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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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नई दिल्ली, शुक्रवार, अगस्त 30, 2019/भाद्र 8, 1941

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NEW DELHI, FRIDAY, AUGUST 30, 2019/BHADRA 8, 1941

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 30 अगस्त, 2019

**का. आ. 3155(अ).**—जबकि, केंद्रीय 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 28 फरवरी, 2019 की अधिसूचना संख्या का.आ. 1069(अ) (जिसे इसमें इसके बाद उक्त अधिसूचना कहा गया है) के तहत जमात-ए-इस्लामी (जेईआई), जम्मू और कश्मीर को विधिविरुद्ध संगम घोषित किया है;

और, जबकि, केंद्रीय सरकार ने उक्त अधिनियम की धारा 5 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 29 मार्च, 2019 की अधिसूचना संख्या का.आ. 1491(अ) के तहत विधिविरुद्ध 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 केंद्रीय 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 जमात-ए-इस्लामी (जेईआई), जम्मू और कश्मीर को विधिविरुद्ध संगम घोषित किए जाने का पर्याप्त कारण है या नहीं, दिनांक 29 मार्च, 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 27 अगस्त, 2019 को एक आदेश दिया था;

अतः अब, केंद्रीय 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. 14017/32/2019-एन.आई.-III]

एस. सी. एल. दास, संयुक्त सचिव

## MINISTRY OF HOME AFFAIRS

### NOTIFICATION

New Delhi, the 30th August, 2019

**S.O. 3155 (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 said Act), declared the Jamaat-e-Islami (JeI), Jammu and Kashmir to be an unlawful association *vide* notification of the Government of India in the Ministry of Home Affairs number S.O. 1069 (E), dated the 28th February, 2019 (hereinafter referred to as said notification), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) dated 28th February, 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, 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 29th March, 2019 for the purpose of adjudicating whether or not there is sufficient cause for declaring the Jamaat-e-Islami (JeI), Jammu and Kashmir 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 27th August, 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 order of the said Tribunal, namely :-

### UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

#### COURT NO. 30: DELHI HIGH COURT, NEW DELHI

Date of decision: 27<sup>th</sup> August, 2019

**Re:** Notification No. S.O. 1069(E) dated 28<sup>th</sup> February, 2019 issued by the Central Government under Section 3(1) & 3(3) of the Unlawful Activities (Prevention) Act, 1967 declaring the Jamaat-e-Islami (JeI), Jammu and Kashmir as an unlawful association, read with Notification No. S.O. 1491(E) dated 29<sup>th</sup> March, 2019.

### IN THE MATTER OF:

#### UNION OF INDIA

Through: Mr. Sanjay Jain, Addl. Solicitor General of India, Mr. Sachin Datta, Senior Advocate, Mr. Neeraj Jain, Mr. Jay Prakash Singh and Mr. Yuvraj Sharma, 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

**JAMAAT-E-ISLAMI, JAMMU AND KASHMIR (JeI)**

Through: Mr. Jawahar Raja, Advocate with Mr. Rajat Kumar, Advocate for Jamaat-e-Islami, Jammu & Kashmir

**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 Section 3(1) & 3(3) of the Unlawful Activities (Prevention) Act, 1967, vide Notification No. S.O. 1069(E) dated 28<sup>th</sup> February, 2019, declared the Jamaat-e-Islami, Jammu and Kashmir [for short 'JeI'] 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 29<sup>th</sup> March, 2019, constituted this Tribunal for the purpose of adjudicating whether or not there is 'sufficient cause' for declaring JeI as an Unlawful Association, which has already been declared as such by the Central Government vide its notification No. S.O.1069 (E) dated 28<sup>th</sup> February, 2019. The reference made to this Tribunal under the provisions of Section 4 of the Act, was received by this Tribunal on 30<sup>th</sup> March, 2019.

4. In the Notification dated 28<sup>th</sup> February, 2019, the Central Government has opined as under:

- (i) JeI is in close touch with militant outfits and is supporting extremism and militancy in Jammu and Kashmir and elsewhere;
- (ii) JeI is supporting 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;
- (iii) JeI is involved in anti-national and subversive activities in the country intended to cause disaffection.

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

- (a) Escalate its subversive activities including attempt to carve out an Islamic 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 integrity and security of the country; and
- (d) Escalate secessionist movement, 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 JeI stating the objectives, activities and criminal cases registered against JeI activists by the State of Jammu & Kashmir and NIA, as also the justification for declaring JeI as an unlawful association. The historical background and the activities of JeI, as stated in the Background Note, are as under:

- (i) The Jamaat-e-Islami, Jammu & Kashmir (JeI) came into existence in 1941 with one Moulana Abul Alla Madoodi spear-heading it with headquarter at Lahore. After the partition, JeI Hindi separated from this body and established its headquarters at Rampur (UP). In the State of Jammu and Kashmir (J&K), a branch of JeI was established in 1945 and Pir Saad-ud-Din was its Amir. The aims and objectives of the party at the time of its inception were to propagate Islamic teachings and creation of an Islamic State with life based on Shariat. However, after the accession of the State with India, J&K JeI started to follow the instructions and directions imparted by JeI of Pakistan and began to question the accession of the State with Union of India.
- (ii) The party is patronizing Hizb-ul-Mujahedeen (the militant wing of JeI) which was constituted in the last quarter of 1989. With the aforesaid political ideology, this militant outfit has been indulging in acts of armed violence for more than two decades now and is the biggest subversive group spearheading the current secessionist movement in the valley, with Pak/POK support in terms of arms training, supply of arms and ammunition and guidance. Both JeI and Hizb-ul-Mujahedeen (HM) are currently engaged in increasing their influence through vicious means including merger of smaller militant groups with it.

- (iii) JeI has a constitution of its own as “Dastoor-e-Jammu-wa-Kashmir Jamat-e-Islami” which discusses the aims and objectives of establishment of an Islamic rule based on dictums of holy Quran and Shariat-i-Nizam-e-Mustafa. It also discusses the conduct and procedure for enrolment of the members, governing body and disciplinary actions etc.
- (iv) The party contested parliament election in 1969, 1971 and panchayat elections in 1969 and 1974 in its own name. With imposition of emergency in the country in 1974, a ban was clamped on the party due to which its schools were closed. Thousands of the students had then sought admission in the Government run schools. The official organ of the party “Azaan” was also banned besides the Falah-e-Aam Trust (FAT) which runs and manages its schools was also closed.
- (v) The party is the brain behind the formation of All Party Hurriyat conference (APHC), a conglomerate of various religious-political and militant organizations.
- (vi) JeI stands for securing right of self-determination/independence from Indian dominion. However, its militant wing headed by Mohammad Yousuf Shah alias Syed Shah-ud-Din (formerly Ruken JeI) stands for merger of J&K State with Pakistan. In order to achieve its goal, JeI is operating through Kashmir Centre at Lahore, for giving International publicity drive to the ongoing movement where one Gh. Mohd. Sofi alias Safi (Ruken JeI) having clandestinely exfiltrated is co-ordinating the activities of JeI related militant groups as well.
- (vii) At International level, its activists like Ghulam Nabi Fai, Executive Director, Kashmir American Council USA and Syed Nazir Geelani (London based) are spearheading the anti-Indian campaign aimed at secession of the State of Jammu & Kashmir from Union of India. These people and their organizations issue press statement about baseless alleged human rights violations in order to malign the Indian forces combating terrorism in Jammu & Kashmir.
- (viii) JeI was banned for two years by the Government of India vide SRO No. 146 dated 16<sup>th</sup> April, 1990 under Jammu & Kashmir Criminal Law Amendment Act, 1983 and the ban was confirmed in 1991 by the Tribunal duly constituted under Law. In spite of the said ban the anti-national, anti-secular and pro-secession activities of the party continued. The devoted and dedicated leaders of the JeI have not desisted from indulging in unlawful activities.
- (ix) JeI leaders have all-along been challenging the accession of State of Jammu and Kashmir with Union of India and issuing press reports, addressing public gathering in their resolve to have the voice raised for solution of so-called Kashmir problem.

6. The Central Government in the Background Note has summarized the cases involving the activists/members of JeI, alleging that this organization is bent upon working towards secession and separation of the State of J&K from the Union of India. It has encouraged and is actively and continuously encouraging armed insurgency aimed at causing disaffection, disloyalty and dis-harmony by promoting feelings of enmity and hatred against the lawful government and is indulging and acting in a manner prejudicial to the territorial integrity and sovereignty of the India Union. For this purpose, it has not spared even the places of worship and used the same as their platform. The cases have been summarized as under:-

1. FIR/Case Crime No. 136/2016 has been registered at PS-Lalpora, District Kupwara under section 295 of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Gulam Nabi Lone;
2. FIR/Case Crime No. 19/2017 has been registered at PS-Lalpora, District Kupwara under section 121, 121A, 153 and 109 of the Ranbir Penal Code against the accused Gulam Nabi Lone;
3. FIR/Case Crime No. 99/2016 has been registered at PS-Tral, District Awantipora under section 120B of the Ranbir Penal Code against the accused Shabir Ahmad Bhat @ Fallayi;
4. FIR/Case Crime No. 172/2017 has been registered at PS-Bijbehara, District Anantnag under section 147, 148, 149, 336 and 427 of the Ranbir Penal Code against the accused Gulzar Ahmad Bhat;
5. FIR/Case Crime No. 66/2018 has been registered at PS-Bijbehara, District Anantnag under section 147, 148, 149, 332, 336 and 307 of the Ranbir Penal Code against the accused Gulzar Ahmad Bhat;
6. FIR/Case Crime No. 133/2016 has been registered at PS-Kokernag, District Anantnag under section 147, 148, 149, 236, 336 and 427 of the Ranbir Penal Code against the accused Mustaq Ahmad Wani @ Channa;
7. FIR/Case Crime No. 103/2017 has been registered at PS-Kokernag, District Anantnag under section 153 of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mustaq Ahmad Wani @ Channa;

8. FIR/Case Crime No. 164/2016 has been registered at PS-Kokernag, District Anantnag under section 147, 148, 149, 336, 427 and 153 of the Ranbir Penal Code against the accused Nowshad Ahmad Gagroo;
9. FIR/Case Crime No. 70/2016 has been registered at PS-Ashmuqam, District Anantnag under section 147, 148, 149, 307, 332, 336, 121A and 285 of the Ranbir Penal Code against the accused Riyaz Ahmad Mir;
10. FIR/Case Crime No. 74/2016 has been registered at PS-Ashmuqam, District Anantnag under section 147, 148, 149, 336, 332, 307 and 427 of the Ranbir Penal Code against the accused Riyaz Ahmad Mir;
11. FIR/Case Crime No. 113/2016 of PS-Bandipora, District Bandipora, under section 148, 149 and 188 of the Ranbir Penal Code and section 19 of the Unlawful Activities (Prevention) Act, 1967 against the accused Ali Mohammad Gadda;
12. FIR/Case Crime No.135/2016 of PS- Bandipora, District Bandipora under section 147, 148, 149, 332, 336 and 353 of the Ranbir Penal Code against the accused Mohammad Sikander Malik;
13. FIR/Case Crime No.139/2016 of PS- Bandipora, District Bandipora under section 147, 148, 149, 332, 336, 427 and 153A of the Ranbir Penal Code against the accused Mohammad Sikander Malik;
14. FIR/Case Crime No.23/2018 of PS-Kangan, District Ganderbal under section 141, 149 and 153 of the Ranbir Penal Code against the accused Gull Mohammad War;
15. FIR/Case Crime No.140/2016 of PS-Ganderbal, District Ganderbal under section 147, 148, 336 and 427 of the Ranbir Penal Code against the accused Abdul Hamid Bhat;
16. FIR/Case Crime No.39/2018 of PS-Ganderbal, District Ganderbal under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohammad Hafiz Khanday;
17. FIR/Case Crime No.7/2013 of PS-Kherbhawani, District Ganderbal under Section 341, 336 and 427 of the Ranbir Penal Code against the accused Mushtaq Ahmad Mir;
18. FIR/Case Crime No.26/2013 of PS-Kherbhawani, District Ganderbal under section 147, 148, 341, 323, 427 and 307 of the Ranbir Penal Code against the accused Mushtaq Ahmad Mir;
19. FIR/Case Crime No.48/2016 of PS-Kherbhawani, District Ganderbal under section 147, 148, 336, 341 and 307 of the Ranbir Penal Code against the accused Mushtaq Ahmad Mir;
20. FIR/Case Crime No.141/2016 of PS-Ganderbal, District Ganderbal under section 148, 336, 341, 332 and 427 of the Ranbir Penal Code against the accused Bashir Ahmad Sofi;
21. FIR/Case Crime No.142/2016 of PS-Ganderbal, District Ganderbal under section 148, 336, 341, 332, 307 and 427 of the Ranbir Penal Code against the accused Bashir Ahmad Sofi;
22. FIR/Case Crime No.155/2016 of PS-Ganderbal, District Ganderbal under section 148, 341, 336, 332, 427 and 188 of the Ranbir Penal Code against the accused Bashir Ahmad Sofi;
23. FIR/Case Crime No.328/2009 of PS-Shopian, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 of against the accused Ab. Hamid Gani @ Hamid Fayaz;
24. FIR/Case Crime No.137/2008 of PS-Shopian, District Shopian under Section 148, 149, 336, 427 and 147 of the Ranbir Penal Code against the accused Molvi Tariq Amin;
25. FIR/Case Crime No.80/2008 of PS-Shopian, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Molvi Tariq Amin;
26. FIR/Case Crime No.32/2008 of PS-Shopian, District Shopian under section 121B of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Molvi Tariq Amin;
27. FIR/Case Crime No.291/2016 of PS-Shopian, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yousuf Mir;
28. FIR/Case Crime No.123/2016 of PS-Shopian, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 and sections 147, 148, 149, 336, 353, 427 and 436 of the Ranbir Penal Code against the accused Mohd. Yousuf Mir;
29. FIR/Case Crime No.197/2016 of PS-Shopian, District Shopian under section 3(2) of the Jammu & Kashmir Public Property (Prevention of Damage) Act, 1985 and sections 147, 148, 149 and 188 of the Ranbir Penal Code against the accused Mohd. Yousuf Mir;

30. FIR/Case Crime No.229/2016 of PS-Shopian, District Shopian under section 147, 148, 149, 307, 336, 353 and 427 of the Ranbir Penal Code against the accused Mohd. Yousuf Mir;
31. FIR/Case Crime No.180/2016 of PS-Shopian, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yousuf Mir;
32. FIR/Case Crime No.276/2016 of PS-Shopian, District Shopian under section 147, 148, 149, 336, 353, 307 of the Ranbir Penal Code, section 13 of the Unlawful Activities (Prevention) Act, 1967 and section 3(1) of the Jammu & Kashmir Public Property (Prevention of Damage) Act, 1985 against the accused Mohd. Yousuf Mir;
33. FIR/Case Crime No.250/2016 of PS-Shopian, District Shopian under section 147, 148, 149, 336, 332, 353 and 307 of the Ranbir Penal Code against the accused Mohd. Yousuf Mir;
34. FIR/Case Crime No.233/2016 of PS-Shopian, District Shopian under section 147, 148 and 336 of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yousuf Mir;
35. FIR/Case Crime No.169/2016 of PS-Shopian, District Shopian under section 147, 148, 149, 353, 332, 336, 307 and 427 of the Ranbir Penal Code and section 3 of the Jammu & Kashmir Public Property (Prevention of Damage) Act, 1985 against the accused Mohd. Yousuf Mir;
36. FIR/Case Crime No.225/2016 of PS-Shopian, District Shopian under section 147, 148, 149, 188, 353, 332 and 307 of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yousuf Mir;
37. FIR/Case Crime No.231/2016 of PS-Shopian, District Shopian under section U/R against the accused Mohd. Yousuf Mir;
38. FIR/Case Crime No.270/2016 of PS-Shopian, District Shopian under section 147, 148, 149, 307, 353 and 332 of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 and section 3 of the Jammu & Kashmir Public Property (Prevention of Damage) Act, 1985 against the accused Shakir Ahmad Mir;
39. FIR/Case Crime No.38/2016 of PS-Zainpora, District Shopian under section 147 and 336 of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yousuf Ganaie @ Falai;
40. FIR/Case Crime No.53/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yousuf Ganaie @ Falai;
41. FIR/Case Crime No.53/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yousuf Ganaie @ Falai;
42. FIR/Case Crime No.54/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yousuf Ganaie @ Falai;
43. FIR/Case Crime No.56/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yousuf Ganaie @ Falai;
44. FIR/Case Crime No.57/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yousuf Ganaie @ Falai;
45. FIR/Case Crime No.58/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yousuf Ganaie @ Falai;
46. FIR/Case Crime No.59/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Yousuf Ganaie @ Falai;
47. FIR/Case Crime No.70/2016 of PS-Zainpora, District Shopian under section 147, 149, 353, 427 and 336 of the Ranbir Penal Code against the accused Mohd. Yousuf Ganaie @ Falai;
48. FIR/Case Crime No.71/2016 of PS-Zainpora, District Shopian under section 147, 148, 149, 336, 427 and 353 of the Ranbir Penal Code against the accused Mohd. Yousuf Ganaie @ Falai;
49. FIR/Case Crime No.69/2016 of PS-Zainpora, District Shopian under section 147, 148, 149, 307, 336 and 35 of the Ranbir Penal Code against the accused Mohd. Yousuf Ganaie @ Falai;

50. FIR/Case Crime No.56/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Hussain Wagay;
51. FIR/Case Crime No.57/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Hussain Wagay;
52. FIR/Case Crime No.58/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Hussain Wagay;
53. FIR/Case Crime No.65/2016 of PS-Zainpora, District Shopian under section 147, 148, 149, 307, 353, 336 and 427 of the Ranbir Penal Code against the accused Mohd. Hussain Wagay;
54. FIR/Case Crime No.70/2016 of PS-Zainpora, District Shopian under section 147, 149, 336, 341, 353 and 427 of the Ranbir Penal Code against the accused Mohd. Hussain Wagay;
55. FIR/Case Crime No.73/2016 of PS-Zainpora, District Shopian under section 147, 148, 149, 353, 307, 336 and 427 of the Ranbir Penal Code against the accused Mohd. Hussain Wagay;
56. FIR/Case Crime No.69/2016 of PS-Zainpora, District Shopian under section 147, 148, 149, 307, 336 and 353 of the Ranbir Penal Code against the accused Mohd. Hussain Wagay;
57. FIR/Case Crime No.51/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Hussain Wagay;
58. FIR/Case Crime No.60/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Hussain Wagay;
59. FIR/Case Crime No.78/2016 of PS-Zainpora, District Shopian under section 153 of the Ranbir Penal Code against the accused Mohd. Hussain Wagay;
60. FIR/Case Crime No.74/2016 of PS-Zainpora, District Shopian under section 147, 148, 149, 307, 353, 336 and 427 of the Ranbir Penal Code against the accused Mohd. Hussain Wagay;
61. FIR/Case Crime No.53/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Shakir Ahmad Mir;
62. FIR/Case Crime No.54/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Shakir Ahmad Mir;
63. FIR/Case Crime No.59/2016 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Shakir Ahmad Mir;
64. FIR/Case Crime No.38/2016 of PS-Zainpora, District Shopian under section 147 and 336 of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Amin Ahangar;
65. FIR/Case Crime No.03/2017 of PS-Zainpora, District Shopian under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Samad Inqilaabi;
66. FIR/Case Crime No.72/2016 of PS-Heerpora, District Shopian under section 147 and 153 of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Md. Yaqoob Kumar;
67. FIR/Case Crime No.72/2016 of PS-Heerpora, District Shopian under section 147 and 153 of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Modh. Yousuf Ganie;
68. FIR/Case Crime No.72/2016 of PS-Heerpora, District Shopian under section 147 and 153 of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Firdous Ah. Wagay;
69. FIR/Case Crime No.72/2016 of PS-Heerpora, District Shopian under section 147 and 153 of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Sarjan Ah. Wagay;
70. FIR/Case Crime No.81/2014 of PS-Kulgam, District Kulgam under section 147, 148, 149, 307, 336, 427 and 332 of the Ranbir Penal Code and section 132B of Representation of People Act against the accused Fayaz Ahmad Rather;

71. FIR/Case Crime No.82/2014 of PS-Kulgam, District Kulgam under section 147, 148, 149, 307, 336, 427 and 332 of the Ranbir Penal Code and section 132B of Representation of People Act against the accused Fayaz Ahmad Rather;
72. FIR/Case Crime No.235/2014 of PS-Kulgam, District Kulgam under section 171 of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Fayaz Ahmad Rather;
73. FIR/Case Crime No.133/2015 of PS-Kulgam, District Kulgam under section 147, 148, 332, 307, 336 and 427 of the Ranbir Penal Code against the accused Fayaz Ahmad Rather;
74. FIR/Case Crime No.144/2015 of PS-Kulgam, District Kulgam under section 153 of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Fayaz Ahmad Rather;
75. FIR/Case Crime No.224/2015 of PS-Kulgam, District Kulgam under section 147, 148, 149, 336, 323 and 427 of the Ranbir Penal Code against the accused Fayaz Ahmad Rather;
76. FIR/Case Crime No.194/2016 of PS-Kulgam, District Kulgam under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Fayaz Ahmad Rather;
77. FIR/Case Crime No.196/2016 of PS-Kulgam, District Kulgam under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Fayaz Ahmad Rather;
78. FIR/Case Crime No.61/2017 of PS-Yaripora, District Kulgam under section 302 of the Ranbir Penal Code and section 7 & 27 of the Arms Act against the accused Muktar Rashid @ Pintoo;
79. FIR/Case Crime No.70/2018 of PS-Yaripora, District Kulgam under section 13, 18, 19, 38 and 39 of the Unlawful Activities (Prevention) Act, 1967, section 7 & 27 of the Arms Act and section 147 & 148 of the Ranbir Penal Code against the accused Zahoor Ahmad Nengroo;
80. FIR/Case Crime No. 80/2010 has been registered at PS-Chadoora, District Budgam under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohd. Maqbool ganie @ Patergami;
81. FIR/Case Crime No. 5/2016 has been registered at PS-Chadoora, District Budgam under section 147, 341 336 and 153A of the Ranbir Penal Code against the accused Mohd. Maqbool Ganie @ Patergami;
82. FIR/Case Crime No. 109/2013 has been registered at PS-Chadoora, District Budgam under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Gh. Hassan;
83. FIR/Case Crime No. 80/2010 has been registered at PS-Chadoora, Distrit Budgam under section under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Gh. Hassan;
84. FIR/Case Crime No. 25/1988 has been registered at PS-Charar-e-Sharief, District Budgam against the accused Gh Mohd. Hubbi;
85. FIR/Case Crime No. 77/2004 has been registered at PS-Charar-e-Sharief, District Budgam against the accused Gh Mohd. Hubbi;
86. FIR/Case Crime No. 38/2016 has been registered at PS-Charar-e-Sharief, District Budgam against the accused Gh Mohd. Hubbi;
87. FIR/Case Crime No.160/2008 has been registered at PS-Beerwah, District Budgam under section 212 of the Ranbir Penal Code against the accused Tashooq Bandy;
88. FIR/Case Crime No.144/2008 has been registered at PS-Beerwah, District Budgam under section 148, 149, 336 and 427 of the Ranbir Penal Code against the accused Tashooq Bandy;
89. FIR/Case Crime No.145/2008 has been registered at PS-Beerwah, District Budgam under section 148, 149, 336 and 427 of the Ranbir Penal Code against the accused Tashooq Bandy;
90. FIR/Case Crime No.154/2008 has been registered at PS-Beerwah, District Budgam under section 3 & 5 of TAD against the accused Tashooq Bandy;
91. FIR/Case Crime No.127/2016 of PS- Magam, District Budgam under section 148, 341, 336, 427 and 353 of the Ranbir Penal Code against the accused Abdul Majid Rather;
92. FIR/Case Crime No.149/2016 of PS- Magam, District Budgam under section 148, 149, 336 and 427 of the Ranbir Penal Code against the accused Abdul Majid Rather;

93. FIR/Case Crime No.83/2013 of PS-Magam Kunzer, District Budgam under Section 13 of the Unlawful Activities (Prevention) Act, 1967 and Sections 153 and 120B of the Ranbir Penal Code against the accused Mohd. Shafi Dhobi;
94. FIR/Case Crime No.67/2018 of PS-Magam Kunzer, District Budgam under section 13 of the Unlawful Activities (Prevention) Act, 1967;
95. FIR/Case Crime No.51/2016 of PS-Magam, District Budgam under Section 7 & 25 of the Arms Act against the accused Mohd Afzal Mir;
96. FIR/Case Crime No.27/2006 of PS-Magam, District Budgam under Section 212 of the Ranbir Penal Code and under Section 7 & 25 of the Arms Act against the accused Mohd Afzal Mir;
97. FIR/Case Crime No.189/2008 of PS-Beerwah, District Budgam under section 212 of the Ranbir Penal Code against the accused Bashir Ahmad Querwahi @ Dc;
98. FIR/Case Crime No.129/2016 of PS-Beerwah, District Budgam under section 148, 149, 341, 332 and 336 of the Ranbir Penal Code against the accused Ghulam Mohd. Wani;
99. FIR/Case Crime No.223/2009 of PS-Beerwah, District Budgam under section 348, 336 and 332 of the Ranbir Penal Code against the accused Ghulam Mohd Pal;
100. FIR/Case Crime No.194/2008 of PS-Beerwah, District Budgam under section 132A and 132B of the Ranbir Penal Code against the accused Abdul Rehman Mir @ Sikandar;
101. FIR/Case Crime No.46/2018 of PS-Beerwah, District Budgam under section 307, 147, 148, 149, 336 and 353 of the Ranbir Penal Code against the accused Abdul Rehman Mir @ Sikandar;
102. FIR/Case Crime No.128/2010 of PS-Beerwah, District Budgam under section 147 and 447 of the Ranbir Penal Code of against the accused Habibulan Dev;
103. FIR/Case Crime No.356/2016 of PS-Handwara, District Handwara under Section 149, 336, 307 and 342 of the Ranbir Penal Code against the accused Ghulam Mohammad Bhat @ Nisar Dobs;
104. FIR/Case Crime No.268/2018 of PS-Handwara, District Handwara under section 148, 149, 336, 307, 121A and 427 of the Ranbir Penal Code and under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Ghulam Rasool War;
105. FIR/Case Crime No.318/2016 of PS-Pulwama, District Pulwama under section 153A of the Ranbir Penal Code against the accused Adv. Ali Mohammad Lone @ Zahid;
106. FIR/Case Crime No.347/2016 of PS-Pulwama, District Pulwama under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Adv. Ali Mohammad Lone @ Zahid;
107. FIR/Case Crime No.124/2016 of PS-Pulwama, District Pulwama under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Faheem Pandith @ Tariq Jameel;
108. FIR/Case Crime No.319/2016 of PS-Pulwama, District Pulwama under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mudasar Ahmad Bhat;
109. FIR/Case Crime No.30/2017 of PS-Pulwama, District Pulwama under section 18, 19 and 20 of the Unlawful Activities (Prevention) Act, 1967 against the accused Manzoor Ah. Ganai;
110. FIR/Case Crime No.432/2016 of PS-Pulwama, District Pulwama under section 148, 149, 336, 427 and 307 of the Ranbir Penal Code against the accused Bilal Ahmad Bhat;
111. FIR/Case Crime No.169/2016 of PS-Pulwama, District Pulwama under section 148, 149, 336 and 427 of the Ranbir Penal Code and section 3 of the Jammu & Kashmir Public Property (Prevention of Damage) Act, 1985 against the accused Bilal Ahmad Bhat;
112. FIR/Case Crime No.263/2016 of PS-Pulwama, District Pulwama under section 148, 149, 336, 427 and 353 of the Ranbir Penal Code against the accused Bilal Ahmad Bhat;
113. FIR/Case Crime No.181/2018 of PS-Pulwama District Pulwama under Section 4 & 5 of Explosive Substances Act and under section 13 & 18 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bilal Ahmad Bhat;
114. FIR/Case Crime No.189/2016 of PS-Baramulla, District Baramulla under section 153A and 120B of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Sofi;

115. FIR/Case Crime No.192/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 335, 332, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Sofi;
116. FIR/Case Crime No.202/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 335, 332, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Sofi;
117. FIR/Case Crime No.211/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332, 336 and 353 of the Ranbir Penal Code against the accused Bashir Ahmad Sofi;
118. FIR/Case Crime No.225/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332, 336 and 353 of the Ranbir Penal Code against the accused Bashir Ahmad Sofi;
119. FIR/Case Crime No.226/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 335, 332, 336, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Sofi;
120. FIR/Case Crime No.254/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 335, 332, 336, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Sofi;
121. FIR/Case Crime No.263/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 335, 332, 336, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Sofi;
122. FIR/Case Crime No.273/2016 of PS-Baramulla, District Baramulla under Section 17, 18B and 19 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Sofi;
123. FIR/Case Crime No.307/2016 of PS-Baramulla, District Baramulla under section 148, 149, 336 and 353 of the Ranbir Penal Code against the accused Bashir Ahmad Sofi;
124. FIR/Case Crime No.52/2017 of PS-Baramulla, District Baramulla under section 120B of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Sofi;
125. FIR/Case Crime No.116/2015 of PS-Baramulla, District Baramulla under section 147, 148, 353, 336, 307, 341 and 427 of the Ranbir Penal Code against the accused Bashir Ahmad Saleh;
126. FIR/Case Crime No.189/2016 of PS-Baramulla, District Baramulla under section 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Saleh;
127. FIR/Case Crime No.192/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Saleh;
128. FIR/Case Crime No.199/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Saleh;
129. FIR/Case Crime No.202/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Saleh;
130. FIR/Case Crime No.211/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332 and 353 of the Ranbir Penal Code against the accused Bashir Ahmad Saleh;
131. FIR/Case Crime No.225/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332 and 353 of the Ranbir Penal Code against the accused Bashir Ahmad Saleh;
132. FIR/Case Crime No.226/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Saleh;
133. FIR/Case Crime No.254/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Saleh;

134. FIR/Case Crime No.263/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Saleh;
135. FIR/Case Crime No.273/2016 of PS-Baramulla, District Baramulla under section 17, 18B and 19 of the Unlawful Activities (Prevention) Act, 1967 against the accused Bashir Ahmad Saleh;
136. FIR/Case Crime No.307/2016 of PS-Baramulla, District Baramulla under section 148, 149, 336 and 353 of the Ranbir Penal Code against the accused Bashir Ahmad Saleh;
137. FIR/Case Crime No.142/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353 and 427 of the Ranbir Penal Code against the accused Abdul Khaliq Regu @ Khalasahib;
138. FIR/Case Crime No.202/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Khaliq Regu @ Khalasahib;
139. FIR/Case Crime No.226/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Khaliq Regu @ Khalasahib;
140. FIR/Case Crime No.140/2016 of PS-Baramulla, District Baramulla under section 17, 18B and 19 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Khaliq Regu @ Khalasahib;
141. FIR/Case Crime No.330/2016 of PS-Baramulla, District Baramulla under section 120B of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Khaliq Regu @ Khalasahib;
142. FIR/Case Crime No.199/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353, 120B and 153A of the Ranbir Penal Code against the accused Ghulam Mustafa Wani;
143. FIR/Case Crime No.226/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Ghulam Mustafa Wani;
144. FIR/Case Crime No.326/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353, 120B and 153A of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mufti Ajaz;
145. FIR/Case Crime No.330/2016 of PS-Baramulla, District Baramulla under section 120B of the Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mufti Ajaz;
146. FIR/Case Crime No.166/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332 and 353 of the Ranbir Penal Code against the accused Shoalb Ahmad Czor;
147. FIR/Case Crime No.196/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 427 and 353 of the Ranbir Penal Code against the accused Shoalb Ahmad Czor;
148. FIR/Case Crime No.241/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332 and 336 of the Ranbir Penal Code against the accused Shoalb Ahmad Czor;
149. FIR/Case Crime No.248/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353 and 427 of the Ranbir Penal Code against the accused Shoalb Ahmad Czor;
150. FIR/Case Crime No.260/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332 and 353 of the Ranbir Penal Code against the accused Shoalb Ahmad Czor;
151. FIR/Case Crime No.375/2016 of PS-Baramulla, District Baramulla under section 148, 149, 336 and 353 of the Ranbir Penal Code against the accused Shoalb Ahmad Czor;
152. FIR/Case Crime No.136/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 336, 332, 353 and 427 of the Ranbir Penal Code against the accused Qazi Irfan Ahmad;
153. FIR/Case Crime No.142/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332, 336, 353 and 427 of the Ranbir Penal Code against the accused Abdul Rahman Tantray;
154. FIR/Case Crime No.189/2016 of PS-Baramulla, District Baramulla under section 153A and 120B of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Rahman Tantray;

155. FIR/Case Crime No.192/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332, 336, 353, 120B and 153A of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Rahman Tantray;
  156. FIR/Case Crime No.202/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332, 336, 353, 120B and 153A of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Rahman Tantray;
  157. FIR/Case Crime No.225/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332, 336 and 353 of the Ranbir Penal Code against the accused Abdul Rahman Tantray;
  158. FIR/Case Crime No.226/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332, 336, 353, 120B and 153A of the Ranbir Penal Code and section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Rahman Tantray;
  159. FIR/Case Crime No.253/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332, 336 and 353 of the Ranbir Penal Code against the accused Abdul Rahman Tantray;
  160. FIR/Case Crime No.254/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332, 336, 353, 120B and 153A of the Ranbir Penal Code and under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Rahman Tantray;
  161. FIR/Case Crime No.263/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332, 336, 353 and 120B of the Ranbir Penal Code and under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Rahman Tantray;
  162. FIR/Case Crime No.273/2016 of PS-Baramulla, District Baramulla under section 17, 18B and 19 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Rahman Tantray;
  163. FIR/Case Crime No.303/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332, 336 and 353 of the Ranbir Penal Code against the accused Abdul Rahman Tantray;
  164. FIR/Case Crime No.307/2016 of PS-Baramulla, District Baramulla under section 148, 149, 332, 336 and 353 of the Ranbir Penal Code and against the accused Abdul Rahman Tantray;
  165. FIR/Case Crime No.326/2016 of PS-Baramulla, District Baramulla under section 307, 148, 149, 332, 336, 353 and 120B of the Ranbir Penal Code and under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Rahman Tantray;
  166. FIR/Case Crime No.330/2016 of PS-Baramulla, District Baramulla under section 120B of the Ranbir Penal Code and under Section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Rahman Tantray;
  167. FIR/Case Crime No.188/2016 of PS-Baramulla, District Baramulla under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Abdul Gani Wani;
  168. FIR/Case Crime No.188/2016 of PS-Baramulla, District Baramulla under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Ghulam Mohl ud Din Sheikh;
  169. FIR/Case Crime No.188/2016 of PS-Baramulla, District Baramulla under section 13 of the Unlawful Activities (Prevention) Act, 1967 against the accused Mohammad Amin Parray.
7. Details of the cases registered by National Investigation Agency (NIA) against activists/members of JeI are as under:
1. RC-10/2017/NIA/DLI against Mehrajudin Kalwal @ Raja; Mohammad Akbar Khanday @ Ayaz Akbar; Altaf Ahmad Shah @ Fantoosh and Mohd. Yusuf Shah @ Syed Salahuddin (SS Commander Hizb-ul-Mujahideen);
  2. RC-11/2011/NIA/DLI against Mohd. Yusuf Shah @ Syed Salahuddin (SS Commander Hizb-ul-Mujahideen);
  3. RC-10/2017/NIA/DLI against S.A.S. Geelani, Ex-Chairman, Tahreek-e-Hurriyat and Mohd. Ashraf Saharai, current Chairman, Tehreek-e-Hurriyat;
  4. RC-04/2012/NIA/HYD against Imran Ahmed @ Immu Bhai;
  5. RC-14/2015/NIA/DLI against Mudabbir Mushtaq Shaikh;
  6. RC-04/2016/NIA/DLI against Sheikh Azhar Ul Islam;
  7. RC-03/2016/NIA/MUM against Mohammad Raisuddin, Mohammad Siddiq @ Rayees Sir;

8. RC-07/2013/NIA/DLI against Mohammed Umair Siddiqui;
9. RC-09/2013/NIA/DLI against Mohammed Umair Siddiqui; and
10. RC-12/2013/NIA/DLI against Mohammed Umair Siddiqui;

8. On the afore-noted grounds, the Central Government formed the opinion that JeI has been indulging in activities which are prejudicial to the security of the country and have the potential of disturbing peace and communal harmony and disrupting the secular fabric of the country. The Central Government is also of the opinion that having regard to the activities of the JeI, it is necessary to declare 'JeI' to be an unlawful association with immediate effect.

Thus, in exercise of powers conferred by sub-Sections (1) and (3) of Section 3 of the Act, the Central Government declared the JeI 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 30<sup>th</sup> March, 2019. This Tribunal listed the reference for preliminary hearing on 5<sup>th</sup> April, 2019.

9. On 5<sup>th</sup> 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 JeI 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 20<sup>th</sup> May, 2019. The notice was directed to be served upon JeI in the following manner:

- I. By affixing a copy of the notice to 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 the affidavits of service, putting on record the factum of service of notice.

11. On 20<sup>th</sup> May, 2019, Mr. Jawahar Raja, Advocate, entered appearance on behalf of JeI 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. The bare perusal of sub-Section (5) of Section 5 of the Act provides that subject to Section 9, the Tribunal is having the power to regulate its own procedure in all matters during the discharge of its function. Section 9 of the Act provides for the procedure to be followed for disposal of the applications under the Act, which 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 the procedure laid down in the Code of Civil Procedure 1908 for investigation of the claims. Rule 3 of the UAP Rules provides that subject to sub-rule (1), 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 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 by 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 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 and 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:-

*“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 by them”.*

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

*“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:-

*“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 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:

*“..... 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 at the threshold filed an application being IA 02/2019 seeking cancellation of the declaration and return of the reference *in limine* without further proceedings. The said application was listed for hearing on 30<sup>th</sup> May, 2019. Learned counsel, in the meanwhile, moved another application being IA 01/2019 on behalf of the Association on 21.05.2019, wherein he had prayed for supply of copies of the following record:

- a. All orders passed by the Tribunal;
- b. Background note along with Annexures;
- c. Correspondence files;
- d. The files containing the proof of service, and

- e. Any other documents that are part of the record of the Tribunal.

The said application was disposed of vide order dated 23<sup>rd</sup> May, 2019, with directions to make available to the respondent Association copies of all the orders passed by the Tribunal as also a copy of the background note filed by the Union of India.

16. On 30<sup>th</sup> May, 2019, arguments on IA 02/2019 were heard on behalf of both the parties and the matter was reserved. The said application was dismissed vide a detailed order passed on 7<sup>th</sup> June, 2019.

17. With a view to invite public representation in support of or against the ban on JeI and to record the evidence on behalf of the Union of India and the respondent Association, this Tribunal, in addition to its sittings at Delhi, also held its sittings at Srinagar on 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> June, 2019 and 2<sup>nd</sup> and 3<sup>rd</sup> August, 2019 and at Jammu on 13<sup>th</sup> July, 2019. The Tribunal also proposed a sitting at Leh on 20<sup>th</sup> and 22<sup>nd</sup> July, 2019 but because of inclement weather, the Tribunal was not able to reach Leh and, hence, the sitting scheduled at Leh was cancelled.

18. At the request of the learned counsel for the respondent Association, evidence on behalf of the respondent Association was recorded at Srinagar.

19. During the sitting of the Tribunal at Srinagar on 19<sup>th</sup> June, 2019, the Union of India moved an application being IA 03/2019 seeking permission to protect the identity of the witnesses and to serve the affidavits of evidence of the protected witnesses to the Association in a redacted form. In addition, it was also orally prayed to hold the proceedings in-camera with respect to the protected witnesses. The prayers sought by the Union of India were allowed by the Tribunal vide a detailed order passed on 19<sup>th</sup> June, 2019 itself.

20. Further, during the sitting of the Tribunal at Jammu on 13<sup>th</sup> July, 2019, an application being IA 04/2019 was moved on behalf of the respondent Association seeking direction to the Central Government to provide a copy of the documents being placed before the Tribunal in a sealed cover by the prosecution witness namely Mr. Sheikh Junaid Mahmood and also to give the respondent Association sufficient time to study the annexures before the witness is invited to the witness box. The alternative prayer sought was a direction to the Central Government to make available a copy of each of the documents in the sealed cover to the counsel representing the Association and thereafter sufficient time to them to prepare themselves for examining the witness. Keeping in view the stand of the Central Government claiming "privilege" over the documents being 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. Thereafter, another application being IA 05/2019 with similar prayer was filed on behalf of the respondent Association with respect to the sealed cover furnished by the prosecution witnesses namely Mr. Arvind Digvijay Negi and Mr. S.C.L. Das. The said application was also disposed of in terms of the order passed in the earlier identical application.

21. 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 some of the witnesses in sealed cover, the contents whereof have not been disclosed to the respondent Association or to its counsel.

22. Mr. Sanjay Jain, learned Senior counsel 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. Learned Senior Counsel, referring to Rule 5 of the UAP Rules 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. Learned Senior Counsel also referred to the observations made in this behalf by the Hon'ble Supreme Court in *Jamaat-e-Islami Hind (supra)* wherein the Hon'ble Court has observed that "unlawful activities of an association may quite oftenly 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, the learned Senior counsel 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.

23. Mr. Jawahar Raja, learned counsel for the respondent Association 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 severely handicapped in 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, how can the respondent Association be expected to fully defend itself against the allegations contained in those documents being presented in sealed covers. He submitted that such denial of the right to defend in respect of information conveyed through documents in sealed cover violates the principles of natural justice since it effectively forecloses their basic right to defend against such documents. Learned counsel relied on the judgments of the Hon'ble Supreme Court in *State of Madras v. V.G. Row AIR 1952 SC 186* and *Jamaat-e-Islami Hind v. Union of India, (1995) 1 SCC 428*. Incidentally, the decision in *V.G. Row (supra)* is considered by the Supreme Court while deciding *Jamaat-e-Islami Hind (supra)* in 1995. Learned counsel also argued that Supreme Court's reading of Rule 3(2) of the Act is erroneous because that Rule permits this Tribunal to disallow inspection of documents to persons "other than a party to the proceedings before it". Relying on the same judgment, he argued that the Supreme Court had held that where public interest permitted non-disclosure of information, the Tribunal must "device" a suitable procedure whereby it can itself examine and test the credibility of "material" before it accepted the same for determining the existence of sufficient cause. Learned counsel argued that the onus, thus, shifted on the Tribunal to device a procedure to satisfy itself on credibility of the material without disclosing the same to the Association or the counsel. Learned counsel also referred to the judgment in *S.P. Gupta v. Union of India & Ors, 1981 (Supplementary) SCC 87*, to submit that the procedure for claiming privilege in public interest was laid down by the Supreme Court in the said case.

24. In the same context, learned counsel also referred to Rule 3(1) of the UAP Rules to argue that the Tribunal ought to follow the rules of evidence as laid down in the Indian Evidence Act, 1872 'as far as practicable'. Learned counsel submitted that the express terms of the Rule make it clear that unless the Central Government is able to establish that it is impracticable to do so, the rules of evidence as laid down under the Indian Evidence Act will apply and the onus of establishing that it is impracticable to apply the Rules as laid down under the Indian Evidence Act will lie upon the Central Government. It is argued that the words 'as far as practicable' cannot be interpreted or read to eclipse and render otiose the clause 'Rules of Evidence' laid down in the Indian Evidence Act. Learned counsel referred to the decision in *Bareilly Electricity Supply Company Limited v. the Workmen and Ors., 1971 (2) SCC 617*, to submit that no reliance could be placed on documents unless they are admitted by the respondent or they are produced in accordance with the Indian Evidence Act.

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 while banning Jel.

26. During the course of recording of evidence of the witnesses, the witness namely Mr. Sheikh Junaid Mahmood, Senior Superintendent of Police, CID Headquarters; Mr. Arvind Digvijay Negi, Superintendent of Police, National Investigation Agency, CGO Complex, Lodhi Road, New Delhi, Mr. S.C.L. Das, Joint Secretary, Ministry of Home Affairs, Government of India and Mr. Swayam Prakash Pani, IPS, Inspector General of Police, Kashmir, 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 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 is against "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 to 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 also necessary, as observed by the Supreme Court that sensitive information and intelligence inputs or their sources are not placed in public domain. But the credibility of each of the documents produced before the Tribunal in sealed cover must be assessed and examine. Even in *S.P. Gupta’s case (supra)*, 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 cover, which were not disclosed to the respondent Association or their counsel, the Tribunal opened the sealed covers and carefully examined each and every document filed in the sealed covers to assess its corroborative value as to the grounds stated by the Central Government to ban the respondent Association. Having gone through each one of the documents in sealed cover 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 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 is so allowed.

34. The Central Government, in support of the Notification banning JeI, examined the following ten witnesses:-

- (i) Mr. A (protected witness), District SP (**PW-1**);
- (ii) Mr. B (protected witness), District SSP (**PW-2**);
- (iii) Mr. Chandan Kohli, SP, District Pulwama (**PW-3**);
- (iv) Mr. Salfie Arshid, SHO, PS: Lar, District Ganderbal (**PW-4**);
- (v) Mr. Sheikh Junaid Mahmood, SSP, CID Headquarters (**PW-5**);
- (vi) Mr. Shakti Kumar Pathak, SSP, Kishtwar (**PW-6**);
- (vii) Mr. Tahir Ashraf, SSP, presently SP (Police Component), Kashmir (**PW-7**);
- (viii) Mr. Arvind Digvijay Negi, SP, National Investigation Agency, CGO Complex, Lodhi Road, Delhi (**PW-8**);
- (ix) Mr. S.C.L. Das, Joint Secretary, Ministry of Home Affairs, Government of India (**PW-9**); and
- (x) Mr. Swayam Prakash Pani, Inspector General of Police, Kashmir (**PW-10**).

35. PW-1, Mr. A, District SP appeared and produced his affidavit exhibit PW-1/A. The said witness has deposed in respect of FIR Nos. 80/2016 [Ex. PW-1/1] registered under Sections 147/148/149/152/332/307 of the Ranbir Penal Code, 1989 ('RPC'); FIR No.136/2016 [Ex. PW-1/2] registered under Sections 295/13 of the Unlawful Activities (Prevention) Act; FIR No.19/2017 [Ex. PW-1/3] registered under Section 13 of the Unlawful Activities (Prevention) Act and Section 109 of the Ranbir Penal Code; FIR No.124/2010 [Ex. PW-1/4] registered under Sections 148/436/427/336/353 of the Ranbir Penal Code and FIR No.341/2012 [Ex. PW-1/5] registered under Sections 148/149/427 of the Ranbir Penal Code. Ex.PW-1/6 to Ex.PW-1/10 are the translated copies of the aforesaid FIRs.

36. The witness in his affidavit has stated that Jamat-e-Islami (JeI) is in close touch with terrorist organization and is supporting extremism and terrorists in the State of J&K. It is further stated that JeI is supporting the claim for secession of a part of the Indian Territory and is passively and actively supporting terrorist and anti-national activities and is also involved in subversive activities in the State of J&K. It is further stated that out of the 05 FIRs registered against JeI prior to its ban, which are annexed with the affidavit, 03 cases have been charge-sheeted before the competent Court for the involvement of JeI in subversive and anti-national activities whereas rest 02 cases are under investigation. It is also stated that banning of JeI organization will completely isolate them from propagating secessionist tendencies and ban will effectively assist the investigating agencies to deal with them in accordance with the procedure as shall be established under law.

37. In his examination-in-chief, the witness has stated that these cases are registered against the office bearers of the respondent Association. They adhered to their own constitution which describes their own aims and objects. He has further stated that the connections of the persons named in the aforesaid FIRs have never been disputed first of all by themselves and secondly, the FIRs pertaining to the sloganeering that has happened from 2010 till date.

38. In his cross-examination, the witness has stated that whatever he has stated in his examination-in-chief as also in his affidavit Ex.PW 1/A, is on the basis of open source and the official record only. He admitted that he had not gone through the background note. He has admitted that he was not the Investigating Officer of the aforesaid FIRs which are marked as Ex. PW-1/1 to Ex. PW-1/5 but volunteered that in his supervisory capacity, he had only perused the record. He also admitted that the Membership Registers of JeI were seized by the IO. However, he denied that he was evasive in order to mislead this Tribunal or that he had filed only selective documents before this Tribunal in order to prejudice this Tribunal and falsely implicate JeI as the entire documents, if produced, would have shown the falsity of the case set up against the respondent Association. He also denied that the Investigating Officers of the cases were not produced before this Tribunal in order to protect them from cross-examination which would have revealed the falsity of the case against the respondent Association.

39. The witness has also denied the suggestion that it was an afterthought to mention in his examination-in-chief the fact that the accused persons in the FIRs did not dispute their membership with the respondent Association to falsely implicate the respondent Association as he did not mention the same in his affidavit. Although he admitted that he did not mention in his affidavit about the fact that the members of respondent Association were involved in sloganeering from the period between 2010 till date. He also denied that deposition made by him in paras 1 to 8 of his affidavit is his opinion and is irrelevant to the present case against the respondent Association and that the cases mentioned by him in para 4 have no connection with respondent Association. He also denied that the respondent Association has never committed any unlawful acts or acts in violation of the Constitution of India and volunteered that he had stated that the respondent Association has a separate constitution, which was read by him, and the said constitution allows them to have a wider interpretation of their acts in all spheres of human activities which include economic, social, political, moral and ethical aspects.

40. PW-2, Mr. B, District SSP appeared and produced his affidavit exhibit PW-2/A. The said witness has deposed in respect of two FIRs being FIR No.71/2018 (Ex.PW-2/1) registered under Sections 13 of the Unlawful Activities (Prevention) Act at Police Station Ganderbal & FIR No.23/2018 (Ex.PW-2/2) registered under Sections 148/149/153 of the Ranbir Penal Code, 1989 at Police Station Kangan. These FIRs are related to causing rioting and conspiracy of the stone pelting in jurisdiction of two Police Stations after provocation sloganeering against the State. Ex.PW-2/3 and Ex.PW-2/4 are the translated copies of the aforesaid FIRs.

41. The witness in his affidavit has stated that some members of JeI are supporting and inciting anti-national activities and have been found involved in sabotaging the public peace & order in District Ganderbal. It is further stated that often the members of JeI have been found provoking and instigating stone pelting incidents in District Ganderbal, besides they have been found to address funeral gatherings of slain militants/anti-national elements die in state action. It is also stated that banning of JeI organization will completely isolate them from propagating secessionist tendencies and ban will effectively assist the investigating agencies to deal with them in accordance with the procedure as shall be established under law.

42. In his examination-in-chief, the witness has stated that the statement made by him in his affidavit and examination-in-chief is based on official record. He has further stated that during investigation, the offences were found to be correct and a challan was filed in the Court.

43. In his cross-examination, the witness has stated that the two FIRs mentioned in his affidavit are not mentioned in the notification banning JeI. He admitted that he was personally not a part of the investigation team investigating the aforesaid FIRs but volunteered that the challan of one of the FIRs was presented in Court during his tenure but the said challan was filed after the notification banning JeI was published. He denied that he had filed only selective documents before this Tribunal in order to prejudice this Tribunal and falsely implicate JeI, as the entire documents, if produced, would have shown the falsity of the case set up against the respondent Association. He also denied that the Investigating Officers of the cases were not produced before this Tribunal in order to protect them from cross-examination which would have revealed the falsity of the case against the respondent Association. He also denied that the cases mentioned by him in para 2 of his affidavit have no connection with the respondent Association. He also denied that the head of the respondent Association was not challaned in FIR No. 23/2018 but volunteered that he was challaned. He also denied that his deposition is of no relevance to the issues for adjudication by this Tribunal and that the respondent Association had never committed any unlawful act or acts in violation of the Constitution of India.

44. PW-3, Mr. Chandan Kohli, SP, District Pulwama appeared and produced his affidavit Ex.PW-3/A. The said witness has deposed in respect of 09 FIRs being FIR No.321/2009 registered under Sections 148, 149, 332, 153A, 121A, 336 of Ranbir Penal Code and Section 13 of the Unlawful Activities (Prevention) Act at PS Pulwama; FIR No.124/2016 registered under Section 13 of the Unlawful Activities (Prevention) Act at PS Pulwama; FIR No. 318/2016 registered under Section 153A of the Ranbir Penal Code; FIR Nos. 347/2016, 362/2016, 378/2016 and 387/2016 registered under Section 13 of the Unlawful Activities (Prevention) Act at PS Pulwama; FIR No. 64/2018 registered Section 148, 149, 336, 186 of the Ranbir Penal Code at PS Pulwama and FIR No. 02/2019 registered under Section 121 and 505 of the

Ranbir Penal Code . These FIRs are related to making speeches for the respondent Association, nature of which is mentioned in paras 1 and 2 of the affidavit.

45. The witness in his affidavit has stated that JeI is in close touch with Terrorist organization and is supporting extremism and terrorism in the State of J&K. It is also stated that JeI is supporting claim for secession of a part of the Indian Territory from the India and is passively and actively supporting terrorist and supporting groups in the State of J&K and is supporting anti-national activities and is involved in subversive activities in the State of J&K. It is also stated that banning of JeI organization will completely isolate them from propagating secessionist tendencies and ban will effectively assist the investigating agencies to deal with them in accordance with the procedure as shall be established under law.

46. In his examination-in-chief, the witness has stated that FIRs lodged against the respondent clearly indicate that the accused mentioned in the FIRs are making speeches for the respondent, which have been banned by the Government of India. It is further stated that two or three FIRs annexed with his affidavit specifically mentions about Advocate Zahid Ali, who was the Chief Spokesperson of the respondent JeI and he was making speeches against the Union of India and was using the words which led to the incitement of the people assembled, which further lead to the problem in India, e.g. stone pelting and hurling of petrol bombs etc.

47. In his cross-examination, the witness has stated that he had read the Notification declaring the respondent unlawful and the notification does not specifically mention about the FIRs which are Ex.PW-3/1 to PW-3/9. He has further stated that the FIRs were against the people who were associated with the respondent for the aforesaid activities and after the ban, it was against the respondent. None of the FIRs Ex.PW-1 to PW-1/9 is against the respondent. None of the FIRs PW-1/3 to PW-1/9 mentioned about the respondent directly in the FIR, but in the case diary it does. He has further stated that he is deposing and knows the facts of the present case on the basis of the records. He has further stated that after the banning of the organization, they raided the offices of the respondent, after following due procedure and the records were seized. On the basis of the record, they found that the persons against the aforesaid FIRs were registered against members of the respondent organization. The seized records include the Membership Registers also, but the same were not produced before this Tribunal. However, he denied the suggestion that he had not produced the Membership Registers because producing them would establish that none of the persons mentioned by him in his affidavit were members of the respondent Association, except Advocate Zahid Ali. He further stated that normally, they do prepare the transcript of the speeches given by the persons but specifically in these FIRs he did not remember whether the transcripts of the speeches were made or not. He denied the suggestion that the IOs of the nine FIRs mentioned by him have not been produced in evidence before this Tribunal in order to protect them from cross-examination. He also denied the suggestion that there is no material in the FIRs Ex.PW-3/1 to 3/9 to link or establish any connection between those cases and the respondent Association. He also denied the suggestion that he had filed selective documents and suppressed material documents to prejudice this Tribunal and falsely implicate the respondent Association.

48. PW-4, Mr. Salfie Arshid, SHO, PS Lar, District Ganderbal appeared and produced his affidavit exhibit PW-4/A. The said witness has deposed in respect of FIR No.32/2019 registered under Sections 10 and 13 of the Unlawful Activities (Prevention) Act at PS Ganderbal. The witness had also annexed the news bulletin along with its translated copy in English with his affidavit as also the seizure memo, seizing the literature material.

49. The witness in his affidavit has stated that JeI is actively supporting secession of J&K from the Union as well as the Territory of India and promoting extremism in the State of J&K. He has further stated that he conducted the investigation of FIR No. 32/2019 and due to his transfer from PS Ganderbal to PS Lar, he had handed over the investigation of the case to another officer on 17.06.2019. He further stated that during the course of investigation, he had conducted raids and seized newspaper dated 23.11.2018 namely "Moomin" published by JeI, certified copy of which was annexed with his affidavit. He further stated that the article published in the said newspaper shows the support of the banned organization for the separatist movement and conveys sympathy for those who indulge in extremist activity and propaganda for secession (referred to as AZAADI). The seized hardcopy of the bulletin is also disseminated through the website "e-paper:weeklymoomin.org". He has further stated that the banned organization has been using all means at its disposal to indulge in divisive propaganda and indoctrinate the local population against the Indian State. It is also stated that banning of JeI organization will completely isolate them from propagating secessionist tendencies and ban will effectively assist the investigating agencies to deal with them in accordance with the procedure as shall be established under law.

50. In his cross-examination, the witness has stated that he had gone through the FIR exhibit PW-4/1 and it is correct that it does not mention about the seizure of any literature or material or about any newspaper or the literature but he denied the suggestion that the FIR does not mention about any cognizable offence against the respondent Association. He accepted that the Background Note as well as the Notification do not mention about the said FIR. He admitted that the seizure memo contains the signature of the occupant namely Abdul Rashid Mallah but volunteered that the premises belong to the respondent. He also stated that some persons were also arrested in the FIR but charge-sheet has yet not been

filed. He has further stated that the translated copy of the FIR wrongly mentions that Sh. Mir Hafeezullah is the leader of JeI, however, in the original news article, it is written that he is the member of Hurriyat Conference. But he denied the suggestion that he had filed the wrong translated copy of the FIR in order to falsely implicate the respondent and the accused therein. He further stated that he had not got any proof with him to prove that Abdul Rashid Mallah is the owner/occupant of the premises in question. But he denied the suggestion that Abdul Rashid Mallah is neither the owner nor the occupier of the premises in question and that no newspaper article was seized from the premises in question. He also stated that he did not know right now whether the article is still being published or not.

51. PW-5, Mr. Sheikh Junaid Mahmood, Senior Superintendent of Police, CID Headquarters appeared and produced his affidavit exhibit PW-5/A. The said witness has deposed in respect of intelligence inputs, copies of which were placed before the Tribunal in sealed cover.

52. The witness in his affidavit has stated that the perusal of the official record maintained with regard to intelligence inputs generated from field formations suggest and confirm the involvement of JeI leaders and its cadre with anti-national/subversive activities such as:

- (a) Disputing and challenging the accession of State of J&K with the Union of India and thus preaching for the secessions of the State from the Union fold.
- (b) To carve out an Islamic State by destabilizing the Government established by law, disputes the constitution of J&K State, describing it as a fraud committed by the undemocratic Governments.
- (c) Encouraging the use of arms struggle to liberate the state from the Union of India.
- (d) Promoting hatred against established Government, law enforcing and other security agencies.
- (e) Being brain behind the formation of All Party Hurriyat Conference (APHC), a conglomerate of various religious-political and militant organizations which is inciting general masses for forced Bandhs/Hartals and processions.
- (f) Aiding, abetting and providing every logistic support to terrorist ranks especially Hizbul Mujahideen (the militant wing of JeI), thereby promoting subversive activities in the State.

53. In his examination-in-chief, the witness has stated that whatever is stated in paras 2 and 4 of his affidavit are based on official record and intelligence inputs as well as on the basis of material received from different agencies regarding involvement of the respondent.

54. In his cross-examination, the witness has stated that neither he read the Notification declaring the respondent as unlawful association nor he read the background note. He further stated that he had not written to the Government that the respondent be declared as unlawful association. He denied the suggestion that his affidavit and deposition are false and that they are irrelevant to the issues for adjudication before this Tribunal. He also denied the suggestion that he had attempted to produce false documents behind the back of the respondent Association because he want to avoid independent verification of the credibility of those documents.

55. PW-6, Mr. Shakti Kumar Pathak, SSP, Kishtwar appeared and produced his affidavit exhibit PW-6/A. The said witness has deposed in respect of six FIRs being FIR No.153/1989 registered under Section 124A, 147, 188, 152, 153A and 336 of the Ranbir Penal Code at PS Kishtwar; FIR No.48/1990 registered under Section 3 & 4 of TADA, Sections 4 & 5 of Exp. Act, 124-A of the Ranbir Penal Code and Sections 2 & 25 of the Arms Act at PS Kishtwar; FIR No.39/1993 registered under Section 153A of the Ranbir Penal Code at PS Kishtwar; FIR No.53/1993 registered under Section 124A of the Ranbir Penal Code at PS Kishtwar; FIR No.133/2008 registered under Section 302, 307, 435, 436, 147, 148, 149, 427, 188 and 336 of the Ranbir Penal Code and Sections 7 & 27 of the Arms Act at PS Kishtwar and FIR No.193/2010 registered under Section 307, 353, 336, 148, 148, 149, 153A and 120B of the Ranbir Penal Code at PS Kishtwar.

56. The witness in his affidavit has stated that JeI is in close touch with Terrorist organization and is supporting extremism and terrorism in the State of J&K. It is also stated that JeI is supporting claim for secession of a part of the Indian Territory from the India and is passively and actively supporting terrorist and supporting groups in the State of J&K and is supporting anti-national activities and is involved in subversive activities in the State of J&K. It is also stated that banning of JeI organization will completely isolate them from propagating secessionist tendencies and ban will effectively assist the investigating agencies to deal with them in accordance with the procedure as shall be established under law. It is further stated that 06 cases have been registered against JeI prior to its banning in which 04 cases have been charge-sheeted before the competent Court, whereas 02 cases are still under investigation.

57. In his examination-in-chief, the witness has stated that the IOs of the respective FIRs briefed him and on the basis whereof he had stated in his affidavit about the activities of the respondent Association. With regard to the subversive activities mentioned in para 3 of his affidavit, he has stated that there was a literature of All Parties Hurriyat Conference (APHC), which is an amalgamation of different secessionist groups of Kashmir and the constitution of the APHC says that their motto is freedom of Kashmir, and that the material was recovered during the searches.

58. In his cross-examination, the witness has admitted that neither the FIRs are mentioned in the Notification declaring the respondent Association as unlawful nor these FIRs are mentioned in the Background Note. He also admitted that none of the aforesaid FIRs mentioned about the respondent Association by name but volunteered that during investigation, the name of the respondent Association came to light. He denied the suggestion that since he was not the IO, he cannot say that the name of the respondent came to light during investigation. He also denied the suggestion that the IOs of these FIRs are not being produced before this Tribunal in order to avoid cross-examination and scrutiny and that investigation or none of these FIRs threw up any material or evidence against respondent Association and it is for this reason that there are no documents linking the respondent Association with these FIRs. He also denied the suggestion that he had attempted to bring new material through his examination in Court in order to prejudice the respondent Association. He also denied the suggestion that there is no connection between Hizbul Mujahideen and respondent association.

59. PW-7, Mr. Tahir Ashraf, SSP, presently SP (Police Component), Kashmir appeared and produced his affidavit exhibit PW-7/A. The said witness has deposed in respect of intelligence inputs and reports, copies of which were placed before the Tribunal in sealed cover.

60. The witness in his affidavit has stated that during the course of his duties at the present posting, he gathered/collected and compiled plethora of intelligence inputs and reports, which indisputably establishes involvement of JeI in various anti-national activities, which primarily includes propagating separation of J&K from the Union of India:

- (a) By promoting extremism and terrorism in the state of J&K in covert manner under the garb or its religious activities which are just a façade of their ill-motives;
- (b) by sowing seeds of dis-affection against the Government of India amongst people of J&K including young children of feeble mind;
- (c) by glorifying terrorists who gets killed by armed forces of the Union terming them as martyrs;
- (d) spreading hatred towards armed forces, Police personnel, designating them as enemies of people of J&K;
- (e) by issuing sermons through their preachers, exhorting people to disbelieve the Government, dishevel and destabilize law and order situation in and around the state of J&K.

The witness has also stated that various intelligence reports suggest and confirm that JeI is funding the disruptive activities within the state of J&K and also making financial help to families of terrorists died in encounters with police/armed forces so as to incentivize youth to take up terrorism to further unholy agenda to JeI. He has further stated that the intelligence inputs revealed that JeI had been keeping close links with extremist groups and militant organizations and passionately supported their claim for secession of Indian territory by their preaching, which were primarily misrepresenting, over emphasizing and amplifying the sufferings of the people of Kashmir and glorifying the acts of violence(s) undertaken by extremist groups, in their periodical lectures/meetings/assemblies. Such messages are being spread by the office bearers/members of the Association by word of mouth amongst the impressionable minds of youth of the State. It played a proactive role in instigating communal disharmony in Jammu & Kashmir and engineered incidents caused eruption communal disturbances, hatred against the constitutionally established Government of the Country and encouraged disruptive activities.

61. In his cross-examination, the witness has stated that he had not read the notification and the Background Note and that he had not written anything to the Central Government to declare the respondent Association as unlawful. He denied the suggestion that his affidavit and deposition are false and that they are irrelevant to the issues for adjudication before this Tribunal. He also denied the suggestion that he attempted to produce false documents behind the back of the respondent Association because he want to avoid independent verification of the credibility of those documents.

62. PW-8, Mr. Arvind Digvijay Negi, Superintendent of Police, National Investigation Agency appeared and produced his affidavit exhibit PW-8/A. The said witness has deposed in respect of cases registered by NIA against the respondent Association.

63. The witness in his affidavit has stated that during investigation of case No.RC-10/2017/NIA/DLI, it has been revealed that accused Mohd. Yusuf Shah @ Syed Salahuddin, after getting his Masters in Political Science at the University of Kashmir, got influenced by the JeI and became a member of its branch in J&K known as JeI, J&K. After the banning of JeI, J&K in 1990s, its cadres and office bearers including Mohd.Yusuf Shah @ Syed Salahuddin joined Hizbul Mujahideen (HM) known as armed/militant wing of JeI, the banned terrorist organization and some of them joined the Jammu & Kashmir Liberation Front (JKLF). He has further stated that after the banning of JKLF, the JeI, J&K cadres and office bearers continued their secessionist activities under the cover of All Parties Hurriyat Conference (APHC) by giving their agenda or secession a Political Mask. He has further stated that the said AHPC is continuing with its secessionist activities as on date by way of various means such as defiance of Government of India by way of forced

Bandhs, Hartals, Processions/violent processions turning into stone pelting processions, obstructing the security forces in the operations launched against the active militants in the Kashmir valley, hailing the killed militants as Martyrs thereby motivating young gullible Kashmiri Muslim Youth to join the militant ranks, supporting the families of the active as well as killed militants etc. He has further submitted that Mohd. Yusuf Shah @ Syed Salahuddin is the Chief of proscribed terrorist organization Hizb-Ul-Mujahideen (HM), the militant wing of Jamaat-e-Islami, Kashmir which has its base in Muzaffarabad in Pakistan Occupied Kashmir (POK). HM is the largest terrorist group operating in Jammu & Kashmir and draws its cadres from Jamaat-e-Islami, Kashmir as well as foreign fighters from Pakistan and other Islamic countries. It is funded and financed by Pakistani agencies which also provide arms training and other logistic support to carry out terrorist attacks in India. He has further stated that Altaf Ahmad Shah @ Fantoosh is an active, dedicated staunch member of All Party Hurriyat Conference (Geelani faction). He being a part of the Hurriyat conference was closely associated with Jamaat-e-Islami, a secessionist organization whose main aim and object is to preach secession and to inculcate the anti-national and separatist feelings in the minds of the people of Kashmir. He has further stated the Mohammad Akbar Khanday @ Ayaz Akbar joined Jamaat-e-Islami in his school days in 1985 as an active member, which was headed by Late Haqim Ghulam Nabi. At that time, Sayeed Ali Shah Geelani was also a representative of Jamaat-e-Islami and executive member of Hurriyat Conference. Later, he started full time worker in Press Cell of All Party Hurriyat Conference (APHC). He further stated that Mohammad Akbar Khanday was a staunch believer of secessionist ideology being propounded by APHC (G) group which believes that the state of J&K should get seceded from the Union of India. He has further stated the HM has phased its programme in different stages such as to motivate the Kashmiri Muslim youth to join the militant organization, to impart weapons training to the youth and to distribute & circulate anti-national and highly objectionable literature among the people of the state to create chaotic conditions preparatory to achieve the goal of liberating the State of Jammu & Kashmir through its well established network of cadre/over ground workers most of whom are affiliated with Jamaat-e-Islami, J&K.

64. In his cross-examination, the witness has stated that he had read the Notification declaring the respondent Association unlawful and it is correct that the Notification does not contain anything about the case NIA RC-10/2017/NIA/DLI that is mentioned in his affidavit. He admitted that all the accused, who are in custody in NIA RC-10/2017/NIA/DLI, have been given copies of the charge-sheet along with all documents but denied the suggestion that he had not given copies of the documents mentioned in his affidavit to the respondent Association to avoid independent examination and scrutiny of those documents. He also denied the suggestion that none of the accused mentioned in the aforesaid FIR are members of the respondent Association. He also denied the suggestion that the respondent Association is not a branch of Jamaat-e-Islami-e-Hind and that there is no documentary or other evidence that establishes any connection, link or collaboration between the respondent Association and Hizbul Mujahideen. He also denied the suggestion that there is no document or other evidence that establishes any connection, link or collaboration between the respondent Association and All Parties Hurriyat Conference (APHC) and Jammu & Kashmir Liberation Front (JKLF). He although admitted that he had not verified about the membership of the accused in case no. NIA RC-10/2017/NIA/DLI from the register of members of the respondent Association.

65. PW-9, Mr. S.C.L. Das, Joint Secretary, Ministry of Home Affairs, Government of India had appeared and produced his affidavit exhibit PW-9/A. The said witness has deposed regarding the procedure adopted in issuance of Notification dated 28<sup>th</sup> February, 2019 as also in respect of intelligence inputs and reports, copies of which were placed before the Tribunal in sealed cover.

66. In his affidavit, the witness has stated that the Notification dated 28<sup>th</sup> February, 2019 is based on the information and material received from the Government of Jammu & Kashmir, Intelligence Bureau (IB) and National Investigation Agency (NIA) with regard to deep-seated involvement of Jamaat-e-Islami, Jammu and Kashmir in unlawful activities. He has further stated that the inputs receives from the aforesaid, inter alia, indicate that JeI is bent upon working towards secession and separation of the State of Jammu and Kashmir from the Union of India and JeI have been found involved in various subversive activities thereby posing a threat to the security and integrity of India. He has further stated that since the unlawful activities of JeI were found to be continuing unabated, a Note was prepared for the consideration of the Cabinet Committee on Security. Thereafter, the Cabinet Committee on Security considered the proposal contained in the above note, and in the meeting held on 28<sup>th</sup> February, 2019 took the decision to declare JeI as an unlawful association. Accordingly, the requisite Notification was made and published in the Gazette of India, Extraordinary, Part-II Section 3, Sub-Section (ii) vide S.O. 1069 (E) dated 28<sup>th</sup> February, 2019. He has further submitted that JeI has been involved in propagating pro-freedom and pro-Jihad ideas and has been receiving donations and funds from within India and abroad. Further, the Islami-Jamiat-e-Talab (IJT), the student wing of JeI is also prorogating the ideas of Jihad and freedom among the youth. He has further stated that, in addition to the cases mentioned by the State of J&K and the NIA, various intelligence inputs from IB also bear testimony to JeI involvement in unlawful activities and in pursuit of its objective of secession of the State of Jammu and Kashmir from the Union of India, JeI has been instrumental in radicalizing sections of Kashmiri Youth and motivating to join militant organizations and has been involved in cases of sedition, subversion, attack on public servants etc.

67. In his cross-examination, the witness has denied that he has not received the information and the material mentioned by him in para 2 of his affidavit and that is why it has not been brought on record. He stated that the background note is a synopsis of the material placed before the Cabinet Committee on Security and that all the material placed before the Cabinet Committee on Security is not part of the background note and volunteered that since this is only synopsis for making a statutory reference under Section 4 of Unlawful Activities (Prevention) Act, 1967 read with Rule 5(2) thereof. He has further stated that he was not aware of the witnesses examined before the Tribunal and, therefore, cannot say whether the documents proved by them or their depositions were part of materials placed before the Cabinet Committee on Security. He denied the suggestion that he had not received any communication from the Government of J&K regarding any unlawful activities of the respondent Association and that the sealed cover contains false and frivolous documents and for that reason the same has not been shown and supplied to the respondent Association. He also denied the suggestion that there are no intelligence inputs or materials to justify declaring the respondent Association unlawful. He also denied the suggestion that his affidavit includes material that was not placed before the Cabinet Committee on Security. He further denied the suggestion that Islami-Jamiat-e-Talaba is not the student wing of the respondent Association and that the respondent Association is not involved in radicalization of Kashmiri youth or in motivating them to join the associations that have been declared unlawful or those who are committing illegal activities.

68. PW-10, Mr. Swayam Prakash Pani, Inspector General of Police, Kashmir had appeared and produced his affidavit exhibit PW-10/A. During his evidence, the witness has tendered the sanction orders dated 12.07.2019 (Ex. PW-10/1) and 11.07.2019 (Ex. PW-10/2).

69. In his affidavit, the witness has stated that after the accession of the State of Jammu & Kashmir with the Union of India, JeI began to follow the instructions and directions issued by JeI (Pakistan) and began to question the accession of the State with Union of India and promoting secessionist movement in the State of J&K. He has further stated that JeI (J&K) is patronising banned terrorist outfit Hizbul Mujahedeen, which was constituted in the last quarter of the year 1989 and that both are currently engaged in increasing their influence through various means including merger of smaller terrorist groups with it. He has further stated that JeI is intrinsically linked with 'United Jihad Council' (based in Pakistan) which is the 'Umbrella Organization' of all major terrorist outfits. He has further submitted that prior to declaration of JeI as banned unlawful association, several FIRs have been registered against the affiliates, activists and associates relating to various offences including offences under Sections(s) 121, 121A, 109, 147, 148, 149, 336, 307, 153, 302 of the Ranbir Penal Code as also under Sections 5, 7, 25 & 27 of the Arms Act and Sections 3 & 4 of the Explosive Substances Act. He has further stated that even though, majority of these FIRs relates to incidents of 'stone pelting' and 'unlawful assembly' these disruptive activities establish the link between these untoward incidents and the association, as they are occasioned by leaders/prominent members of JeI by delivering infuriating speeches and inciting an otherwise peaceful assembly. He has further stated that after declaration of JeI as unlawful association, 45 cases stand registered against it and by invoking legal provisions of Unlawful Activities (Prevention) Act post ban, unlawful activities against the security of State and Country have drastically been curtailed. He has further stated that the graph of involvement of activists of JeI in stone pelting and carrying out procession in the form of unlawful assemblies was of huge magnitude having direct impact on psyche of younger generation who were getting attracted towards participating in the activities being carried out by said unlawful associations, which in turn was generally affective the interests of National Security.

70. In his cross-examination, the witness has admitted that the sanction has been granted for prosecution of offences that are under Chapter-III of the Act but denied that the appropriate authority for sanctioning prosecution of offences under Chapter-III of the Act is the Central Government and not the State Government under Section 45 sub-clause(1) (i). He also denied that the aforesaid sanction orders sought to be exhibited by him are without authority of law and that they have been got in haste in order to prejudice the respondent Association. He has also stated that all the records mentioned in the aforesaid sanction orders were seized from the premises of the respondent Association and the membership registers of the respondent Association were also seized but denied the suggestion that he had deliberately not filed all the documents seized during investigation on the record of this Tribunal because if all the documents had been filed, they would vindicate the respondent Association. He also denied that the respondent Association does not support the United Jihad Council or HM or LeT. He also denied the suggestion that the respondent Association has never supported bands, hartals, stone pelting or obstructing security forces.

71. In addition to the above prosecution witnesses, no public witness had appeared to depose before the Tribunal or filed any affidavit except one public person namely Hazi Abdul Majid Butt, who had appeared and filed his affidavit but the said affidavit was with respect to his private dispute, not relevant to the present proceedings.

72. The respondent Association examined the following two witnesses in support of their case:

- (i) Ghulam Mohammad Bhat, S/o Abdul Jawahar Bhat, R/o Latishat, Sopore, Jammu & Kashmir (**RW-1**); and
- (ii) Mir Assadulah, S/o Mohammad Akbar Mir, R/o Murran, Pulwama, Jammu & Kashmir.

73. RW-1, Ghulam Mohammad Bhat had appeared and produced his affidavit exhibit RW-1/A. The witness has deposed about the constitution of the respondent Association and the non-involvement of its cadres in any anti-national or subversive activities.

74. In his affidavit, the witness has stated that he was the first elected Ameer-e-Jama'at in 1985 and his first tenure as Ameer-e-Jama'at was from September 1985 till August 1988; his second tenure was from September 1997 till August 2000; his third tenure was from September 2000 till August 2003 and his fourth tenure was from September 2015 till August 2018. He has also been a longstanding member of the Majlis-e-Shoora, which is the Central Consultative Body of the respondent Association. He has further stated that the respondent Association was set up in November 1953 to spread the word of Islam and in doing so it extends its Da'wah (invitation to Islam) to all people without discriminating on the basis of sect, language, colour, race, nation or country. Further, the association is committed to democratic and constitutional methods and is guided by a written constitution. He has further stated that the constitution of the association has never supported violence and stipulates that the association shall not employ ways and means 'against ethics, truthfulness and honesty or which may contribute to strife on the earth'. He has further stated that the respondent Association has always participated in the democratic process and had participated in various Municipal, Panchayat, Legislative Assembly and Lok Sabha elections. He has further stated that although the Association has always been opposed to violence, and although the Ameer-e-Jama'at, when the state was in the grip of armed militancy in 1987, Hakeem Ghulam Nabi, expressly condemned violence at several public meetings, a misconception began to build that the Association supported militancy, which was entirely the creation of persons with a vested interest against the Association and because of this misconception that the Association was declared unlawful in March, 1990, which had expired with the passage of time. He has further stated that in 2002, the Association undertook a complete overhaul of its membership to weed out any persons who might support militancy, extremism or underground or unconstitutional means and that Mr. S.A.S. Geelani and Mr. Sehrai seized to be a member of the Association after 2004. He has further stated that the respondent Association or its cadre has never supported any illegal activity like arson or stone-pelting or any damage to public or private property. He has also referred the press conference, interviews and newspaper articles wherein the respondent Association appeal for peace in Kashmir and stated that the Association remained committed to democratic and constitutional means and had nothing to do with militancy or underground work.

75. In his cross-examination, the witness has stated that the respondent Association is having approx. 5000 members in Jammu & Kashmir and their records are being maintained by the Association. He has further stated that the respondent Association was publishing a newspaper called by the name of Moomin and as an Amir, the witness caused to publish messages/appeals in Moomin and other newspapers to advice the cadre members not to indulge in terrorist or secessionist activities. In response to the question that several senior office-bearers of the respondent organization have been detailed under Unlawful Activities (Prevention) Act, the witness denied the linkage of the person with the organization except the two persons namely Zahid Ali Lone and Gul Mohd. War and volunteered that apart from these two persons, none of the members of the respondent Association is having any criminal case against them. He has further stated that the Association is receiving contribution from its members in India and that they are not receiving any contribution from abroad. He denied the suggestion the Maulana Moududi, the founder of the respondent organization, believed that in order to implement Islamic State, a struggle (Jehad) would be required. He has further stated that the organization wants that if the entire population of Kashmir wants the Kashmir to be an Islamic State of their own choice as per the constitution, then it may be an Islamic State. He denied the suggestion that the respondent organization supported the stone pelting and/or secession from India. He has further stated that the respondent Association has never condemned the Tehreek-e-Hurriyat in writing, however, it was stated that the respondent Association has no concern or connection with the same. He denied that the respondent organization is clandestinely promoting and supporting secessionists and terrorist activities or instilling feeling of hatred towards the institutions and the government established under the Constitution of India and that the respondent organization is using the religion as a cover to camouflage its illegal activities. He also denied that the respondent organization is providing a platform to the indoctrinated youth who use the respondent organization as a stepping stone to get themselves enrolled with Hizbul Mujahiddeen. He further denied that the preachers or instructors affiliated with the respondent organization openly exhort people to resort to violence against the armed forces after offering Friday prayers. He also denied that the respondent organization considers stone pelters as innocent unarmed people and that it is for this reason it condemns the security forces for taking action against them.

76. Mr. Sanjay Jain, learned Senior counsel for the Union of India argued that the supervisory officers who have deposed before the Tribunal have proved all the FIRs, copies of which were supplied to the respondent Association. Learned Senior counsel argued that it was physically not possible to produce each and every Investigating Officer of the 169 FIRs relied upon by the Central Government, for logistical reasons, especially considering the constraint of time. The supervisory officers, who have deposed before the Tribunal, have been associated with the process of investigation and each of the witnesses has deposed on the basis of the record. The certified copies of the FIRs have been placed before the Tribunal and translation thereof are also on record. The evidence produced is a clear indicator of the unlawful activities of the respondent Association and their acts being anti-national and subversive are intended to cause communal tension and seek secession of a part of Indian territory are clear evidence of their activities. Learned Senior counsel argued that

this Tribunal is not expected to conduct a trial in each of the FIRs relied upon by the Central Government but to assess whether the material before the Central Government, *prima facie*, justifies the act of banning the respondent Association. The Central Government cannot await the consequence of the trial in each case and, hence, a *prima facie* assessment of the FIRs registered and the intelligence inputs gathered completely justify the act of the Central Government in forthwith banning the respondent Association.

77. Learned Senior counsel further submitted that respondent Association over a period of time has been actively promoting and engaged in activities which are anti-national and prejudicial to the interest of the country and have the capacity to propagate separatist activities which are prejudicial to the integrity and security of the country. It is argued that the respondent Association has the sole objective of imposing Islam as a State religion and their activities are intended to encourage forced conversions to their religion. It is submitted that a large number of FIRs were registered against the members, supporters and sympathizers of the respondent Association which are direct indicators of their anti-national and separatist agenda, which cannot be allowed under our constitutional set-up. Learned Senior counsel further argued that based on the incidents being indulged in by the members, supporters and sympathizers of the respondent Organizations as also the inputs received through the intelligence agencies, the Central Government formed the opinion that the respondent Association is in close touch with militant outfits and is supporting extremism and militancy in Jammu and Kashmir as also elsewhere. It was further noticed that the respondent Association was supporting 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 and is also involved in anti-national and subversive activities in the country intended to cause disaffection. Based on the inputs so received, the Central Government formed the opinion that in case the unlawful activities of the respondent Association are not curbed and controlled immediately, the respondent Association would escalate its subversive activities including attempt to carve out an Islamic state out of the territory of the Union of India by destabilizing the government established by law and further, it will 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 Indian Union. The Central Government was further of opinion that respondent Association would continue propagating anti-national and separatist sentiments prejudicial to the integrity and security of the country and escalate secessionist movements, support militancy and incite violence in the country if its activities are not curbed immediately. Learned Senior counsel argued that there was sufficient material available with the Central Government by way of FIRs registered against the members of the association in respect of incidents which have a direct correlation to anti-national and subversive activities intended to destabilize and disrupt the territorial integrity of India, even though in some cases the incidents reported may be of stone pelting against the armed forces deployed by the Central Government for security purposes. Learned Senior counsel argued that even such incidents of stone pelting indulged in by the members, supports and sympathizers of the respondent Association are a direct attack on the federal structure of the country and the support extended by the respondent Association to such incidents by way of statements of its leaders is sufficient cause for the Central Government to ban the respondent Association.

78. He further submitted that the respondent Association is an active creator and supporter of unlawful activity as defined in sub-section (4) of Section 2 of the Act and it has unlawful activity, as defined in the Act, as its object which encourages and aids its members and supporters to undertake unlawful activity. Thus, it is submitted that the ban on the respondent Association deserves to be upheld.

79. Mr. Jawahar Raja, learned counsel for the respondent Association argued the matter primarily on the issue of the law applicable to these proceedings, the relevant material and evidence available before the Tribunal as also the merits of the said material. He submitted that respondent Association's positive case on relevant facts is uncontested by the Central Government and in the absence of grounds in the Notification, there is no way to determine whether relevant factors have been taken into consideration and irrelevant factors omitted because the Central Government has shifted its case from one stage to the next.

80. While also objecting to the mode of proof of the FIRs, learned counsel submitted that except for two persons, viz. Gul Mohammed Vah and Zahid Ali Lone, none of the other persons named in the FIRs are the members of the respondent Association. He submitted that their register of members having being seized by the authorities of the Government and their offices having been sealed, they were not in a position to produce the relevant record to support their claim but the Central Government having possession of the register of the members of the respondent Association did not deliberately produce the register since it would have proved the case of the respondent Association to the effect that only two of their members are named in the FIRs relied upon by the Central Government for banning the respondent Association. Learned counsel argued that the Central Government failed to discharge the onus of proving that the persons named in the FIR were members of the respondent Association and, thus, these FIRs cannot be used as a ground to ban the respondent Association and that these FIRs are liable to be discarded for the purposes of adjudication by this Tribunal. Learned counsel further argued that certified copies of the FIRs have not been produced by the Central Government nor have the concerned investigating officers been produced. It is also argued that there is no information whatsoever placed before the Tribunal by the Central Government except the bald general allegations set out in the

documents which are undeserving of being acted upon particularly since they are only the first information of the cognizable offence. Learned counsel further argued that the officers who deposed before the Tribunal were neither the Investigating Officers nor were they concerned with the investigation of the case in any manner and hence, no merit can be read in the testimony of these witnesses and their depositions ought to be discarded. Learned counsel argued that in the absence of any credible evidence produced by the Central Government warranting banning of the respondent Association, the Notification issued by the Central Government banning the respondent Association is not sustainable. He further submitted that RW-1 Mr. Ghulam Mohammad Bhat has categorically claimed that the respondent Association is strongly opposed to violence and that their leaders have consistently delineated themselves from any kind of violence or terrorist activity and have always supported the democratic process. Learned counsel referred to exhibit RA1/3 and RA1/4 being newspaper articles to say that the respondent Association never owned the militant outfit Hizb-ul-Mujahiddin nor was it ever claimed to be party's militant wing and that the party had a constitution of its own which did not approve terrorism or underground activities. Learned counsel also referred to clauses 2, 3 & 4 of Article 5 of the Constitution of the respondent Association to say that the Association stood for truthfulness and honesty and supported democratic and constitutional methods while working for the reform and righteous revolution. Learned counsel argued that the Central Government has not proved any case against the respondent Association and has instead tendered affidavits of persons fabricating and making conjectures against the respondent Association. It is stated that none of the persons have deposed from personal knowledge. Learned counsel stated that the statement attributed to Ghulam Mohammad War is false and fabricated and that no such statement was made by him. Learned counsel next argued that the witness RW-1 has withstood the test of cross-examination and has proved that the allegations against the respondent Association are false and fabricated and that the respondent Association is a democratically structured organization and the preachers and instructors affiliated with the respondent Association do not exhort people to resort to violence against armed forces or indulge in anti-national or subversive activities. It is, thus, submitted that in the absence of any substantive grounds, the act of the Central Government in banning the respondent Association does not withstand the scrutiny of law and that the Tribunal should return the finding that there is no sufficient cause or material to ban the respondent Association.

81. I have carefully perused the material brought on record and also heard the learned counsel for the parties at length. While the Central Government produced 10 witnesses to justify the ban on the respondent Association, the respondent Association produced 02 witnesses, the prime witness being their former Amir-e-Jamaat and another witness who merely certified the translations annexed to the affidavit of the prime witness. While 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, the witness of the respondent Association deposed about the activities of the Association and also about the non-involvement of its cadres in any kind of anti-national activity, which could threaten the security of the State.

82. Before advertng 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."*

83. PW-1 has deposed that the respondent Association is actively and passively supporting the terrorist groups in the State of Jammu and Kashmir and supporting anti national activities besides being involved in subversive activities in the State of Jammu & Kashmir. The witness also deposed about the seizure of membership register of the banned organization which had been submitted in a sealed envelope by PW-10. PW-2 has proved two FIRs relating to cases of rioting and conspiracy of the stone pelting after provocation and sloganeering against the State by office-bearers of the respondent Association. PW-3 has also deposed about the hate speeches delivered by Zahid Ali Lone, who was the chief Spokesperson of the respondent Association which were intended to exhort the people to indulge in acts of violence,

thus, causing lawlessness in the State and disrupting peace and tranquility in the State. 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. In his cross-examination, the witness stated that the persons named in the FIRs were members of the respondent Association. PW-4 referred to a seizure effected from the respondent Association in the form of news bulletin dated 23.11.2018 expressing grief on the death of unknown terrorist and causing aspersions on the armed forces and condemning their act of eliminating to that unknown terrorist. PW-5 to PW-8 and PW-10 also reiterated the illegal and anti-national and subversive activities of the respondent Association and its office bearers and proved the FIRs registered under their respective jurisdictions and proved the unlawful activities of the respondent Association and its office-bearers in promoting anti-national activities, its linkages with separatists organization in India and abroad and their financial transactions to illegal channels. They also proved the support extended by the respondent Association to other terrorist organizations, especially Hizb-ul-Mujahiddin and proved that the activities of the respondent Association, its office-bearers and members were articulated to cause unrest in the State of Jammu & Kashmir as also in other parts of India and were indulged in with the object of seceding a part of the territory of the Union of India. PW-9 has deposed about the process followed and steps taken in placing the matter before the Cabinet Committee on Security and about the clandestine nature of activities of the respondent Association, aimed at disrupting the territorial integrity of India. A balanced appreciation of the evidence as well as material brought and filed on record by the Central Government directly establishes that the activities of the respondent Association are clearly against the objects stated in their constitution and that the said organization works in collusion with other similar terrorist and militant organizations with a view to disrupt the peace and tranquility in the State of Jammu & Kashmir as also the other parts of India.

84. It is worthwhile to notice that to assess the sufficiency of a cause to ban an Organization, 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.

85. I also do not find any substance in the objections raised by the learned counsel for the respondent regarding the mode of proof etc. to exhibit the documents including the FIRs placed on record during the evidence of the petitioner. Here, I would like to add and clarify that the rigours of Indian Evidence Act, 1872 do not apply to the evidence and the proceedings before the Tribunal. There is no doubt that FIR is a public document prepared under Section 154 Cr.P.C. A certified copy of the FIR can be given in evidence. Similarly, a photocopy of the FIR can also be given in evidence in view of Section 63(1) & (2) read with Section 65(e) & (f) of the Indian Evidence Act, 1872, hence the FIRs have become part of the prosecution evidence. Even otherwise, there is no dispute about the registration of the aforesaid FIRs, and the presumption about the lodging of the FIRs, hence, also can be raised by this Tribunal under the Indian Evidence Act, 1872. Learned counsel for the respondent otherwise has failed to point out any law or provision in this regard to substantiate his objection regarding the mode of proof and/or flaw while exhibiting the documents including the FIRs on the record.

86. In view of the above discussions and having gone through the nature of allegations in the FIRs, the statements made by the witnesses as also the other corroborative evidence and material brought on record, the inescapable conclusion 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 are not involved in the kind of activities alleged against them.

87. From the aforesaid discussion, it is apparent 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 organizations in India as well as in other countries against their stated objectives in their constitution. 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 'JeI' 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 'JeI' to be an "Unlawful Association"

88. The reference is answered in the affirmative and the ban imposed vide Notification No. S.O.1069(E) dated 28<sup>th</sup> February, 2019 declaring the Jamaat-e-Islami, Jammu and Kashmir as an 'unlawful association' under Section 3(1) & (3) of the Act, is confirmed.

89. Before parting, I would like to place on record my appreciation for the assistance rendered by Mr. Sanjay Jain, Sr. Advocate, 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. Neeraj Jain, Mr. Jay Prakash Singh and Mr. Yuvraj Sharma, Advocates on behalf of the Central Government. I also place on record my appreciation of the

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assistance rendered by Mr. Jawahar Raja and Mr. Rajat Kumar, Advocates throughout the conduct of the proceedings of the Tribunal in Delhi as also in the State of Jammu and Kashmir.

JUSTICE CHANDER SHEKHAR,  
Unlawful Activities (Prevention) Tribunal

AUGUST 27, 2019

[F.No.14017/32/2019-NI-III]  
S. C. L. DAS, Jt. Secy.