordingly, the requisite Notification was made and published in the Gazette of India, Extraordinary, Part-II Section 3, Sub-Section (ii) vide S.O. 1403(E) dated 22nd March, 2019. He has further submitted that in addition to the information received from the Government of Jammu and Kashmir, NIA and CBI regarding the unlawful activities of JKLF-Y, various intelligence reports and inputs from IB have been received which bear ample testimony to the involvement of JKLF-Y in unlawful activities. The intelligence reports and inputs from IB, *inter alia*, reveal and substantiate the following: (a) anti-India/anti-Government activities of JKLF-Y; (b) pro-militancy activities of JKLF-Y; (c) pro-freedom, pro-secession activities of JKLF-Y; (d) funds received from inimical foreign sources by Chairman, JKLF-Y, and (e) terror linkages and separatists role of Chairman, JKLF-Y.

59. In his cross-examination, the witness has stated that he did not recall how many number of inputs were received between 1991 and 22.03.2019 which necessitated the process of banning the respondent. He further stated that he was aware about the activities of the respondent from the official records which necessitated the banning of the respondent organization but he was not aware when the respondent was first banned or when the ban was lifted. He also stated that he was not aware since when the Ministry of Home Affairs is maintaining the records of the activities qua banning of the respondent Association. He further stated that while he is aware of the contents of the sealed cover, he is not aware whether documents contained in the sealed cover form part of any case/FIR, mentioned in Annexure-I filed along with his affidavit. He denied the suggestion that there was no allegation of attempts of separating J&K State from Union of India against JKLF. He further denied the suggestion that JKLF was banned only to suppress the people's possible reaction to the abrogation of Articles 370 and 35A of the Constitution of India. He further denied the suggestion that there was no material or input of intelligence regarding JKLF helping any terrorist organization in J&K or abroad. He further denied the suggestion that the averments in para 3 of his affidavit regarding the input of NIA on terror funding is concocted and he also denied the suggestion that no evidence to that effect was available at that time with the Government or any Court of law. He also denied the suggestion that he was deliberately feigning his information and knowledge based on the official records of the Union of India regarding banning and lifting the ban on JKLF and subsequently parleys on J&K issue between JKLF and the former Prime Ministers of India from 1998 onwards.

60. In addition to the above prosecution witnesses, no public witness had appeared to depose before the Tribunal or filed any affidavit.

61. The respondent Association has not examined any witness in support of their case.

62. Learned Additional Solicitor General submitted that the respondent Association has been indulging in activities which are within the ambit of 'unlawful activity' as defined in Section 2 (o) of the Act. It is further submitted that activities of the members of the respondent Association are anti-national and subversive in character, which are intended to disrupt the sovereignty and territorial integrity of India. The respondent Association has been an active supporter of extremism and militancy in Jammu & Kashmir. It is further contended that the respondent Association has been supporting the claims for secession of the part of Indian Territory from the Union and inciting the local people to indulge in activities and articulations intended to disrupt the territorial integrity of India. The respondent Association supports subversive activities in its attempt to carve out a separate State out of the territory of the Union of India, and with this object, propagates and supports anti-national and separatist sentiments which are prejudicial to the territorial integrity and security of the country. It is, thus, contended that the respondent Association is an 'unlawful association' as defined in sub-section (p) of Section 2 of the Act.

63. It is the case of the Union of India that they have placed on record 98 FIRs where the office-bearers and/or members of the respondent Association are alleged to have indulged in activities which are anti-national, separatists and intended to disrupt the law and order situation in Jammu & Kashmir. Each of the FIRs has been proved by the Senior Police Officers who deposed before this Tribunal during the course of these proceedings and are *prima facie* evidence to hold that there was sufficient cause before the Central Government to declare the respondent Association as an 'unlawful association' under Section 3(1) of the Act. A reference has been made to the Background Note submitted along with the Notification appointing the Tribunal, stating that the respondent Association, which was founded by Mohd. Yasin Malik espouses the slogan of 'Azadi' which is a direct threat to the territorial integrity of India. He submitted that the office-bearers and the members of the respondent Association have been involved in cases of kidnapping, illegally channelizing the funds from outside India for the purpose of fomenting terrorism in Jammu & Kashmir. It is contended that the respondent Association is active in glorifying the terrorist activities and also a consistent justifier of acts of terrorism.

The respondent Association, on a consistent basis, has been calling 'Hartal' at the local level, especially in Kashmir, thus, disrupting the peaceful, social fabric in the State and causing unbearable hardship to the peace loving citizens. The respondent Association has been actively encouraging and supporting armed insurgency aimed at causing disaffection, disloyalty, disharmony and promoting enmity and hatred against the Government established by the due process of law.

64. A reference has also been made to the confidential inputs received from the intelligence agencies to further buttress the submission that there was 'sufficient material' before the Government to act against the respondent Association by declaring it as an 'unlawful association' under Section 3(1) of the Act.

65. It has been argued on behalf of the Union of India that the respondent Association has not put-forth any evidence on record which could outweigh the material placed by the Union of India in support of its contentions on sufficiency of cause before the Central Government to declare the respondent Association as unlawful. It is further argued that in the absence of any material having been brought by the respondent Association on record to counter the material placed before the Tribunal, the decision of the Central Government to declare the respondent Association as 'unlawful' deserves to be upheld.

66. Learned counsel for the respondent Association, at the outset, submitted that the ban on respondent Association is patently illegal, unconstitutional and vindictive which is clear from the fact that soon after banning the respondent Association, the Government has abrogated Articles 370 and 35A of the Constitution of India, thereby suppressing the voice of the Kashmiri natives which was being represented by the respondent Association. It is submitted that the respondent Association or its founder Mohd.Yasin Malik has never espoused the cause of secession and/or terrorism. He submitted that the respondent Association never advocated or indulged in activities which tend to directly or indirectly support extremism or militancy in Jammu & Kashmir. There has never been any statement from the respondent Association or from Mohd.Yasin Malik which is anti-national in character or intended to disrupt the sovereignty and territorial integrity of India. It is submitted that the Union of India has not placed on record any details with respect to the constitution of the respondent Association, its aims and objects, the names of its office-bearers or its members. It is submitted that in the absence of these basic details, which, if available with the Central Government, ought to have been placed before the Tribunal and in the absence of such details, the inference which deserves to be drawn is that sufficient material was not available with the Government to hold the respondent Association as an 'unlawful association' and, thus, the declaration of the respondent Association being 'unlawful' is bad in law. It is contended that in none of the FIRs being relied upon by the Central Government in support of the Notification declaring the respondent Association as unlawful, the respondent Association has been named as an accused. It is further submitted that there is no evidence with the Central Government to contend that the persons named in the FIRs being relied upon are either the office-bearers or the members of the respondent Association. It is contended that these details are material to the present adjudication and their absence in the evidence led before the Tribunal be read as fatal to their case. It is further contended that most of the FIRs placed on record in vernacular are illegible and the translations put-forth are unverified translations, having been translated by persons who are not authorized to do so. It is contended that the Union of India has failed to discharge the burden of proof by not being able to produce any documentary or oral evidence against the ban on the respondent Association. The contention raised is that in the absence of authorized translations, the FIRs brought on record cannot be relied upon for the purposes of adjudicating the sufficiency of cause and, hence, the declaration made by the Central Government under Section 3(1) of the Act is liable to be set aside. Learned counsel argued that in most of the FIRs, the allegations are relating to 'slogan shouting' by the accused persons and assuming, though not admitting, that the accused were members of the respondent Association, even then it does not tantamount to unlawful activity within the meaning of sub-section (o) of Section 2 of the Act. It is submitted that allegations leveled against the respondent Association are, in fact, nothing but protests against the atrocities of the ruling Government and there is a marked difference between 'protesting' and being 'anti-national'. Learned counsel contended that protests are a necessary part of democracy and 'when injustice becomes the rule, protest becomes the duty'. It is submitted that it is in such discharge of duty to the society, that there are protests when there is injustice and such protests also include slogan shouting. It is contended that such protests cannot be made a ground for declaring an Association as unlawful under sub-section (1) of Section 3 of the Act. Learned counsel submitted that the definition of 'State' postulates four important ingredients i.e. Territory, Population, Government and Sovereignty and, therefore, a protest against the Government certainly does not amount to a threat against the sovereignty of the nation.

67. Learned counsel for the respondent Association next argued that the Central Government has concealed the fact that the respondent Association was once earlier banned in the year 1992, which ban was subsequently withdrawn. It is contended that the stand taken by the Central Government that there was no such ban imposed by the Central Government

in the year 1992 is factually incorrect, since the proceedings in the matter were held in the year 1992, even though subsequently the ban was withdrawn.

68. It is next contended by the learned counsel for the respondent Association that the affidavits filed by the witnesses in these proceedings are in support of the declaration made under Section 3(1) of the Act and do not relate to the evidence which was available before the Central Government while making the declaration under Section 3(1) of the Act. It is submitted that the witnesses produced by the Union of India have stated in their testimonies that the Government had not sought their opinion before banning the respondent Association and they were completely clueless about the reason for banning the Association as it is clear from their cross-examinations. The Government has, thus, put the cart before the horse in hastily carrying out this absolutely unwarranted step of banning the said Association.

69. It is lastly argued that the Union of India has failed to produce any evidence in support of the contention that the respondent Association has links with a particular terror group(s) and is being funded by the same for carrying out unlawful activities threatening the sovereignty of the nation.

70. I have carefully perused the material brought on record and also heard the learned counsel for the parties. The written submissions filed by both the parties have also been carefully perused. While the Central Government produced 08 witnesses to justify the ban on the respondent Association, the respondent Association has not produced any witness. The witnesses from the Union of India proved the FIRs relied upon by the Central Government for banning the respondent Association as also the incidents involving members of the respondent Association.

71. Before adverting to appreciation of evidence brought on record, it would be worthwhile to notice the observations of the Constitution Bench of the Supreme Court in *Union of India vs. Tulsiram Patel, AIR 1985 SC 1416*, wherein the Hon'ble Supreme Court, while examining the expressions "law and order", "public order", and "security of the State", as used in different Statutes, observed in para 140, as under:-

"The expression 'law and order', 'public order' and 'security of the State' have been used in different Acts. Situations which affect "public order" are graver than those which affect "law and order" and situations which affect "security of the State" are graver than those which affect "public order". Thus, of those situations those which affect "security of the State" are the gravest. Danger to the security of the State may arise from without or within the State. The expression "security of the State" does not mean security of the entire country or a whole State. It includes security of a part of the State. It also cannot be confined to an armed rebellion or revolt. There are various ways in which security of the State can be affected. It can be affected by the State secrets or information relating to defence production or similar matters being passed on to the other countries, whether inimical or not to our country, or by secret links with terrorists. It is difficult to enumerate the various ways in which security of the State can be affected. The way in which security of the State is affected may be either open or clandestine."

72. PW-1 has deposed that the respondent Association is actively and passively supporting the cross-border terrorism and using arms, ammunitions and various explosive devices to terrorize and destabilize the administration and justice system in Jammu and Kashmir and further to aid the illegal and anti-national motive and to separate J&K from the Union of India. They are also involved in the acts of instigating/provoking the group of people to support the ongoing agitation for separation of J&K from the Union of India. PW-2 has proved two FIRs relating to cases of firing automatic weapons indiscriminately upon the air force officials result in killing and seriously injuring 14 air force employees and kidnapping of Dr. (Miss) Rubia Sayeed, D/o Late Mufti Mohd. Sayeed (the then Union Home Minister) for getting five of their associates released from custody in exchange of her release. PW-3 has deposed about the receiving and collecting of funds domestically and abroad through various illegal channels, including *hawala*, for fuelling secessionist and terrorist activities in Kashmir valley. He had also deposed that the respondents were working actively in coordination with other terrorist groups in the State of Jammu & Kashmir and supporting anti-national and subversive activities. PW-4 has deposed about the cases relating to raising anti-national slogans and pelting stones upon the police and security force personnel, who were deployed to maintain law and order. He had also deposed that JKLF Chief Mohd. Yasin Malik along with other JKLF leaders made the general public assembled and they were chanting slogans against India on loud speakers and were making speeches in favour of secession of Jammu & Kashmir from India. PW-5 has also deposed about delivering anti-national speech and raising anti-India and Pro Pakistan slogans by Mohd. Yasin Malik and other separatist leaders. PW-6 has deposed about various incidents of raising anti-national slogans like '*Hum kya chahtay Azadi*' & '*Hindustan Hi Hi*' and anti-national speeches by Mohd. Yasin Malik and other persons, thereby provoking the people

gathered there and spreading hatred amongst them against India. PW-7 has also deposed about various incidents of raising anti-national slogans like 'Leave Kashmir' and 'Quit Kashmir' and rioting. He has further deposed about pasting of provocative posters of JKLF and distributing posters for boycotting elections in order to create panic in the area and to stop general public from casting their votes. PW-8 has deposed about the process followed and steps taken in placing the matter before the Cabinet Committee on Security and about the intelligence inputs and the clandestine nature of activities of the respondent Association, aimed at disrupting the territorial integrity of India. Thus, it may be seen that the activities of the respondent Association and its members are not confined to raising of anti-India slogans but there is strong *prima facie* evidence that the office-bearers and the members of the respondent Association support cross-border terrorism, use arms, ammunitions and other explosive devices to disrupt peace in the State of Jammu & Kashmir and they also operate illegal channels, including *hawala*, for transfer of funds required to fuel secessionist and terrorist activities in Kashmir valley. There are a number of FIRs registered against the JKLF Chief Mohd.Yasin Malik directly implicating him in anti-India rhetoric.

73. It is worthwhile to notice that to assess the sufficiency of a cause to ban an Association, it is not necessary to appreciate the merits of the allegations and imputations made in the FIRs or to contemplate and visualize the possible outcome. The Tribunal has to *prima facie* assess the seriousness of the averments in the FIR and examine the same in the light of other evidence brought on record including the intelligence inputs, furnished to the Tribunal in sealed cover. This approach is justified keeping in view the clandestine nature of the activities alleged.

74. A careful perusal of the FIRs brought on record makes it apparent that the respondent Association has been actively indulging in and supporting anti-national activities. There are 98 FIRs which have been seen through and which have been relied upon by the Union of India. The FIRs pertain to a long period of time and the oldest being placed on record is of the year 1987. Thus, there is noticeable consistency in the organized manner of protest and the object of the protest. Even in cases where FIRs are lodged for slogan shouting, the contents of the slogan are a direct affront to the sovereignty of the State and are undoubtedly anti-national. As contended by the learned counsel for the respondent, admittedly, protests are a necessary part of a vibrant democracy but if the direction and object of the protest is intended to cause law and order problem and is in the form and shape of disruption to the territorial integrity of India, such protests can certainly not be a part of any democratic process. There is a significant difference in protesting on an issue and protesting for territorial sovereignty. There are statements attributed to Mohd.Yasin Malik as also to the office-bearers of the respondent Association which are separatists in character and support extremism and militancy in Jammu & Kashmir. Such statements have the potential of instigating sentiments which ultimately become prejudicial to the territorial integrity and security of the country. It is not within the domain of this Tribunal to assess the credibility of the allegations in each of these FIRs, which would fall within the domain of the regular courts but for the purposes of assessing the sufficiency of cause, there is sufficient noticeable credible material including the FIRs coupled with corroborative intelligence inputs which justify the action taken by the Central Government in banning the respondent Association under Section 3 of the Act by declaring the said Association as an 'unlawful association'.

75. I do not find any substance in the submissions of the learned counsel for the respondent Association that the evidence put-forth by the Central Government against the respondent Association is insufficient or that the FIRs cannot be relied upon solely on the ground that the translations are not in consonance with the procedure to be followed while translating such FIRs. I also do not find any reasons to believe the contention of the respondent Association that the exercise of banning the respondent Association is vindictive in character or unconstitutional. The Union of India has followed the procedure as laid down under the Statute and there is no reason to hold otherwise. The allegations in the FIR as also the intelligence inputs placed before the Tribunal in sealed cover are enough evidence. The only conclusion that follows is that the respondent Association and its office-bearers and members have been actively indulging in unlawful activities within the meaning of Section 2(1)(o) of the Act. The respondent Association has not led any evidence to substantiate their defence that their office-bearers or members named in the FIRs are not their members and are not involved in the kind of activities alleged against them.

76. From the aforesaid discussion, it is held that the activities of the respondent Association, its office bearers and members have been disruptive in character which threaten the sovereignty and territorial integrity of India. They have been acting in collusion with other similar groups to disrupt peace and harmony in Jammu and Kashmir. The Central Government had sufficient credible material and grounds for taking action under sub-Sections (1) & (3) of Section 3 of the Act for declaring 'JKLF-Y' as an 'Unlawful Association'. Accordingly, it is held that there is "sufficient cause" to confirm the Notification under sub-Section (3) of Section 4 of the Act declaring 'JKLF-Y' to be an "Unlawful Association"

The reference is answered in the affirmative and the ban imposed vide Notification No. S.O. 1403(E) dated 22nd March, 2019 declaring the Jammu and Kashmir Liberation Front (Mohd. Yasin Malik faction) as an 'unlawful association', under Section 3(1) & (3) of the Act is confirmed.

Before parting, I would like to place on record my appreciation for the assistance rendered by Mr. K.M. Nataraj, Additional Solicitor General of India. I also place on record my appreciation of the assistance rendered by Mr. Lorren Bamniyal, Registrar as well as by Mr. Sachin Datta, Sr. Advocate, Mr. Anil Soni, Mr. Anurag Ahluwalia, Central Government Standing Counsel, Ms. Aakansha Kaul, Mr. Anmol Chandan, Mr. Sharath Nambiar and Mr. Jay Prakash Singh, Advocates on behalf of the Central Government. I also place on record my appreciation of the assistance rendered by Mr. R.M. Tufail, Ms. Astha, Mr. Farooq Chaudhary, Mr. Equebal Nasir and Ms. Naahid Naasir, Advocates throughout the conduct of the proceedings of the Tribunal.

JUSTICE CHANDER SHEKHAR

Unlawful Activities (Prevention) Tribunal

SEPTEMBER 20, 2019

[F.No.14017/33/2019-NI-III]

S. C. L. DAS, Jt. Secy.