BEFORE THE NATIONAL COMMISSION FOR MINORITIES,

20/180



NEW DELHI

Re: NCM File No. MIDL/30/0036/12 COMPLAINT OF MALEK NIYAZBIBI BANNUMIYAN dated 10.2

AFFIDAVIT OF SANJIV RAJENDRA BHATT

I, SANJIV RAJENDRA BHATT, aged about 48 years residing at Bungalow No.2, Sushil Nagar Part II, Opposite Mahatma Gandhi Labour Institute, Drive-in Road, Ahmedabad 380 052, do hereby state and solemnly affirm as under:

- 1. I am filing this affidavit in furtherance of my earlier affidavit dated April 25, 2012, through which I had*inter alia* sought to bring out certain facts regarding the inadequacies of the investigation carried out by the SIT into the Complaintdated June 08, 2006, made by Mrs. ZakiaJafri pertaining tovarious allegations regarding the larger conspiracy and orchestration behind the Gujarat Riots of 2002. The Complaint of Mrs.ZakiaJafri encompasses the abominable and woeful events which took place in the State of Gujarat between February, 2002 and May, 2002 after the abhorrent Godhra incident on 27th February, 2002.My earlier affidavit sought to bring out certain details regarding the dubious role of the State Government of Gujarat in shielding the high and mighty including the Chief Minister Mr.NarendraModi from lawful inquisition and legal punishment. I had also averred in my earlier affidavit, that the Honourable Justice Nanavati and Mehta Commission of Inquiry and the SIT were deliberately turning a blind eye to the overwhelming documentary, oral and circumstantial evidence to conceal the complicity of the State Government of Gujarat and its high functionaries in the Gujarat Carnage of 2002.
- 2. I have now had the occasion to peruse the Report submitted by SIT in compliance of the order passed by the Honourable Supreme Court on September 12, 2011 in Criminal Appeal No. 1765 of 2011 that arose out of SLP (Criminal) No. 1088 of 2008; as well as the Report by the Learned Amicus Curiae dated 25/07/2011, submitted pursuant to the order of the Honourable Supreme Court of India dated 05/05/2011. Copies of both these Reports are now available in the public domain.
- 3. The kind attention of this Honourable Commission is drawn to my letter No. SRB/SIT/120516/01 dated May 16, 2012, addressed to Shri. R. K. Raghavan, Chairman, SIT; wherein I have tried to demonstratively point out certain apparent fallacies and brazen attempts at cover-up in the Final Report submitted by the SIT. A copy of the said letter is marked and annexed herewith as **Annexure-A**.



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5399108 medabad 4. As already submitted to this honourable Commission, the SIT has continuously disregarded my repeated requests and has deliberately desisted from getting my statement recorded before a Magistrate as per the provisions of Section 164(1) of the Code of Criminal Procedure. It is now apparent from the Report submitted by SIT, that certain very crucial portions of my statement, including the timings of extremely consequential meetings with the Chief Minister Mr.NarendraModi on 27/02/2002 and 28/02/2002, have either been incorrectly recorded or deliberately tweaked by the SIT, possibly with the ulterior motive and intent ofshielding certain powerful persons including the Chief Minister Mr.NarendraModi from legal punishment. These deliberate acts on the part of the SIT would amount to offences under Sections 218 and 219 of the Indian Penal Code.

5. The kind attention of this Honourable Commission is drawn to Page 540 of the Report submitted by the SIT, wherein it is stated that the SIT was directed by the Honourable Supreme Court of India on 15/03/2011 to carry out further investigation under section 173(8) of the Cr.P.C. into the complaint of Smt. JakiaNasimAhesanJafri dated 08/06/2006. Accordingly further investigation was carried out and a Report was submitted to the Honourable Supreme Court of India on 25/04/2011. The Honourable Supreme Court of India on 05/05/2011 thought it fit to hand over the said Report to the Learned Amicus Curiae and directed him to examine the ~ Steport; analyse and have his own independent assessment of the zstatements of the witnesses recorded by the SIT and submit his comments thereon. It was also left open to the Learned Amicus Curiae to 4 O interact with any of the witnesses, who had been examined by the SIT, including the Police Officers, as he may deem fit. The Learned Amicus Curiae accordingly examined the SIT Report and also interacted with some of the witnesses including some Police Officers; and submitted his independent report to the Honourable Supreme Court of India on 25/07/2011.

It may kindly be noted by that the Honourable Supreme Court of India, while disposing of SLP (Criminal) 1088 of 2002 on September 12, 2011; held thatthe complaint of Mrs.ZakiaJafri encompasses the abominable and woeful events which took place in the State of Gujarat between February, 2002 and May, 2002 after the abhorrent Godhra incident on 27th February, 2002. The Honourable Supreme Court of India further held the investigation to have been conducted and completed by the SIT, in terms of the orders passed by itself from time to time and directed the Chairman SIT to forward a Final Report, along with the entire material collected by the SIT, to the Court which had taken cognizance of C.R. No. 67 of 2002 of Meghaninagar Police Station, as required under section 173(2) of the Code of Criminal Procedure.



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It is now apparent from the Report that the SIT has carried out substantial further investigation even *after* the Honourable Supreme Court of India directed the SIT to submit the Final Report u/s 173(2) of the Cr.P.C., on September 12, 2011. It is also apparent from the Report that the said further investigation has been carried out after September 12, 2011; with the sole purpose and motive of shielding Mr.NarendraModi and other powerful accused persons from legal punishment.

6. As conveyed to this Honourable Commission on earlier occasions, it has been my longstanding and oft-stated apprehension that the Government of Gujarat has been selectively destroying potentially incriminating documents with the tacit blessings of the Honourable Justice Nanavati and Mehta Commission of Inquiry as well as the SIT. Despite repeated requests and reminders, neither of the two above named inquisitorial agencies have deemed it necessary and fit to issue any directions for preservation or production of vital contemporaneous documents and records. It is outrageously shocking that the SIT has chosen to perfunctorily deal with the issue of non-preservation or destruction of material documents and records in one sentence on Page 529 of the Final Report:

"Efforts were made to locate the dispatch register and fax register of State IB Control Room, but the same had been reportedly destroyed."

has now become increasingly clear that agencies and offices working under the control of the State Government of Gujarat have conspired to selectively destroy potentially incriminating documents and records pertaining to the Gujarat Carnage of 2002. It is also apparent that despite repeated requests, the Honourable Justice Nanavati and Mehta Commission of Inquiry did not make any fruitful efforts for the production and/or preservation of crucial and relevant records; and thereby indirectly facilitated the process of destruction of very vital evidence.

The SIT under the stewardship of Mr.Raghavan has conveniently chosen to ignore the fact that such acts on the part of the State Government or its agents would amount to offences under Sections 120-B, 201 and 204 of the Indian Penal Code.

7. It is submitted before this Honourable Commission that the State of Gujarat is the Prosecutor in the on-going Criminal Trial that has ensued from the investigation of Meghaninagar Police Station C.R.No. 67 of 2002. That the SIT had carried out further investigations u/s 173(8) of the



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Regd No. 5399/68 Ahmedabad

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Cr.P.C. inMeghaninagar Police Station C.R.No. 67 of 2002 under orders of the Honourable Supreme Court of India. That I was constrained to file an affidavit before the Honourable Supreme Court of India on 14/04/2011 in order to bring out the inadequacies and certain disquieting aspects about the further investigation being carried out by the SIT. That the SIT submitted its Report to the Honourable Supreme Court of India on 25/04/2011. That pursuant to the order of the Honourable Supreme Court of India dated 05/05/2011, the said Report of the SIT was handed over to the Learned *Amicus Curiae* for independent analysis, assessment and opinion as stated in paragraph no. 5 above.

As stated in my earlier affidavit dated 25/04/2012 under the heading "Interaction with the Amicus Curiae", I had met the Learned Amicus Curiae on 18/06/2011 along with another witness, Driver Constable TarachandYadav.

The kind attention of this Honourable Commission is drawn to Paragraph 21 of the Report dated 25/07/2011, submitted by the Learned Amicus Curiae where he states that:

I have also received a copy of a letter (marked confidential) dated 22.06.2011 from the Under Secretary, Home Department to the Chairman, SIT. In the said letter, the Government of Gujarat has stated that it has "retrieved" several emails of ShriSanjiv Bhatt (I am not commenting on the legality of such "retrieval"). According to the Government of Gujarat:

Ieaves no room for doubt that it is a systematic and larger conspiracy, prough ShriSanjiv Bhatt, involving top leaders of Congress Party in Gujarat, vested interest groups surviving on anti-Gujarat campaign and electronic and print media reporters all of whom have started final efforts to keep the Godhra riot issue live based on concocted facts and ShriSanjiv Bhatt, through all of them, is trying to build up a story at a stage when after almost 10 long years the Hon'ble Supreme Court has virtually concluded the judicial proceedings after undertaking tremendous judicial exercise as elaborately pointed out in the affidavit of the State Government."

It is now clear from the Report of the Learned Amicus Curiae that on 22/06/2011, viz.within four days of my meeting with the Learned Amicus Curiae, the State of Gujarat (the <u>Prosecutor</u> in the on-going Criminal Trial that has ensued from the investigation of Meghaninagar Police Station C.R.No. 67 of 2002) in a brazen reversal of its constitutionally obligated role and duty, wrote a Confidential Letter to the Chairman SIT (the <u>Investigator</u> in the



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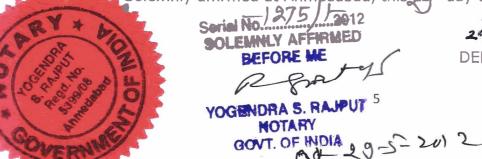
further investigations u/s 173(8) of the Cr.P.C. in Meghaninagar Police Station C.R.No. 67 of 2002), with the apparent intention ofinfluencing the on-going investigation and shielding the accused persons including the Chief Minister Mr.NarendraModi and others from legal punishment. The Janus-faced policies and machinations of the State Government of Gujarat once again stand exposed in this overt attempt at influencing and subverting the on-going investigation against the Chief Minister Mr.NarendraModi and other powerful persons accused of heinous crimes.

Needless to elaborate, it would be an unpardonable travesty of justice if the State of Gujarat is permitted to succeed in its ongoing collaborative efforts to shield the high and mighty offenders from legal punishment.

8. In view of the above stated facts and circumstances, it would be wholly appropriate for a statutory national body like the National Commission for Minorities, mandated with the powers and responsibility of looking into specific complaints regarding deprivation of rights and safeguards of the Minorities and taking up such matters with the appropriate authorities; to immediately resort to appropriate and necessary legal recourse, in order to ensure that the victims of the genocidal carnage of 2002 are not deprived of their Fundamental Right to Justice by the joint machinations of the State Government of Gujarat, the Honourable Justice Nanavati- Mehta Commission of Inquiry, the SIT headed by Mr.Raghavan and the high and mighty persons accused of heinous genocidal crimes.

Kurther submit that once I am allowed access to the requisite and Devant information/records/documents as prayed for in Para5 of my Application dated 12th March 2012, to this Honourable Commission; I shall the in a position to file a more detailed and comprehensive Affidavit regarding the events, factors and circumstances that facilitated the Gujarat Carnage of 2002, as also the on-going attempts at deliberate disregard/ destruction of crucial and relevant evidence with a view to deny the minorities in Gujarat, the rightful Justice due to them and deprive them of the right to fair investigation/ inquiry into offences/instances pertaining to systematic destruction of their life and property during the Gujarat Carnage of 2002.

Solemnly affirmed at Ahmedabad, this **26**th day of May, 2012.



Sanja 29/05/20125 DEPONENT

Most Urgent

No. SRB/SIT/120516/01 Sanjiv Rajendra Bhatt IPS Camp: Ahmedabad, Date: May 16, 2012

Shri. R. K. Raghavan IPS (Retd.) Chairman, SIT- Godhra Riot Cases, Gandhinagar.

Sub: Apparent fallacies and cover-up in the Final Report submitted by the SIT

Ref: 1. My letter No. SRB/SIT/110318/01 dated March 18, 2011.
2. My letter No. SRB/SIT/110322/01 dated March 22, 2011.
3. My letter No. SRB/SIT/110406/01 dated April 06, 2011.
4. My letter No. SRB/SIT/111210/01 dated December 10, 2011
5. My letter No. SRB/SIT/111226/01 dated December 26, 2011
6. My letter No. SRB/COI/120104/01 dated January 04, 2012
7. My letter No. SRB/SIT/120106/01 dated January 06, 2012
8. My letter No. SRB/SIT/120115/01 dated January 15, 2012
9. My letter No. SRB/SIT/120125/01 dated January 25, 2012
10. My letter No. SRB/SIT/120128/01 dated January 28, 2012
11. My letter No. SRB/SIT/120130/01 dated January 30, 2012
12. My letter No. SRB/SIT/12023/01 dated February 23, 2012

Respected Sir,

- 1. I have had the occasion to peruse the Report submitted by SIT in compliance of the order passed by the Honourable Supreme Court on September 12, 2011 in Criminal Appeal No. 1765 of 2011 that arose out of SLP (Criminal) No. 1088 of 2008; as well as the Report by the Learned Amicus Curiae dated 25/07/2011, submitted pursuant to the order of the Honourable Supreme Court of India dated 05/05/2011. Copies of both these Reports are now available in the public domain.
- 2. It is stated at Page 540 of the Report submitted by the SIT, that the SIT was directed by the Honourable Supreme Court of India on 15/03/2011 to carry out further investigation under section 173(8) of the Cr.P.C. into the complaint of Smt. Jakia Nasim Ahesan Jafri dated 08/06/2006. Accordingly further investigation was carried out and a Report was submitted to the Honourable Supreme Court of India on 25/04/2011. The Honourable Supreme Court of India on 05/05/2011 thought it fit to hand over the said Report to the Learned Amicus Curiae and directed him to examine the report; analyse and have his own independent assessment of

the statements of the witnesses recorded by the SIT and submit his comments thereon. It was also left open to the Learned Amicus Curiae to interact with any of the witnesses, who had been examined by the SIT, including the Police Officers, as he may deem fit. The Learned Amicus Curiae accordingly examined the SIT report and also interacted with some of the witnesses including some Police Officers; and submitted his independent report to the Honourable Supreme Court of India on 25/07/2011. <u>The Honourable Supreme Court of India held the investigation to have been conducted and completed by the SIT, in terms of the orders passed by itself from time to time and passed an order on 12/09/2011 directing you to forward a Final Report, along with the entire material collected by the SIT, to the Court which had taken cognizance of C.R. No. 67 of 2002 of Meghaninagar Police Station, as required under section 173(2) of the Code of Criminal Procedure.</u>

- 3. It is quite apparent from your above referred Report that the SIT has carried out substantial further investigation even after the Honourable Supreme Court of India directed the SIT to submit the Final Report u/s 173(2) of the Cr.P.C., along with the entire material collected by the SIT, while disposing of Criminal Appeal No. 1765 of 2011 that arose out of SLP (Criminal) No. 1088 of 2008, on September 12, 2011. It is also very apparent from the report that the said further investigation has been carried out after 12/09/2011 with the sole purpose and motive of shielding Mr. Narendra Modi and other powerful accused persons from legal punishment.
- 4. Your learned attention is drawn to my Fax Message No. D-2/2-COM/ALERT/174/2002 dated 28.2.2002, reproduced by the SIT at Page 523 of the above referred Final Report as well as my Fax Message No. D-2/2-COM/ALERT/100/2002 dated 27.2.2002, reproduced by the SIT at Page 524 of the above referred Final Report. It is once again averred, that as repeatedly communicated to you on earlier occasions, authenticated copies of the said two Fax Messages along with other relevant documents were handed over to Mr. A. K. Malhotra in 2009 and once again to Mr. Himanshu Shukla in 2011. Copies of the said two Fax Messages along with other relevant documents were also personally handed over to the Honourable Justice Nanavati-Mehta Commission in 2011. It may also be noted that along with other relevant material issues, the contents of the said two Fax Messages were also brought to the notice of and discussed with the Learned Amicus Curiae on 18/06/2011. The mendacity on the part of the SIT with respect to the said two messages only confirms my genuine apprehension and oft-stated grievance that the SIT under your stewardship has been actively supressing evidence which could implicate Mr. Narendra Modi and other powerful accused persons in the genocidal crimes perpetrated during the Gujarat Carnage of 2002.

- 5. I am once again submitting copies of certain documents that have already been submitted to the SIT and the Honourable Justice Nanavati and Mehta Commission of Inquiry on earlier occasions, for the sole purpose of ensuring that the said documents are not supressed with a *mala fide* intent by the SIT or the Honourable Justice Nanavati and Mehta Commission of Inquiry.
- 6. Your kind attention is drawn to my Fax Message No. D-2/2-COM/ALERT/100/2002 dated 27.2.2002. As already stated in my deposition before the SIT, the said Fax Message was sent by me at around 11:00 pm of 27/02/2002, from the State Intelligence Bureau Control Room after attending the meeting at the residence of the Chief Minister Mr. Marendra Modi from 10:20 pm to 10:40 pm on the night of 27/02/2002.
- 7. It is evident from the observations at Page 527 of the SIT Report that the SIT has made overzealous efforts to undermine the credibility of Fax Message No. D-2/2-COM/ALERT/100/2002 dated 27.2.2002 on the below listed specious grounds:
 - a. **Ground:** The said message did not bear any Security Classification.

Clarification: All Fax Messages need not have Security Classification by default. The Security Classification is decided on the basis of the nature of the contents of the message. The said Fax Message did not contain any information of Confidential or Secret nature. The Fax Message requested the Commissioner of Police Ahmedabad to take immediate appropriate preventive action in view of the anticipated communal violence and accordingly the Fax Message was accorded the Highest Transmission Priority: CRASH.

Copies of Fax Message No. SCR/609/02 dated 27/02/2002 and Fax Message No. SCR/640/2002 dated 28/02/2002 sent by the DG&IGP Shri. K Chakravarthi through the State Control Room; as well as the Fax Message No. C/HM/100/2002 dated 28/02/2002, Fax Message No. C/D-2/SMASHAN YATRA/176/2002 dated 28/02/2002, Fax Message No. C/D-2/TAKEDARI/177/2002 dated 28/02/2002, Fax Message C/D-2/BANAO/178/2002 dated 28/02/2002 etc. sent by the State Intelligence Bureau Control Room on behalf of the ADGP (Intelligence) are once again enclosed for your perusal and record. It may kindly be noted that

the fact that none of these messages bear any Security Classification, exposes the maliciously specious logic of the SIT.

b. **Ground:** The Dispatch Number of D-2 Branch on the said date was under Serial No. 90.

Clarification: Mere perusal of Fax Message No. C/D-2/KARSEWAK/**172**/02 dated 27/02/2002 and Fax Message No. C/D-2/TAKEDARI/**173**/02 dated 27/02/2002 would immediately belie the deliberately fallacious averment of the SIT that the Dispatch Number of D-2 Branch on 27/02/2002 was under Serial No. 90

c. **Ground:** That "Investigation revealed that actually a letter No. D-2/2-COM/BANAO/100/2002 dated 02.03.2002 was sent on behalf of Addl. DG (Int.) to ACS (Home), Govt. of Gujarat, PS to CM and PS to MoS (Home) and the same related to I Cr. No. 9/02 u/s 302, 114 etc. of Khanpur P.S., Distt. Panchmahals."

Clarification: As you ought to be well aware by now, it is a matter of common practice in Gujarat Police to assign Serial No. 100 for urgently numbering out-of-sequence communication in emergent situations, whenever it is inexpedient to obtain the specific number of the dispatch sequencing.

This factual position is further confirmed by the letter No. D-2/2-COM/BANAO/100/2002 dated 02.03.2002 cited by the SIT itself, as the said letter pertains to urgent information regarding the emergent situation and contemporaneous carnage in Khanpur Police Station area of Panchmahals District on 02/03/2002. It is equally pertinent to note that another Fax Message No. C/HM/100/2002 dated 28.2.2002 pertaining to the killing of Mr. Ehsan Jafri and the beheading of a 10 year old girl in the on-going emergent violence on 28/02/2002 also bears the also bears the Serial Number 100.

d. **Ground:** The said message bears a typed dispatch number instead of a handwritten dispatch number.

Clarification: The concerned branches of the State Intelligence Bureau resorted to typewritten or handwritten dispatch numbering depending entirely upon the convenience and personal choice of the person typing the text of the concerned communication. Fax Messages bearing typewritten dispatch numbers are not uncommon in the State Intelligence Bureau. Copies of State Intelligence Bureau Fax Message No. D-2/2-COM/447/2001 dated 15/11/2001 as well as the Fax Message No. Security/G/Alert/0306/2002 dated 07/03/2002 are once again enclosed for your perusal and record. These Fax Messages will make it amply clear that typewritten dispatch numbers were not unusual in the communications sent out from the State Intelligence Bureau and will expose the defective logic of the faulty premise relied upon by the SIT.

e. **Ground:** The said message was unnecessarily addressed to persons who were even otherwise present in the meeting held at the CM's residence.

Clarification: The purpose of the said Fax Message was to advice the Commissioner of Police Ahmedabad to take immediate appropriate preventive action to deal with the anticipated communal violence in view of the Chief Minister's insistence on sticking to the decision of bringing the dead bodies of Karsewaks to Ahmedabd and the Intelligence Reports indicating massive mobilization of BJP/Bajrang Dal cadres for enforcing the VHP/BJP supported Gujarat Bandh on 28/02/2002. Moreover, it is very pertinent that the SIT has chosen to ignore the fact that one of the addressees, the Minister of State (Home), Mr. Gordhan Zadaphiya was not present in the meeting held at the residence of the Chief Minister and hence was required to be kept informed about the said developments.

f. **Ground:** The said message was not marked to the Addl. DG (Int.)

Clarification: As already conveyed to the SIT, a copy of the said Fax Message was put up for the perusal of the IGP (Intelligence) Mr. O.P. Mathur, as the ADGP (Intelligence) Mr. G.C. Raiger was on leave. Accordingly, the copy of the said message bears the initials of Mr. O.P. Mathur. As per the prevalent office procedure and practice it was incumbent upon the IGP (Intelligence) to further mark the said message to the ADGP (Intelligence).

8. Your kind attention is drawn to my Fax Message No. D-2/2-COM/ALERT/174/2002 dated 28.2.2002. The said Fax Message was sent in the early afternoon of 28/02/2002, after telephonically informing the Chief Minister Mr. Narendra Modi about the deteriorating Law and Order situation across Ahmedabad City, in general; and the imminent threat to the life of Ex-MP Mr. Ehsan Jafri and his family members, in particular.

- 9. It is evident from the observations at Page 528 of the SIT Report that the SIT has made overzealous efforts to undermine the credibility of Fax Message No. D-2/2-COM/ALERT/174/2002 dated 28.2.2002 on the below listed specious grounds:
 - a. **Ground:** The said message did not bear any Security Classification.

Clarification: All Fax Messages need not have Security Classification by default. The Security Classification is decided on the basis of the nature of the contents of the message. The said Fax Message did not contain any information of Confidential or Secret nature. The Fax Message apprised the CM and MOS (Home) about the developing situation at Gulmarg (as it was erroneously perceived to be named then) Society, Chamanpura and imminent danger to the lives of Ex-MP Mr. Ehsan Jafri and his family members; and requested the Commissioner of Police Ahmedabad to take immediate effective action and provide a Situation Report to the State Control Room. Looking at the highly emergent nature of the situation, the Fax Message was accorded the Highest Transmission Priority: CRASH.

Copies of Fax Message No. SCR/609/02 dated 27/02/2002 and Fax Message No. SCR/640/2002 dated 28/02/2002 sent by the DG&IGP Shri. K Chakravarthi through the State Control Room; as well as the Fax Message No. C/HM/100/2002 dated 28/02/2002, Message No. C/D-2/SMASHAN YATRA/176/2002 Fax dated 28/02/2002, Fax Message No. C/D-2/TAKEDARI/177/2002 dated 28/02/2002, Message C/D-2/BANAO/178/2002 Fax dated 28/02/2002 etc. sent by the State Intelligence Bureau Control Room on behalf of the ADGP (Intelligence) are once again enclosed for your perusal and record. It may kindly be noted that the fact that none of these messages bear any Security Classification, exposes the maliciously specious logic of the SIT.

b. **Ground:** The Dispatch Number of D-2 Branch on the said date was under Serial No. 100.

Clarification: Mere perusal of Fax Message No. C/D-2/SMASHAN YATRA/**176**/2002 dated 28/02/2002, Fax Message No. C/D-2/TAKEDARI/**177**/2002 dated 28/02/2002 and Fax Message No. C/D-2/BANAO/**178**/2002 dated 28/02/2002 belies the deliberately fallacious averment of the SIT that the Dispatch Number of D-2 Branch on 27/02/2002 was under Serial No. 100 c. **Ground:** That "Investigation revealed that O. No. D-2/2-COM/174/2002 dated 16.03.2002 was sent by Addl. DG (Int.) to Shri. B. K. Haldar, Jt. Secretary (NI), MHA, New Delhi and related to the daily report about the communal incidents up to 16.03.2002 (1800 hrs) in Gujarat State".

Clarification: The SIT, despite being fully aware of the fact that the Serial Number sequencing of the Messages sent by the Control Room is specific to a particular given day, is making a deliberate and *mala fide* attempt to mislead the Court. As clarified *vis-à-vis* point 9 b. above, it is very clear from the perusal of Fax Message No. C/D-2/SMASHAN YATRA/176/2002 dated 28/02/2002, Fax Message No. C/D-2/TAKEDARI/177/2002 dated 28/02/2002 and Fax Message No. C/D-2/BANAO/178/2002 dated 28/02/2002 that the Dispatch Number of D-2 Branch was already above 178 by the afternoon of 28/02/2002.

This clearly establishes that the Serial Numbering 174 as mentioned in the above referred O. No. D-2/2-COM/174/2002 dated 16.03.2002, sent by Addl. DG (Int.) to Shri. B. K. Haldar, Jt. Secretary (NI), MHA, New Delhi was specific to that particular day and exposes the intentional prevarication on the part of the SIT.

d. **Ground:** That "Interestingly the message in question had been addressed to PS to CM and PS to MoS (Home), whereas the same was actually actionable by Commissioner of Police, Ahmedabad City."

Clarification: The purpose of the said Fax Message was to officially apprise the CM as well as the MOS (Home), about the developing emergent situation at Gulmarg (as it was erroneously perceived by me at that point of time) Society, Chamanpura and imminent danger to the lives of Ex-MP Mr. Ehsan Jafri and his family members; as also to request the Commissioner of Police Ahmedabad City to take immediate effective action and provide a Situation Report to the State Control Room.

It is pertinent that as mentioned in the said Fax Message itself, I had telephonically apprised the Chief Minister Mr. Narendra Modi about the threat to the life of Mr. Ehsan Jafri and his family members. As already conveyed to the SIT, I had not telephonically apprised the Minister of State (Home) Mr. Gordhan Zadaphia and therefore a copy of the said Fax Message was addressed to the MOS (Home).

Most Urgent

It may be noted that as admitted by SIT itself at Page 535 of the Final Report, that:

"However, Shri Raiger has stated that, on 28.02.2002 afternoon, Shri Sanjiv Bhatt came to his chamber and conveyed a message based on a report from local IB unit, Ahmedabad City about the collection of a mob outside Gulberg Society, where late Ahesan Jafri, Ex-MP was residing and also about the inadequate presence of the police on the spot. Shri. Raiger has stated that the said message was passed on to the Ahmedabad City Police Control Room. Further, according to Shri. Raiger, he along with Shri. Sanjiv Bhatt, met the DGP immediately and informed him about the developing situation at Gulberg Society. Shri. Raiger further stated that the DGP was requested to impress upon the CP, Ahmedabad City to declare curfew in the area. To this, DGP immediately responded by telephonically speaking to Shri P.C. Pande the then CP, Ahmedabad City to ascertain the factual position. CP, Ahmedabad, Shri Pande informed the DGP over phone that a curfew had already been imposed."

The Fax Message under reference was sent to the Commissioner of Police Ahmedabad City prior to the above referred meeting, in order to ensure that immediate effective action was taken and a Situation Report was sent by the Commissioner of Police Ahmedabad to the State Control Room and the State Intelligence Bureau.

e. **Ground:** That Fax Message No. C/D-2/BANAO/178/2002 dated 28/02/2002 did not carry any reference to the earlier Fax Message No. D-2/2-COM/ALERT/174/2002 dated 28.2.2002 and hence the veracity of the Fax Message No. D-2/2-COM/ALERT/174/2002 dated 28.2.2002 is suspect.

Clarification: The SIT has maliciously ignored the fact that the said Fax Messages were intended for real-time sharing of actionable intelligence with the executive formations of the Police and State Administration during an emergent Law and Order situation of colossal proportions and unprecedented diabolism. The SIT in its overenthusiastic imbecility has also ignored the fact that the Fax Message No. C/D-2/BANAO/178/2002 dated 28/02/2002 whose veracity is not questioned, also did not carry any reference to the earlier Fax Message No. C/HM/100/2002 dated 28.2.2002 pertaining to the killing of Mr. Ehsan Jafri and the beheading of a 10 year old girl.

The SIT has conveniently failed to appreciate that in view of the then developing Law and Order situation, the immediate transmission and sharing of actionable intelligence gained primacy over the formal niceties of routine communication.

10.It has been my longstanding apprehension that the Government of Gujarat has been selectively destroying potentially incriminating documents with the tacit blessings of the SIT. Despite repeated requests and reminders, you have not deemed it necessary and fit to issue any timely directions for preservation or production of vital contemporaneous documents and records. It is outrageously shocking that the SIT has chosen to perfunctorily deal with the issue of non-preservation or destruction of material documents and records in one sentence on Page 529 of the Final Report: :

"Efforts were made to locate the dispatch register and fax register of State IB Control Room, but the same had been reportedly destroyed."

It has now become increasingly clear that agencies and offices working under the control of the State Government of Gujarat have conspired to selectively destroy potentially incriminating documents and records pertaining to the Gujarat Carnage of 2002. It is also apparent that despite repeated requests, the SIT did not make any fruitful efforts for the production and/or preservation of crucial and relevant records; and thereby indirectly facilitated the process of destruction of very vital evidence. The SIT under your stewardship has conveniently chosen to ignore the fact that such acts on the part of the State Government or its agents would amount to offences under Sections 120-B, 201 and 204 of the Indian Penal Code.

11.A retired Indian Police Service Officer of your calibre and experience would require no elaboration to appreciate that the State of Gujarat is the *Prosecutor* in the on-going Criminal Trial that has ensued from the investigation of Meghaninagar Police Station C.R.No. 67 of 2002. That the SIT had carried out further investigations u/s 173(8) of the Cr.P.C. in Meghaninagar Police Station C.R.No. 67 of 2002 under orders of the Honourable Supreme Court of India. That I was constrained to file an affidavit before the Honourable Supreme Court of India on 14/04/2011 in order to bring out the inadequacies and certain disquieting aspects about the further investigation being carried out by the SIT. That the SIT submitted its Report to the Honourable Supreme Court of India on 25/04/2011. That pursuant to the order of the Honourable Supreme Court of India dated 05/05/2011, the said Report of the SIT was handed over to the Learned Amicus Curiae for independent analysis, assessment and opinion as stated in paragraph no. 2 above.

In view of the above conspectus, your attention is drawn to Paragraph 21 of the Report dated 25/07/2011, submitted by the Learned Amicus Curiae where he states that:

I have also received a copy of a letter (marked confidential) dated 22.06.2011 from the Under Secretary, Home Department to the Chairman, SIT. In the said letter, the Government of Gujarat has stated that it has "retrieved" several emails of Shri Sanjiv Bhatt (I am not commenting on the legality of such "retrieval"). According to the Government of Gujarat:

"It leaves no room for doubt that it is a systematic and larger conspiracy, through Shri Sanjiv Bhatt, involving top leaders of Congress Party in Gujarat, vested interest groups surviving on anti-Gujarat campaign and electronic and print media reporters all of whom have started final efforts to keep the Godhra riot issue live based on concocted facts and Shri Sanjiv Bhatt, through all of them, is trying to build up a story at a stage when after almost 10 long years the Hon'ble Supreme Court has virtually concluded the judicial proceedings after undertaking tremendous judicial exercise as elaborately pointed out in the affidavit of the State Government."

As you are well aware, I had met the Learned Amicus Curiae at the BSF Mess, Gandhinagar on 18/06/2011 along with another witness, Driver Constable Tarachand Yaday. It is now clear from the Report of the Learned Amicus Curiae that on 22/06/2011, viz. within four days of my meeting with the Learned Amicus Curiae, the State of Gujarat (the Prosecutor in the on-going Criminal Trial that has ensued from the investigation of Meghaninagar Police Station C.R.No. 67 of 2002) in a brazen reversal of its constitutionally obligated role and duty, wrote a Confidential Letter to you as the Chairman of SIT (the Investigator in the further investigations u/s 173(8) of the Cr.P.C. in Meghaninagar Police Station C.R.No. 67 of 2002), with the apparent intention of influencing the on-going investigation and shielding the accused persons including the Chief Minister Mr. Narendra Modi and others from legal punishment. The Janus-faced policies, as well as the collaborative machinations of the State of Gujarat and the SIT under your stewardship, once again stand exposed in this overt attempt at influencing the on-going investigation against the Chief Minister Mr. Narendra Modi and other powerful persons.

> Yours sincerely, Saniw

16/05/2012 Shan

⁽Sanjiv Bhatt)

Encl: Scanned copies of 19 relevant communications.

Copy with compliments:

- 1. Mr. Raju Ramachandran, Senior Advocate and Learned Amicus Curiae.
- 2. Mrs. Jakia Nasim AhesanJafri, Surat.
- 3. Ms. Teesta Setalvad, Citizens for Justice and Peace, Mumbai.

SECRET

Mo. D-2 / 2-COM / 447 / 2001. Office of the Addl. D.G. of Police, Intelligence, Gujarat State, Gandhinagas Date: 15/11/2001.

To,

Addl. Thief Secretary, Home Oppartment, Govt. of Gujarat, Sachivulaya, Gandhmagar.

Sub: Details of Major/Minor Communal incidents in Gujarat from 1971 to 31 10-2001.

Sir,

This office was asked to prepare the details of Major/Minor communal incidents in Gujarat from 1971 to 31-10-2001, telephonically.

The statistical data of Major/Minor communal incidents - Nos., Loss of properties, Death/Injury, Police firing, period of Curtew imposition, etc. deputs are hereby given with in the attached Annexures Nos.1 to 40.

Yours sincerely,

(Sanjay Srivastava) Dy. Commissioner (C) For Addl. D.G.P. Int., G.S., Gandhinagar

CONFIDENTIAL

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CIPHER MESSAGE

CRASH

To All CsP/SsP including Westpol Vadodara All Range IsGP in the State
Info Addl. Chief Secy., Home, G.Sl., Gandhinagar, Police Gandhinagar, Addl. D.G.P., (L & O), G.S., Gandhinagar Addl. D.G.P., CID (Crime & Rlys.) G.S., Gandhinagar

From :Addl. D.G.P., Intelligence, Gujarat State, GandhinagarO. No.:D-2/2-Com/ 6 9 /2002Dt. 27/2/2002

Test :

It is learnt that the communal incident at Godhra will have State-wide repercussions and people traveling in Public Transport like Trains, Buses etc. are likely to be targeted for vindictive action (.)

Kindly take all precautionary measures to prevent communal conflagration in your jurisdiction (.)

(Sanjiv Bhatt) Dy Commissioner (Communal) C. For Addl. D.G.P., Int., G.S., Gandhinagar

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FAX MESSAGE (PRIORITY : MOST IMMEDIATE)

TO

FROM

ADDL. CHIEF SECRTETARY (HOME DEPARTMENT) 1850 SACHIVALAYA, GANDHINAGAR

DT. 27.2.2002

POLICE GANDHINAGAR

609/02

O.NO. SCR/

<u>TEXT</u>

AS A REACTION TO THE INCIDENT OF ARSON TO A RAILWAY COMPARTMENT OF SABARMATI EXPRESS NEAR GODHRA RAILWAY STATION TODAY MORNING WHERE A LARGE NUMBER OF PERSONS HAVE DIED DUE TO BURNING, SPORADIC INCIDENTS OF VIOLENCE IN THE FORM OF STABBING AND ARSON HAVE ALREADY TAKEN PLACE AT GODHRA, BARODA CITY, ANAND AND AHMEDABAD CITY (.) THE VISHWA HINDU PARISHAD HAVE GIVEN A CALL FOR GUJARAT BANDH ON 28.2.2002 (.) THE EXISTING RESOURCES OF STATE RESERVE POLICE HAVE ALREADY BEEN FULLY DEPLOYED (.) IN ORDER TO COPE UP WITH THE EMERGING LAW AND ORDER SITUATION DURING THE GUJARAT BANDH CALL, M.H.A MAY KINDLY BE MOVED FOR MAKING AVAILABLE 10 COYS, RAF FOR ASSISTING THE STATE POLICE WITH IMMEDIATE EFFECT (.)

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K. Chakrsavarthi) D.G of Police, GS, Gandhinagar.

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FAX MESSAGE

(PRIORITY: CRASH)

To: CP Ahmedabad

Info:

PS to CM Gandhinagar

PS to MOS (Home) Gandhinagar

Home Sec Gandhinagar

Police Gandhinagar

From: A.D.G.P. Intelligence, G.S., Gandhinagar

No. D-2/2-COM/ALERT/100/2002

Date: 27.2.2002

TEXT:

Pursuant to the meeting held by the Hon'ble Chief Minister it has become clear that the State Government wishes to go ahead with the decision of bringing the dead bodies of Kar Sevaks to Ahmedabad by road under Police escort (.)

The dead bodies will be brought to Sola Civil Hospital in your jurisdiction before being taken out for cremation (.) Local cadres of BJP/Bajrang Dal are being massively mobilized for enforcing the VHP/BJP supported Gujarat Bandh (.) Widespread retributory communal violence is anticipated in your jurisdiction (.) Request appropriate preventive action (.)

clu (Sanjiv Bhaft) Dy. Commissioner (Security) For. Addl. D.G.P., Int., G.S., Gandhinagar

б	:	DIRECTOR GENERAL, CISF. DELTU ON 4361202 - 11-32
INFO	:	IGP CISF MUMBAI
FROM		DGP GUJÄRAT, ÇANDHINAGAR
O.NO. SCR	U E'L	40/2002 DT. 28.2.2002

TEXT:

AS PER TELEPHONIC TALK BETWEEN USE CONTROL ROOM GANDHINAGAR AND DIG CISF MUMBAL4 (FOUR) CONS. OF CISF WERE TO BE PROVIDED TO GUJARAT STATE FOR BANDOBASE DUTIES IN VIEW OF PRESENT LAW AND ORDER SITUATION IN THE STATE (.) OUT OF THE 4 COYS. ONE WAS TO COME FROM AHMEDABAD, ONU FROM BARODA, ONE FROM UDAIPUR AND ONE FROM BHOPAL (.) TE IS LEARNE TODAY FROM DIG CISF THAT THE COYS. AT BHOPAL AND UDAIPUR UAVE STILL NOT STARTED FOR GUJARAT(.) THE COY. FROM LIDAIPUR UAVE STILL NOT STARTED FOR GUJARAT(.) THE COY. FROM LIDAIPUR UAVE STILL NOT CITY AND THE COY. FROM BHOPAL IS TO GO TO SURAT CITY AND THE COY. FROM BHOPAL IS TO GO TO SURAT CITY AND THE COY. FROM BHOPAL IS TO GO TO SURAT CITY AND THE COY. FROM BHOPAL IS TO GO TO SURAT COMMUNALLY VERY SENSITIVE PLACES AND GODHRA IS ALREADY UNDER CURFEW (.) IT IS, THEREFORE, REQUESTED THAT AERANGEMENTS BE MADE TO SEND THIS COY. TO THEIR RESPECTIVE PLACES AS ABOVE AT-THE EARLIEST (.) THE LOY. A CC

> (R. CHARRAVARTHE) DIRECTOR GENERAL OF POLICE GS, GANDHINAGAR.

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FAX MESSAGE (PRIORITY: CRASH)

TO PS to CM Gandhinagar, PS to MOS (Home)

INFO Home Sec Gandhinagar Police Gandhinagar CP Ahmedabad

FROM Addl. D.G.P. Intelligence, G.S., Gandhinagar

O.No. D-2/2-COM/ALERT/174/2002

Date: 28.2.2002

Text

As informed telephonically to the Hon'ble CM Ex-MP Ehsan Zafri and his family members residing at Gulmarg Society, Chamanpura, Meghaninagar have been surrounded and are being attacked by a Hindu Mob in the presence of Police Bandobust (.) The lives of Ehsan Zafri and other family members are in imminent danger (.)

CP Ahmedabad is requested to take immediate effective action and provide a situation report to SCR under intimation to this office at the earliest (.)

02.

52 (Sanjiv Bhatt)

Dy. Commissioner (Communal) For Addl. D.G.P., Int., G.S., Gandhinagar

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<u>Secret</u>		Fax Message	<u>Most Urgent</u>
То	:	All Cs.P., D.I.G.P. (Ops.) ATS, Ahmedabad, All Ss.P., in the state including Westpo	ol Railway,
Info	:	ACS Home, Gandhinagar, Police Gandhinagar, Addl. D.G.P., Crime & Railways, All Range Is.G.P.,	
From	:	Addl.D.G.P., Int., G.S., Gandhinagar.	
No.		Security/G/Alert/0306/2002 Da	te: 07.03.2002

Text As per an input receive from a sister agency the Jammu and Kashmir militants, particularly those belonging to Lasker-E-Toiba (LET), have received instructions from their leaders in Pakistan to do some visible action urgently to retaliate against the happenings in Gujarat (.) It is learnt that LET has already tasked two of its cadres for the job (.) It cannot be ruled out that the militants may try to create communal disturbances by engineering Bomb Blasts at public places/installations under the garb of retaliation to the Gujarat riots as was done through Bomb Blasts in March, 1993 after the Mumbai communal riots earlier in January, 1993 (.) You are requested to suitably sensitize and alert the officers of your jurisdiction to take all precautionary measures to ensure that no subversive activity/untoward incident of any sort occurs in your jurisdiction and peace and communal harmony are maintained (.)

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(Sanjiv Bhaft) Dy. Commissioner (Security) For Addl. D.G.P., Int., G.S., Gandhinagar