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EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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नई दिल्ली, मंगलवार, अगस्त 27, 2019/भाद्र 5, 1941

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NEW DELHI, TUESDAY, AUGUST 27, 2019/BHADRA 5, 1941

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 27 अगस्त, 2019

का. आ. 3083(अ).—जबकि, केंद्रीय सरकार ने, विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) (जिसे 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 दिनांक 31 जनवरी, 2019 की अधिसूचना संख्या का.आ. 564(अ) (जिसे इसके बाद उक्त अधिसूचना कहा गया है) के तहत स्टूडेंट्स इस्लामिक मूवमेंट ऑफ इंडिया (सिमी) 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 दिनांक 21 फरवरी, 2019 की अधिसूचना संख्या का.आ. 931(अ) के तहत विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण (जिसे इसके बाद उक्त अधिकरण कहा गया है) का गठन किया था, जिसमें दिल्ली उच्च न्यायालय की न्यायाधीश माननीय न्यायमूर्ति सुश्री मुक्ता गुप्ता थीं;

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 स्टूडेंट्स इस्लामिक मूवमेंट ऑफ इंडिया (सिमी) को विधिविरुद्ध संगम घोषित किए जाने का पर्याप्त कारण था या नहीं, दिनांक 21 फरवरी, 2019 को उक्त अधिकरण को उक्त अधिसूचना संदर्भित की 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 29 जुलाई, 2019 को एक आदेश दिया था;

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

(अधिकरण का आदेश अंग्रेजी भाग में छपा है)

[फा. सं. 14017/29/2019-एन.आई.-III]

एस. सी. एल. दास, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 27th August, 2019

S.O. 3083 (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) (herein after referred to as said Act), declared the Students Islamic Movement of India (SIMI) to be unlawful association *vide* notification of the Government of India in the Ministry of Home Affairs number S.O. 564 (E), dated the 31st January, 2019 (herein after referred to as said notification);

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 Ms. Justice Mukta Gupta, Judge of the High Court of Delhi *vide* notification of the Government of India in the Ministry of Home Affairs number S.O. 931 (E), dated 21st February, 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 21st February, 2019 for the purpose of adjudicating whether or not there was sufficient cause for declaring the Students Islamic Movement of India (SIMI) 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 29th July, 2019, confirmed the declaration made in the said notification;

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

BEFORE THE UNLAWFUL ACTIVITIES

(PREVENTION) TRIBUNAL

Date of Decision: 29th July, 2019

In the matter of:

Gazette Notification dated 31st January, 2019 declaring Students Islamic Movement of India as unlawful association.

And in the matter of:

Reference under Section 4 of the Unlawful Activities (Prevention) Act, 1967.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

Present: Ms. Pinky Anand, Additional Solicitor General with

Mr. Sachin Datta, Senior Advocate and Special Counsel, Mr. Rajesh Ranjan, Mr. Balendu Shekhar, Mr. Jay Prakash Singh, Mr. Hemant Arya, Ms. Saudamini Sharma, Ms. Gauri Goburdhun & Ms. Pallavi Chopra, Advocates for the Union of India.

Mr. Yogesh Kanna (AOR), Standing Counsel for the State of Tamil Nadu.

Mr. Aniruddha P Mayee with Mr. Chirag Jain, Special Counsel for State of Maharashtra.

Mr. K. Surender, Advocate for State of Telengana.

Mr. Mohrram Ali, Advocate for Mr. Sheikh Sarfaraz Public Hearing Witness.

Mr. Arjun Ambalapatta, Public Prosecutor, NIA.

Mr. Sadashiva Murthy, Advocate for State of Karnataka.

Mr. Ashok Aggarwal with Ms. Sridevi Panikkar and Ms. Devyani Bhatt, Advocates for Mr. Humam Ahmed Siddiqui.

Mr. Anil Kumar Mishra, with Mr. Ganesh Khanna, Advocates for Mr. Sayyad Mohd. Margoob Kafil.

Mr. Aarif Ali Khan with Mr. Mujahhid Ahmed, Mohd. Rizwan Ahmed and Mr. Sajjad Ahmed Wani, Advocates for Mr. Riyaz Ahmed and Mr. Nafis.

Mr. V.S. Rana, Deputy Secretary, Mr. Manoj Kumar Singh, Technical Officer (Monitoring) and Mr. Hiranmay Biswas, Research Officer for Ministry of Home Affairs.

In attendance Mr. Lorren Bamniyal, Registrar (SIMI)

In Re: Students Islamic Movement of India.

ORDER

I. The Central Government had published Notification no. S.O. 564 (E) dated 31st January, 2019 in exercise of powers conferred under Section 3(1) of the Unlawful Activities Prevention Act, 1967 (hereinafter referred to as 'UAPA') wherein it declared that the Students Islamic Movement of India (hereinafter referred to as 'SIMI') had been indulging in activities which were prejudicial to the security of the country.

II. Notification dated 31st January, 2019 refers to grounds (1) to (58) justifying why the Central Government believes that SIMI is indulging in the aforesaid activities. The relevant extract of the notification is reproduced as under:

And whereas, the Central Government is of the opinion that SIMI is indulging in the activities which are prejudicial to the integrity and security of the country on the basis, inter alia, of the following grounds, namely:—

(1) Case Crime No. 377/2017 has been registered at Civil Lines Police Station, Gaya, Bihar under sections 216, 124A, 120B and 34 of the Indian Penal Code and under sections 13, 16, 18, 19, 20 and 38 of the Unlawful Activities (Prevention) Act, 1967 against the accused Pathan Tauseef Khan alias Mohd. Atiq, Shahanshah Khan alias Sanna Khan, Gulam Sarvar Khan and their unknown associates for their alleged involvement into seditious activities, harboring terrorist, being the member of proscribed terrorist organisation and getting involved into terror related activities;

(2) Case Crime No. 309/2014 has been registered at Cubbon Park Police Station, Bengaluru, Karnataka under sections 121, 121A, 120B, 153, 307 and 302 of the Indian Penal Code and sections 3, 4 and 5 of the Explosive Substances Act, 1908 and sections 3, 10, 15, 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 against the accused Alamjeb Afridi alias Alamjeb Khan alias Mohammed Rafiq alias Jaweed alias Jaid Afridi alias Alamzeb Khan alias Chikna alias Javed in the matter of Bangalore Church Street Blast. This case was taken over by National Investigation Agency and re-registered the case as National Investigation Agency Case No. RC 01/2015/NIA/Hyd. on 20.05.2015;

(3) Case Crime No. 424/2014 has been registered at MP Nagar Police Station, Bhopal, Madhya Pradesh under sections 295, 153B and 34 of the Indian Penal Code and section 10 of the Unlawful Activities (Prevention) Act, 1967 against the accused Majid Nagori and seventeen others. Accused Akil Khilji, Khalid Ahmed and Abdul

Majid had shot dead in police encounter after absconding from judicial custody. After hearing, the Court of Chief Judicial Magistrate, Bhopal has convicted the rest of the fifteen accused under sections 153B and 295B of the Indian Penal Code for three years rigorous imprisonment and fine of rupees one thousand for each accused person;

(4) Case Crime No. 100/2015 has been registered at Gandhi Nagar Police Station, Bhopal, Madhya Pradesh under sections 294, 353, 506 and 34 of the Indian Penal Code against the accused Abu Faizal and Sharafat. After hearing, the Court of Chief Judicial Magistrate, Bhopal has convicted both the accused under section 353 of the Indian Penal Code for two years rigorous imprisonment and fine of rupees five hundred each and convicted under section 506 of the Indian Penal Code for three years rigorous imprisonment and fine of rupees five hundred for each accused person;

(5) Case Crime No. 393/2016 has been registered at Moghat Road Police Station, Khandwa, Madhya Pradesh under section 124A of the Indian Penal Code against the accused Mohd. Aasif Shayar;

(6) Case Crime No. 270/2016 has been registered at Gandhi Nagar Police Station, Bhopal, Madhya Pradesh under sections 342, 307, 302, 120B, 224, 34 and 353 of the Indian Penal Code and sections 3, 10, 13, 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 against Akeel Khilji and seven others. All the accused have been shot dead in police encounter in Bhopal on 31.10.2016;

(7) Case Crime No. 355/2016 has been registered at Gunja Police Station, Bhopal, Madhya Pradesh under sections 307, 147, 148, 149 and 332 of the Indian Penal Code and sections 25 and 27 of the Arms Act, 1959 (54 of 1959) and sections 3, 10 and 13 of the Unlawful Activities (Prevention) Act, 1967 against Akeel Khilji and seven others. All the accused have been shot dead in police encounter in Bhopal on 31.10.2016;

(8) One SIMI activist was sentenced to two years rigorous imprisonment and a fine of rupees one thousand by the Court of Additional Chief Judicial Magistrate, Indore in Case Crime No. 479/2001, registered at Aerodrome Police Station, Indore, Madhya Pradesh under section 10 of the Unlawful Activities (Prevention) Act, 1967;

(9) One SIMI activist was sentenced to two years simple imprisonment by the Court of Judicial Magistrate of first class, Indore in Case Crime No. 304/2001, registered at Khajrana Police Station, Indore, Madhya Pradesh under section 10 of the Unlawful Activities (Prevention) Act, 1967;

(10) One SIMI activist was sentenced to two years imprisonment and a fine of rupees five hundred by the First Class Court, Burhanpur in Case Crime No. 269/2001, registered at Kotwali Police Station, Burhanpur, Madhya Pradesh under section 153A of the Indian Penal Code and sub-section (1) of section 10 of the Unlawful Activities (Prevention) Act, 1967;

(11) Two SIMI activists were sentenced to one year rigorous imprisonment and a fine of rupees five hundred each under sections 153A and 153B of the Indian Penal Code and two year rigorous imprisonment and a fine of rupees five hundred each under sections 10 and 13 of the Unlawful Activities (Prevention) Act, 1967 by the Court of Chief Judicial Magistrate, Sihor in Case Crime No. 239/2008, registered at Kotwali Police Station, Sihor, Madhya Pradesh under section 153A of the Indian Penal Code and sections 3, 10 and 13 of the Unlawful Activities (Prevention) Act, 1967;

(12) Three SIMI activists were sentenced to five years rigorous imprisonment each and eleven SIMI activists were sentenced to life imprisonment by Fourth Additional District and Sessions Judge, Indore in Case Crime No. 120/2008, registered at Pithampur Police Station, Dhar, Madhya Pradesh under sections 122, 124A and

153A of the Indian Penal Code and sections 3, 10 and 13 of the Unlawful Activities (Prevention) Act, 1967 and sections 25 and 27 of the Arms Act, 1959 and sections 3, 4, 5 and 6 of the Explosives Act, 1884 (4 of 1884);

(13) One SIMI activist was sentenced to three years rigorous imprisonment and a fine of rupees five hundred by the Court of Judicial Magistrate of first class, Indore in Case Crime No. 181/2008, registered at Aerodrome Police Station, Indore, Madhya Pradesh under sections 3, 10 and 13 of the Unlawful Activities (Prevention) Act, 1967;

(14) Three SIMI activist were sentenced to life imprisonment each and a fine of rupees one thousand each under sections 307 and 120B of the Indian Penal Code by the Court of Special Judge, National Investigation Agency, Bhopal in Case Crime No. 14/2009, registered at Kotwali Police Station, Khandwa, Madhya Pradesh under sections 307, 295, 153A, 124A, 120B, 212 and 34 of the Indian Penal Code and sections 3, 10, 13, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 and sections 25 and 27 of the Arms Act, 1959. Case against four other accused has been dropped due to their death in police encounter in the case;

(15) One SIMI activist was sentenced to life imprisonment and fine of rupees one thousand under sections 302 and 120B of the Indian Penal Code, life imprisonment and fine of rupees one thousand under clause (a) of sub-section (1) of section 16 of the Unlawful Activities (Prevention) Act, 1967, ten years rigorous imprisonment and fine of rupees one thousand under section 18 of the Unlawful Activities (Prevention) Act, 1967, seven years rigorous imprisonment and fine of rupees one thousand under section 27 of the Arms Act, 1959, three years rigorous imprisonment and fine of rupees one thousand under clause (a) of sub-section 1B of section 25 of the Arms Act, 1959. Another SIMI activist was sentenced to three years rigorous imprisonment and fine of rupees one thousand under clause (a) of sub-section 1B of section 25 of the Arms Act, 1959 (54 of 1959) by the Court of Special Judge, National Investigation Agency, Bhopal in Case Crime No. 728/2009, registered at Kotwali Police Station, Khandwa, Madhya Pradesh under sections 302, 120B and 34 of the Indian Penal Code, sections 3, 10, 13, 15, 16A, 18, 20, 38 and 39 of the Unlawful Activities (Prevention) Act, 1967 and sections 25 and 27 of the Arms Act, 1959. Case against four other accused has been dropped due to their death in police encounter in the case;

(16) One SIMI activist was sentenced to three years rigorous imprisonment and fine of rupees one thousand under section 379 of the Indian Penal Code, seven years rigorous imprisonment and fine of rupees one thousand under section 468 of the Indian Penal Code. One another SIMI activist was sentenced to three years of rigorous imprisonment and fine of rupees one thousand under section 411 of the Indian Penal Code, seven years of rigorous imprisonment and fine of rupees one thousand under section 468 of the Indian Penal Code by the Court of Special Judge, National Investigation Agency, Bhopal in Case Crime No. 72/2010, registered at Itarsi Police Station, Hoshangabad, Madhya Pradesh under sections 379, 468 and 411 of the Indian Penal Code and sections 3, 10, 13 and 18 of the Unlawful Activities (Prevention) Act, 1967. Case against one another accused has been dropped due to his death in police encounter by Telangana Police;

(17) Two SIMI activists were sentenced to life imprisonment for each and fine of rupees one thousand each under sections 395 and 397 of the Indian Penal code, life imprisonment for each and fine of rupees one thousand each under section 120B of the Indian Penal Code, two years of rigorous imprisonment and fine of rupees one thousand each under clause (a) of sub-section (1) of section 10 of the Unlawful Activities (Prevention) Act, 1967, life imprisonment and fine of rupees one thousand each under section 17 of the Unlawful Activities (Prevention) Act, 1967 by the Court of Special Judge, National Investigation Agency, Bhopal in Case Crime No. 431/2010, registered at Hanuman Ganj Police Station, Bhopal, Madhya Pradesh

under sections 395, 397 and 120B of the Indian Penal Code, sections 25 and 27 of the Arms Act, 1959, sections 3, 10, 13, 16, 17, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967. Case against two accused is pending trial in the court and against four other accused has been dropped due to their death in police encounter;

(18) Three SIMI activists were sentenced to life imprisonment and fine of rupees one thousand each under sections 395 and 397 of the Indian Penal Code by the Court of Special Judge, National Investigation Agency, Bhopal in Case Crime No. 149/2010, registered at Pipaliya Mandi Police Station, Mandsaur, Madhya Pradesh under sections 195, 397 and 124 of the Indian Penal Code, sections 3, 10, 13(1), 15, 16, 17, 20 and 21 of the Unlawful Activities (Prevention) Act, 1967 and sections 25 and 27 of the Arms Act, 1959. Case against four other accused has been dropped due to their death in police encounter in the case;

(19) Five SIMI activists were sentenced to three years of imprisonment and fine of rupees two thousand each under 25-1(B) of the Arms Act, 1959 by the Court of Additional Sessions Judge (Second), Khandwa in Case Crime No. 319/2011, registered at Kotwali Police Station, Khandwa, Madhya Pradesh under section 153A of the Indian Penal Code, sections 3, 10, 13, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 and sections 25 and 27 of the Arms Act, 1959;

(20) One SIMI activist was sentenced to two years of rigorous imprisonment under section 224 of the Indian Penal Code by the Court of Special Judge, National Investigation Agency, Bhopal in Case Crime No. 542/2013, registered at Kotwali Police Station, Khandwa, Madhya Pradesh under sections 224, 120B, 212 and 216 of the Indian Penal Code, sections 3, 10, 13, 16, 17, 18, 19, 20 and 21 of the Unlawful Activities (Prevention) Act, 1967 and section 3 of the Prevention of Damage to Public Property Act, 1984 (3 of 1984). Case against one accused is pending trial in the court and against four accused has been dropped due to their death in police encounter. Case against two other accused has not started due to their death in police encounter in their absconding period in the case;

(21) Fifteen SIMI activists were sentenced to three years of rigorous imprisonment and fine of rupees one thousand each under sections 153B and 295B of the Indian Penal Code by the Court of Chief Judicial Magistrate, Bhopal in Case Crime No. 424/2014, registered at MP Nagar Police Station, Bhopal, Madhya Pradesh under sections 295, 153B and 34 of the Indian Penal Code and section 10 of the Unlawful Activities (Prevention) Act, 1967. Case against three other accused has been dropped due to their death in police encounter in the case;

(22) Case Crime No. 09/2014 has been registered by Anti Terrorism Squad, Mumbai, Maharashtra under sections 307, 324, 427 and 120B of the Indian Penal Code read with sections 3, 4 and 5 of the Explosives Act, 1884 (4 of 1884) read with sections 16 and 18 of the Unlawful Activities (Prevention) Act, 1967 against five SIMI activists, in the matter of blast occurred opposite to Shree Swami Samarth Snack Centre, Budhwar Peth, Pune, Maharashtra. Out of five accused, two were shot dead in police encounter with Telangana Police at Nalgonda, Telangana and three were shot dead in Police Encounter with Madhya Pradesh Police, after illegally escaping from the Bhopal Central Jail;

(23) Two SIMI activists were sentenced to rigorous imprisonment for life and one SIMI activist was sentenced to fourteen years of rigorous imprisonment by the Maharashtra Control of Organised Crime Special Court, Arthur Road, Mumbai in L.A.C. No. 03/2006, registered by Anti Terrorism Squad, Mumbai, Maharashtra under section 120B of the Indian Penal Code read with sections 5, 6 and 9-B of the Explosives Act, 1884 read with sections 4 and 5 of the Explosive Substances Act, 1908 (6 of 1908) read with sections 3 and 25 of the Arms Act, 1959 read with sections 10, 13, 16, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 read with section 3(1)(ii), 3(2) and 3(4) of Maharashtra Control of Organised Crime Act, 1999 (30 of 1999);

(24) Three SIMI activists were sentenced to death and six SIMI activists were sentenced to life imprisonment by the Maharashtra Control of Organised Crime Special Court, Brihan Mumbai in Case Crime No. 05/2006, registered by Anti Terrorism Squad, Mumbai, Maharashtra under clause (i) of sub-section (1) of section 3, sub-section(2) of section (3), sub-section (4) of section 3 and sub-section (5) of section 3 of the Maharashtra Control of Organised Crime Act, 1999 read with sections 10, 13, 16, 18, 19, 20 and 40 of the Unlawful Activities (Prevention) Act, 1967 read with sections 302, 307, 326, 325, 324, 427, 436, 121A, 123, 124A, 120B, 201 and 212 of the Indian Penal Code read with sections 6 and 9-B of the Explosives Act, 1884 read with sections 3, 4, 5 and 6 of the Explosive Substances Act, 1908 read with sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984 (3 of 1984) read with sections 151, 152, 153 and 154 of the Railways Act, 1989 (24 of 1989) read with section 12(1)(c) of the Passports Act, 1967 (15 of 1967);

(25) One SIMI activist was convicted for seven years of rigorous imprisonment and fine of rupees thirty thousand by Additional Chief Metropolitan Magistrate, Sewri Court in L.A.C. No. 04/2006, registered by Anti-Terrorism Squad, Mumbai, Maharashtra under sections 10 and 13 of the Unlawful Activities (Prevention) Act, 1967. Supplementary Charge Sheets were filed against some other SIMI activists in this case and the trial is pending for the same;

(26) One SIMI activist was convicted and sentenced to death by Special Sessions Court, Shivaji Nagar, Pune in Case Crime No. 06/2010, registered by Anti-Terrorism Squad, Mumbai, Maharashtra under sections 120B, 153A, 302, 307, 326, 325, 324, 427, 467, 468, 471, 474, 109 and 34 of the Indian Penal Code read with sections 3, 4 and 5 of the Explosive Substances Act, 1908 read with sections 10, 13, 16, 18, 20 and 21 of the Unlawful Activities (Prevention) Act, 1967;

(27) Two SIMI activists were convicted under section 489C of the Indian Penal Code and sentenced to rigorous imprisonment for six years and to pay fine of rupees ten thousand each and in default of payment of fine to suffer simple imprisonment of six months by the Additional Chief Metropolitan Magistrate, Mazgaon, Mumbai in Case Crime No. 31/2011, registered by Anti-Terrorism Squad, Mumbai, Maharashtra under sections 120B, 489B, 489C and 489E of the Indian Penal Code read with sections 10, 13, 17 and 18B of the Unlawful Activities (Prevention) Act, 1967;

(28) Ten SIMI activists were convicted and sentenced to rigorous imprisonments and/or life imprisonments and/or fine under various sections of law by the Court of Special Judge designated under the Prevention of Terrorism Act, 2002 (2 of 2002) at Greater Mumbai, Maharashtra under the Prevention of Terrorism Act Special Case No. 02/2003, registered as C.R. No. 21/2003 and C.R. No. 59/2003 by DCB CID Unit-6, Mumbai, Maharashtra for offences under the Prevention of Terrorism Act, 2002, the Indian Penal Code, the Explosive Substances Act, 1908, the Explosives Act, 1884, the Prevention of Damage to Public Property Act, 1984 and the Railways Act, 1989 for having been committed the act of three bomb explosion at places namely Mc Donald Hotel, Mumbai Central Railway Station, Monghibhai Market Vile Parle and in second class general compartment of Kalyan local train tendered conspiracy, the act preparatory to a terrorist act with intent to threaten the unity, integrity, security or sovereignty of India and to strike terror in the public at large;

(29) Case Crime No. 38 dated 17.02.2016 at Plant Site Police Station, Rourkela, Odisha under sections 147, 148, 120B, 121, 121A, 122, 307, 467, 471 and 149 of the Indian Penal Code read with sections 25 and 27 of the Arms Act, 1959 and sections 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 has been registered against four SIMI hard core terrorists along with mother of one of the terrorist namely (1) Sk. Mehboob alias Guddu alias Aftab; (2) Md. Amjad Khan alias Pappu

alias Daud alias Umar alias Gopal Singh; (3) Zakir Husain alias Sadiq alias Vicky Don alias Vinay Kumar alias Anand Joshi alias Imtiaz; (4) Md. Saliq alias Sallu alias Yunus alias Sanjay; and (5) Najma Bee (Mother of Sk. Mehboob) for their arrest on 16/17.02.2016 night from Qureshi Mohalla, Nala Road, Rourkela, District-Sundargarh. During investigation, it is learnt that, the above four terrorists were active members of SIMI which is a banned organisation and were killed in Police encounter in Bhopal on 30/31.10.2016, following Jail break in Bhopal (Madhya Pradesh);

(30) Case Crime No. 02/2014 has been registered by S.B.C.I.D. Metro Police, Chennai, Tamil Nadu under sections 326, 307 and 302 of the Indian Penal Code read with sections 3, 4 and 5 of the Explosive Substances Act, 1908 read with section 151 of the Railways Act, 1989 (Formerly Chennai Railway Police Cr. No. 273/2014) in the matter of two IED blasts, occurred in Train No. 12509 (Bangalore-Guwahati Express) at Platform No. 9 in Chennai Central Railway Station. During the investigation, the involvement of three ex-SIMI activists have been established. All these ex-SIMI cadres have been killed in two separate encounters;

(31) Case Crime No. 432/2014 has been registered by D2 Selvapuram Police Station, Coimbatore, Tamil Nadu under sections 120B, 153A and 505(1) of the Indian Penal Code against ten accused persons including some ex-SIMI cadres for hatching a conspiracy with an intention to eliminate Hindu Organisation leaders in Coimbatore in order to create communal disharmony;

(32) Case Crime No. 30/2014 has been registered by Mehboobnagar-II Town Police Station, Mahabubnagar, Telangana under section 379 of the Indian Penal Code against six SIMI activists for theft of motorcycle at Mahaboobnagar, Telangana. Out of these six accused persons, three died in Police Encounter at Bhopal on 30.10.2016;

(33) Case Crime No. 10/2014 has been registered by Devarakonda Police Station, Nalgonda, Telangana under section 379 of the Indian Penal Code against six SIMI activists for theft of motorcycle at Devarakonda, Nalgonda, Telangana. Out of these six accused persons, three died in Police Encounter at Bhopal on 30.10.2016;

(34) Case Crime No. 16/2014 has been registered by Choppadandi Police Station, Karimnagar, Telangana under sections 395 of the Indian Penal Code, clause (a) and clause (b) of sub-section (1) of section 25 and section 27 of the Arms Act, 1959, sections 10, 13, 17, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 against six SIMI activists for robbery of rupees forty six lakhs from State Bank of India, Choppadandi, Karimnagar, Telangana. Out of these six accused persons, three died in Police Encounter at Bhopal on 30.10.2016;

(35) Case Crime No. 120/2015 has been registered by Suryapet TN Police Station, Nalgonda, Telangana under sections 302, 307, 394 and 34 of the Indian Penal Code, sub-section (1) of section 25 of the Arms Act, 1959 against two SIMI activists for opening fire on police team, killing two police personnel and injuring Circle Inspector and Home Guard, while the police team conducted frisking on suspicious passengers in Suryapet Hi-tech bus stop at Nalgonda district on 01/02.04.2015. The accused grabbed a 9 MM Carbine weapon from police team and fled away. These accused died in Police encounter on 04.04.2015 at Janakipuram, Nalgonda, Telangana;

(36) Case Crime No. 34/2015 has been registered by Mothkur Police Station, Nalgonda, Telangana under sections 302, 307 and 34 of the Indian Penal Code and section 27 of the Arms Act, 1959. The facts of the case are that, in the morning hours on 04.04.2015, Police team was moving to Janakipuram, Nalgonda district. In the meantime, two assailants came from opposite direction and an exchange of fire took place between the police and the assailants, resulting in death of assailants and a Police Constable, besides injuring an Inspector of Police of Ramannapet Police

Station and a Sub-Inspector of Police of Atmakur Police Station. Police seized two country made short weapons and one 9 MM carbine from the scene of offence which was stolen from the slain policemen at Suryapet, Nalgonda. The dead assailants were identified as activists of SIMI cadre;

(37) Case Crime No. 22/2015 has been registered by Arvapalli Police Station, Telangana under section 384 of the Indian Penal Code. The facts of the case are that, while the complainant was proceeding on his bike and reached Arvapalli village centre, where the two accused persons stopped him and kept gun on his abdomen and head and forcibly took his bike and fled away with high speed towards Thirumalagiri. The two assailants died later and were identified as activists of SIMI cadre;

(38) Case Crime No. 23/2015 has been registered by Arvapalli Police Station, Telangana under section 307 of the Indian Penal Code and clause (A) of sub-section (1) of section 25 of the Arms Act, 1959. The facts of the case are that, the complainant stated that on credible information he along with his staff crossed bridge of Sri Ram Sagar Project canal at Seetharampuram where they found two persons escaping. On being asked to stop, they started firing with weapons and in return the complainant also fired against them with his service pistol but the accused escaped. The two assailants died later and were identified as activists of SIMI cadre;

(39) Case Crime No. 338/2014 has been registered by Gopalpuram Police Station, Hyderabad, Telangana under sections 121, 121A, 153A and 120B of the Indian Penal Code and section 10 of the Unlawful Activities (Prevention) Act, 1967. The facts of the case are that, the Hyderabad Police arrested two accused (both resident of Maharashtra State) at Secunderabad Railway Station. They were the members of the newly created 'Electronic War Fare Technology Group/SIMI' to help the Indian branch of Al-Qaeda. It is learnt that they came to Hyderabad to go to Afghanistan to participate in Al-Qaeda training programme;

(40) Three SIMI members were convicted under sections 148, 324 and 332 of the Indian Penal Code in Case Crime No. 882/2004, registered by Saifabad Police Station, Hyderabad, Telangana under sections 147, 148, 307, 332, 224, 427 and 149 of the Indian Penal Code. The facts of the case are that, on 31.10.2004, Moulana Md. Naseeruddin attended Crime Investigation Department Control Room in the Director General of Police Office, Hyderabad and while leaving office Dr. Narendra Kumar Amin, Assistant Commissioner of Police, Crime Investigation Department, Ahmedabad executed non-bailable arrest warrant on him. At that time, accused led by Mahabub Ali, President, Darsgah-e-Jihad-o-Shahadat (DJS) attacked on Police, beat them indiscriminately and took away Naseeruddin. The Assistant Commissioner of Police, Ahmedabad opened fire and took over possession of the accused. The SIMI accused in this case were responsible for supplying of CDs to SIMI leaders who were also connected in Case Crime No. 462/1998 of Mahakal Police Station, Ujjain, Madhya Pradesh for the same;

(41) Case Crime No. 964/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 121A, 122, 216 and 120B of the Indian Penal Code against eleven SIMI activists for Improvised Explosive Device Blast that took place in a rented room in Bijnor (Uttar Pradesh). Out of the eleven accused persons, two were killed in an encounter with Telangana Police on 04.04.2015 and four were killed in an encounter with Madhya Pradesh Police on 31.10.2016;

(42) Case Crime No. 965/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 13, 18, 23, 21, 38, 39 and 40 of the Unlawful Activities (Prevention) Act, 1967 against eleven accused for Improvised Explosive Device Blast that took place in a rented room in Bijnor (Uttar Pradesh). The case was transferred to National Investigation Agency for further investigation. It was found in the case that, a SIMI module was involved in the incident. Out of the eleven

accused persons, two were killed in an encounter with Telangana Police on 04.04.2015 and four were killed in an encounter with Madhya Pradesh Police on 31.10.2016;

(43) Case Crime No. 966/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under section 25 of the Arms Act, 1959 against eleven SIMI activists for Improvised Explosive Device Blast that took place in a rented room in Bijnor (Uttar Pradesh). Out of the eleven accused persons, two were killed in an encounter with Telangana Police on 04.04.2015 and four were killed in an encounter with Madhya Pradesh Police on 31.10.2016;

(44) Case Crime No. 967/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under section 4/25 of the Arms Act, 1959 against eleven SIMI activists for Improvised Explosive Device Blast that took place in a rented room in Bijnor (Uttar Pradesh). Out of the eleven accused persons, two were killed in an encounter with Telangana Police on 04.04.2015 and four were killed in an encounter with Madhya Pradesh Police on 31.10.2016;

(45) Case Crime No. 968/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 4 and 5 of the Explosive Substances Act, 1908 against eleven SIMI activists for Improvised Explosive Device Blast that took place in a rented room in Bijnor (Uttar Pradesh). Out of the eleven accused persons, two were killed in an encounter with Telangana Police on 04.04.2015 and four were killed in an encounter with Madhya Pradesh Police on 31.10.2016;

(46) Case Crime No. 974/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 121A, 122 and 120B of the Indian Penal Code in the matter of Bijnor Blast case. Later on, this case was merged with Case Crime No. 964/2014;

(47) Case Crime No. 975/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 4 and 5 of the Explosive Substances Act, 1908 in the matter of Bijnor Blast case. This case is pending in trial Court;

(48) Case Crime No. 976/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 13, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 in the matter of Bijnor Blast case. This case is pending in trial Court;

(49) Case Crime No. 977/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 121A, 122, 216 and 120B of the Indian Penal Code in the matter of Bijnor Blast case. Later on, this case was merged with Case Crime No. 964/2014;

(50) Case Crime No. 978/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 4 and 5 of the Explosive Substances Act, 1908 in the matter of Bijnor Blast case. This case is pending in trial Court;

(51) Case Crime No. 979/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 13, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 in the matter of Bijnor Blast case. This case is pending in trial Court;

(52) Case Crime No. 50/2014 has been registered by Special Cell Police Station, Delhi under section 120B of the Indian Penal Code and sections 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 after the accidental blast in Bijnor (Uttar Pradesh) on 12.09.2014 in the hideout of reported absconding members of SIMI;

(53) Case Crime No. RC-01/2015/NIA-DLI has been registered by National Investigation Agency under sections 121A and 122 of the Indian Penal Code, section 25 of the Arms Act, 1959, sections 4 and 5 of the Explosive Substances Act, 1908 and sections 13, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 against

eleven accused in the matter of Improvised Explosive Device Blast at Bijnor, Uttar Pradesh;

(54) Case Crime No. RC-10/2015/NIA-DLI has been registered by National Investigation Agency under sections 120B, 121A and 122 of the Indian Penal Code, sections 4 and 5 of the Explosive Substances Act, 1908 and sections 13, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 against one accused in the matter of Improvised Explosive Device Blast at Bijnor, Uttar Pradesh;

(55) Case Crime No. RC-11/2015/NIA-DLI has been registered by National Investigation Agency under sections 120B, 121A and 122 of the Indian Penal Code, sections 4 and 5 of the Explosive Substances Act, 1908 and sections 13, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 against two accused in the matter of Improvised Explosive Device Blast at Bijnor, Uttar Pradesh;

(56) Two SIMI activists were convicted under sections 120B and 124A of the Indian Penal Code besides section 10 and clause (b) of sub-section (i) of section 13 of the Unlawful Activities (Prevention) Act, 1967; two SIMI activists were sentenced to seven years rigorous imprisonment and fine of rupees sixty thousand and two SIMI activists were sentenced to five years rigorous imprisonment and fine of rupees fifty five thousand by the Special National Investigation Agency Court, Ernakulam, Kerala in Case Crime No. RC-03/2010/NIA-DLI, registered by National Investigation Agency under sections 120B and 124A of the Indian Penal Code and section 10 and clause (b) of sub-section (i) of section 13 of the Unlawful Activities (Prevention) Act, 1967;

(57) Eighteen SIMI activists convicted and sentenced to seven years rigorous imprisonment with fine for each accused by the Special National Investigation Agency Court, Ernakulam, Kerala in Case Crime No. RC-04/2010/NIA-DLI, registered by National Investigation Agency under sections 120B, 122, 124A and 153A of the Indian Penal Code, sections 3, 5, 10 and 13 of the Unlawful Activities (Prevention) Act, 1967 besides sections 25 and 27 of the Arms Act, 1959;

(58) Two SIMI activists were convicted and sentenced to three years imprisonment under section 153A read with section 120B of the Indian Penal Code and life imprisonment and a fine of rupees forty thousand under sections 16, 18, 20 and 23 of the Unlawful Activities (Prevention) Act, 1967; two SIMI activists were also convicted and sentenced to three years and ten years imprisonment with a fine of rupees ten thousand under section 153A read with section 120B of the Indian Penal Code and section 120B read with section 307 of the Indian Penal Code respectively, along with life imprisonment and a fine of rupees forty thousand under sections 16, 18, 20 and 23 of the Unlawful Activities (Prevention) Act, 1967; one SIMI activist was convicted and sentenced to three years, ten years and fourteen years of imprisonment and fine of rupees twenty thousand under section 153A read with section 120B of the Indian Penal Code, sections 120B and 307 of the Indian Penal Code and section 458 of the Indian Penal Code respectively, along with life imprisonment and fine of rupees forty thousand under sections 16, 18, 20 and 23 of the Unlawful Activities (Prevention) Act, 1967 by the Special National Investigation Agency Court, Patna, Bihar in Case Crime No. RC-07/2013/NIA-DLI, RC-08/2013/NIA-DLI and RC-09/2013/NIA-DLI, registered by National Investigation Agency under sections 153A, 324, 307, 427 and 452 of the Indian Penal Code, section 17 of the Indian Criminal Law Amendment Act, 1908 (14 of 1908), sections 3 and 4 of the Explosive Substances Act, 1908 and sections 16, 18, 20 and 23 of the Unlawful Activities (Prevention) Act, 1967. One Juvenile accused was also convicted for three years in the case;

And whereas, the Central Government is further of the opinion that if the unlawful activities of the SIMI are not curbed and controlled immediately, it will take the opportunity to –

- (i) continue its subversive activities and re-organise its activists who are still absconding;
- (ii) disrupt the secular fabric of the country by polluting the minds of the people by creating communal disharmony;
- (iii) propagate anti-national sentiments;
- (iv) escalate secessionism by supporting militancy; and
- (v) undertake activities which are prejudicial to the integrity and security of the country;

And whereas, the Central Government is also of the opinion that having regard to the activities of the

SIMI, it is necessary to declare the SIMI to be an unlawful association with immediate effect;

III. This order hereinafter thus answers the reference made to this Tribunal constituted vide Notification no. S.O. 931 (E) dated 21st February, 2019 under Section 5(1) read with Section 4(1) of the UAPA made by Government of India, Ministry of Home Affairs, for adjudicating whether or not there is sufficient cause for declaring 'SIMI' as an unlawful association.

IV. BACKGROUND NOTE

- 4.1. The Students Islamic Movement of India (SIMI) came into existence on 25.4.1977 in Aligarh Muslim University, Aligarh, Uttar Pradesh as a front organization of youth and students, having faith in Jamaat-e-Islami-Hind (JEIH). The organization declared itself independent in 1993 through a resolution. In 1993, JEIH formed Students' Islamic Organization (SIO) as its students' wing. At world level, the organization is said to be affiliated to 'World Association of Muslim Youth (WAMY)'.
- 4.2. OBJECTIVES: The stated objectives of the organization (SIMI) are :-
 - i) Governing of human life on the basis of Quran;
 - ii) Propagation of Islam;
 - iii) "Jehaad" (religious war) for the cause of Islam;
 - iv) Destruction of Nationalism and establishment of Islamic Rule or Caliphate
- 4.3. SIMI aims to utilize students/youth in propagation of Islam and obtain support for Jehaad. The organization also emphasizes on the formation of "Shariat" based Islamic rule through "Islamic Inqalab". The organization does not believe in the nation state, as well as in the Constitution, or the secular order; it regards idol worship as a sin and its holy duty to end it.
- 4.4. The financial position of SIMI is said to be sound. Its resources are through donation, membership fee and financial assistance provided from time to time by supporters from Gulf countries. SIMI has contacts in Pakistan, Afghanistan, Saudi Arabia, Bangladesh and Nepal. Being a group of students and youth, SIMI is easily influenced by hard-core Muslim terrorist organizations operating from within the country and abroad. Fundamentalist/terrorist outfits like the Pakistan based Hizb-ul-Mujahideen and Lashkar-e-Toiba have successfully penetrated into the SIMI Cadres to achieve their goals.
- 4.5. SIMI has been active in Andhra Pradesh, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal and National Capital Territory of Delhi. However, the presence of SIMI activities has also been noticed in the States of Assam, Bihar, Jharkhand and Uttarakhand.
- 4.6. SIMI is known to have launched a country-wide campaign since November 1996 to mobilize support for the so-called Caliphate (Rule of Islam) for the Muslim community. SIMI is against Indian nationalism and has the aim to replace it with the International Islamic Order.

4.7. **UNLAWFUL ACTIVITIES OF SIMI BEFORE IMPOSITION OF BAN IN 2001:** The activities and statements of Students Islamic Movement of India (SIMI) are prejudicial to the maintenance of communal harmony; hurt the religious sentiments of other communities; incite religious fervor and violence and question the territorial integrity of the country. It has been observed that:-

‘(a) Support to militancy in Kashmir and Punjab

SIMI has advocated self-determination in Kashmir and was in close touch with Kashmir militant outfits including pro-Pak Hizb-ul-Mujahideen (HUM) and Jammu & Kashmir Liberation Front. The leadership of SIMI also extended full support to extremists and terrorists in Punjab and Jammu & Kashmir.

(b) Militant & disruptive activities

SIMI was involved in various militant/terrorist activities in the country, especially in Maharashtra, Uttar Pradesh, Kerala, Tamil Nadu and NCT Delhi.’

4.8. **FIRST BAN**

In the year 2001, keeping in view the gravity of the situation and deep conspiracy planned by the organization, the Union Government decided to ban SIMI under the provisions of the Unlawful Activities (Prevention) Act, 1967. Accordingly, Notification No. S.O. 960 (E) dated 27th September, 2001 declaring SIMI as an unlawful association was issued. The detailed grounds for imposition of ban are indicated therein. The Unlawful Activities (Prevention) Tribunal was constituted, consisting of Justice S.K. Agarwal, Judge of Delhi High Court to adjudicate the ban notification. The Tribunal upheld the ban and stated in his order that ‘it is clear that members, office-bearers and activists of SIMI Association have been indulging in unlawful activities. There is sufficient material, justification and grounds for the Central Government for taking action under sub-section (1) of section 3 of the Act for declaring SIMI as an unlawful association’. The order of Tribunal was published in the Gazette of India vide Notification No. S.O. 397 (E) dated 8th April, 2002.

4.9. **SECOND BAN**

The ban was re-imposed on SIMI in 2003, keeping in view that the organization continued to indulge in the activities for which the ban was imposed earlier. Accordingly, Notification No. S.O.1113 (E) dated 26th September, 2003 declaring SIMI as an unlawful association was issued. The detailed grounds for imposition of ban were indicated therein. The Unlawful Activities (Prevention) Tribunal was constituted, consisting of Justice R.C. Chopra, Judge of Delhi High Court to adjudicate the ban notification. The Tribunal confirmed the ban notification dated 26th September, 2003 with a view that the Tribunal is satisfied that the activities of SIMI, its members, activists, sympathizers are disruptive in nature. The SIMI members/activists are in close contact with militant outfits and support demand of secession of Kashmir. They support extremism and militancy in Jammu & Kashmir and as such, question the territorial integrity and sovereignty of India. They work for Islamization of world and advocate Islamic rule in India as well as other countries. They use derogatory language against Hindu Gods and deities and exhort Muslims for Jihad. The SIMI activists have been publishing objectionable posters with a view to create hatred between Hindu and Muslims. The order of Tribunal was published in the Gazette of India notification No S.O.499 (E) dated 16th April, 2004.

4.10. **THIRD BAN**

The ban was re-imposed on SIMI in February, 2006 keeping in view that the organization continued to indulge in the activities for which the ban was imposed earlier. Accordingly, Notification No. S.O.191 (E) dated 8th February, 2006 declaring SIMI as an unlawful association was issued. The detailed grounds for imposition of ban were indicated therein. The Unlawful Activities (Prevention) Tribunal was constituted consisting of Justice B.N. Chaturvedi, Judge of Delhi High Court to adjudicate the ban notification. The Tribunal confirmed the ban notification dated 8th February, 2006 with a view that the respondent-organization is indulging in activities which are detrimental and prejudicial to national-interest and have the potential of posing a threat to the integrity and sovereignty of the nation and also to communal harmony. The order of Tribunal was published in the Gazette of India notification No. S.O. 1302 (E) dated 11th August, 2006.

4.11. FOURTH BAN

Since the SIMI activists continued its activities for which it was banned earlier in September, 2001, in September, 2003 and again in February, 2006, the Government imposed a fresh ban in February, 2008 vide Notification No. S.O. 276 (E) dated 7th February, 2008 published in the Gazette of India. The Unlawful Activities (Prevention) Tribunal consisting of Ms. Justice Gita Mittal of Delhi High Court did not confirm the ban on technical grounds. Against the order of the Tribunal dated 5th August, 2008, the Government of India filed SLP (C) 19845 of 2008 before the Hon'ble Supreme Court seeking stay on the order of the Tribunal. The Hon'ble Supreme Court granted stay until further orders and referred the matter to be heard by a larger bench. The ban on SIMI continued. Now, this matter is tagged with C.A. No. 9208 of 2003 titled SIMI Vs. Union of India and was last listed on 7th November, 2017 before the three judges bench headed by Hon'ble Chief Justice of India.

4.12. FIFTH BAN

The ban was re-imposed on SIMI keeping in view that the organization continued to indulge in the activities for which the ban was imposed earlier. Accordingly, Notification No. S.O. 260 (E) dated 5th February, 2010 declaring SIMI as an unlawful association was issued. The detailed grounds for imposition of ban were indicated therein. The Unlawful Activities (Prevention) Tribunal was constituted consisting of Justice Sanjiv Khanna, Judge of Delhi High Court to adjudicate the ban notification. The Tribunal concluded that there is sufficient cause for declaring Students Islamic Movement of India (SIMI) as an unlawful association and an order is passed under Section 4(3) confirming the declaration made in the Notification of the Ministry of Home Affairs S.O. No. 260(E) dated 5th February, 2010 read with the Notification S.O. No. 544(E) dated 5th March, 2010, issued under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967. The order of Tribunal was published in the Gazette of India notification No.S.O.1990 (E) dated 12th August, 2010.

4.13. SIXTH BAN

The ban was imposed on SIMI keeping in view that the organization continued to indulge in the activities for which the ban was imposed earlier. Accordingly, Notification No. S.O. 224 (E) dated 3rd February, 2012 declaring SIMI as an unlawful association was issued. The detailed grounds for imposition of ban were indicated therein. The Unlawful Activities (Prevention) Tribunal was constituted consisting of Justice V.K. Shali, Judge of Delhi High Court to adjudicate the ban notification. The Tribunal confirmed the Notification dated 3rd February, 2012 and held in his order that in view of the evidence brought on record and the aforesaid discussion, the only conclusion possible is that SIMI and its cadres have continued to indulge in activities which are detrimental and prejudicial to the national interest and have the potential of posing a threat to the national integrity and sovereignty of the nation. SIMI cadres have continued to indulge in such anti-national activities by forming other front organization, like Indian Mujahidin, Wahadath-e-Islami, etc. It has continued to recruit and enroll fresh members in their cadres. The evidence brought on record and the cases registered after the report of the last Tribunal overwhelmingly prove that the organization is continuing to work surreptitiously, posing a threat and challenge to the sovereignty of the Indian nation. This is also established through the testimony of witnesses examined in Kerala, where it has been brought on record that the sympathizers/activities of this banned organization have supported the so called Jihad of Muslims of Kashmir against the alleged forced occupation of Kashmir where two operatives from Kerala got killed, even when they fully know that majority of Muslims of Kashmir are peace loving and have democratically elected their own representatives to rule them. Further, these persons have scant respect for innocent women lives and know the fact that the State of Jammu and Kashmir is an integral part of India.

4.14. For the foregoing reasons, the Tribunal, in pursuance to the statutory reference made to the Tribunal under Section 4 of the Act, hold that the Central Government has been able to establish that there is 'sufficient cause' for declaring SIMI as an unlawful association. The order of Tribunal was published in the Gazette of India notification No. S.O. 1745 (E) dated 6th August, 2012.

4.15. SEVENTH BAN

The ban was again imposed on SIMI in February, 2014, keeping in view that the organization continued to indulge in the activities for which the ban was imposed earlier. Accordingly, Notification No. S.O. 299 (E) dated 1st February, 2014 declaring SIMI as an unlawful association was issued. The

detailed grounds for imposition of ban were indicated therein. The Unlawful Activities (Prevention) Tribunal was constituted consisting of Justice Suresh Kait, Judge of Delhi High Court to adjudicate the ban notification. The Tribunal confirmed the Notification dated 1st February, 2014 and held in his order that the evidence brought on record clearly and unambiguously establishes that despite being banned since 27th September, 2001, except for a brief period in between, the SIMI activists are associating, meeting, conspiring, acquiring arms and ammunitions, and indulging in activities which are disruptive in character and capable of threatening the sovereignty and territorial integrity of India. They are in regular touch with their associates and masters based in other countries. Their actions are capable of disrupting peace and communal harmony in the country. Their stated objectives are contrary to the laws of our country. Especially their object of establishing Islamic rule in India can, under no circumstances, be permitted to subsist. The Tribunal further stated that it is evident that SIMI association and its activists are continuing to indulge in unlawful activities within the meaning of Section 2(1)(o) of the Act. The Central Government has sufficient credible material and grounds for taking action under sub-section (1) of Section 3 of the Act for declaring SIMI as an Unlawful Association. The Tribunal, therefore, hold that there exists "sufficient cause" to confirm the Notification issued under sub-section (1) of Section 3 of the Act, declaring SIMI to be an 'Unlawful Association'. The order of Tribunal was published in the Gazette of India notification No. S.O. 2050 (E) dated 12th August, 2014.

4.16. **EIGHTH / PRESENT BAN**

Defying the conditions of ban on 1st February, 2014, stipulated under the Unlawful Activities (Prevention) Act, 1967, ex-SIMI activists continued their activities including holding secret meetings and programmes under the guise of Dars etc. in various parts of the country. They have been holding meetings including secret meetings, making strategies to induct new members, discussing and raising funds and liaising with like-minded organizations. The activities of SIMI/its members as well as its sympathizers were noticed in the State of Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Telangana, Uttar Pradesh, West Bengal and NCT of Delhi. In Assam, the aftermath of incident of explosion at Khagragarh, Burdwan, West Bengal on 2nd October, 2014, investigations revealed presence of some Jamaat-ul-Mujahidin Bangladesh (JMB) Operatives involved in the incident, who had links in Barpeta Districts of Assam. In this connection, a case has been registered and during investigation of the case, 10 handmade bombs were recovered on being shown and led by arrested accused Nurjamal Haque. Now the case is pending for arrest of 7 accused persons who have been absconding since 2014. Altogether, a total of 56 JMB persons have been arrested in different Police Stations in Assam. There is every possibility of seizing the opportunity of using these JMB operatives of the State by inactive SIMI modules with a view to reinvigorating itself for spreading its ideology. In Jammu & Kashmir, no such organization has been found existing neither any activity by the said organization has been reported so far in the State of J&K. However, following the incident of Jail breaking by eight members of banned outfit SIMI in Bhopal in year 2016 and their subsequent killing on 31st October, 2016, one Samad Inqalabi of Ganistan Sumbal, District-Bandipora (Chairman Islami Tanzeem-e-Azadi) on 4th November, 2016 carried out a post Friday procession amid pro-freedom slogans and antinational slogans in order to exploit the sentiments of local Muslims. After last ban on 1st February, 2014 a large number of new cases have been registered against members of SIMI as well as convictions have been pronounced in many cases in various parts of the country. Many cases have also been registered by the National Investigation Agency (NIA) and convictions have also pronounced in many cases registered by them. A list of cases registered by the State Governments/UT Administrations/National Investigation Agency (NIA) against SIMI activists/members after the last ban imposed on 1st February, 2014 is enclosed as Annexure-XIV (The same is annexed as Annexure-I to this report). List of cases in which, judgment have been delivered and ended with conviction of accused SIMI activists/members on or after the ban imposed on 1st February, 2014 is enclosed as Annexure-XV (The same is annexed as Annexure-II to this report). Another list of cases registered by the State Governments/UT Administrations/National Investigation Agency against SIMI activists before the last ban imposed on 1st February, 2014 was also enclosed as Annexure-XVI.

4.17. The number of persons arrested, number of cases registered, number of persons absconding, number of persons convicted/acquitted, number of cases pending trial, number of cases under investigation etc. may vary from actual numbers in each category. The exact figures in each category will be

known from the affidavits when filed by various State Governments before Unlawful Activities (Prevention) Tribunal in the matter.

- 4.18. Since the SIMI activists continued its activities for which it was banned earlier in September, 2001; September, 2003; February, 2006; February, 2008; February, 2010; February, 2012; and February, 2014; the Government imposed a fresh ban on SIMI in January, 2019 vide Notification No. S.O. 564 (E) dated 31st January, 2019 published in the Gazette of India, Extraordinary. The Unlawful Activities (Prevention) Tribunal has been constituted vide Notification No. S.O. 931(E) dated 21st February, 2019.

V. SUMMARY OF EVIDENCE BY STATES/UNION TERRITORY & UNION OF INDIA.

- 5.1. In total 50 witnesses were examined by the Tribunal from the States/ Union Territories and Govt. of India. Two public witnesses also appeared before the Tribunal, one each at the proceedings held at Aurangabad and Jabalpur.

TAMIL NADU

- 5.2. Statements of four witnesses namely K. Gowthaman (PW-1), N.Ravikumar (PW-2), A. Ravi (PW-3) and S. Aravind (PW-4) were recorded from the State of Tamil Nadu wherein they deposed about two FIRs.
- 5.3. FIR No. 273/2014 was transferred from Chennai Central Railway Station to Special Investigation Division and re-registered as Crime No.2/2014 for offences punishable under Sections 326/307/302 IPC. K. Gowthaman (PW-1) tendered his affidavit and stated that on 1st May, 2014 at about 7:20 A.M., twin blasts occurred in the Bangalore-Guwahati Kaziranga Express in Coach No. S4 & S5 at Chennai Central Railway Station causing injuries to 15 passengers. During the course of investigation, the information about the involvements of SIMI activists namely Dr. Abu Faizal, Aijajudeen, Mohd. Aslam, Sheik Mehboob, Zakir Hussain, Amjad Khan and Mohammed Saliq in the blast of Bangalore-Guwahati Kaziranga Express at Chennai Central Railway Station came to light when news was published in the daily newspapers about U.P. Bijnor blast. The phone numbers, IMEI numbers of the phones and the phone book that were seized from the scene of crime of Bijnor blast in Crime no. 964/2014 and Crime No. 968/2014 were obtained from the Investigation Officer of Uttar Pradesh Police in Bijnor District, Kotwali City Police Station. The four IMEI numbers and two mobile numbers along with seven mobile numbers found in the phone book were compared with the Cell-Tower Dump collected at the scene of crime and the entire route of the train in which the twin-blast took place at Chennai Central Railway Station. Based on the analysis, mobile no.7847980513 travelled to Jolarpet on 26th April, 2014 at 2:25 A.M. and the same number's tower location was at Hosur, Bangalore Road at 3:15 P.M. The mobile was switched on again on 17th August, 2014 at 5:45 P.M. at Mehboob Nagar, Andhra Pradesh and roamed in Andhra Pradesh, Delhi, Gujarat, Maharashtra, Tamil Nadu and Uttar Pradesh. In the phone book of this number another mobile no. 7847981192 was stored in the name of Sriji and it was a Reliance, Karnataka number activated in the name of Karegoudara Mahadevamma of Dharwad. The tower location of this number was in KV Kuppam, Vellore District on 6th March, 2013 at 3:04 A.M. It matched the train time of Bangalore-Guwahati Kaziranga Express. On 3rd April, 2014 and 1st May, 2014, the tower location was Lakmanahalli, Karnataka and the number was being used by Aijajudeen @ Arvind. The above mobile locations confirmed that Aijajudeen and his team moved en-route the abovementioned train and made recce prior to the occurrence in setting and planting bomb in Bangalore-Guwahati Kaziranga Express.
- 5.4. During the course of investigation, photographs of the abovementioned persons were shown to three passenger witnesses who identified Aijajudeen and Zakir Hussain as the persons who travelled in the same Bangalore-Guwahati Kaziranga Express train on 1st May, 2014.
- 5.5. A special team of Special Investigation Division Chennai visited Dharwad, Karnataka and located the place where the abovementioned persons were staying. It was revealed that Sheikh Mehboob, Aijajudeen and Zakir Hussain were residing in a rented accommodation at Dharwad under bogus names depicting themselves as textile merchants. Photographs of these persons was shown to the house owner and the neighbors who identified them as the persons living in the rented accommodation.

- 5.6. He further stated that during the course of investigation it was revealed from Telangana Police that on the intervening night of 1st/2nd April, 2015, the Inspector of Police who was organizing vehicle checking at Suryapet Bus Stand along with his staff got suspicion over two male persons and when the Inspector was conducting enquiry about their details, all of a sudden the suspects open fired due to which one police constable succumbed to his injuries on the spot. After this incident, the Telangana Police started search operations all over the Nalgonda District to arrest the culprits. In the morning on 4th April, 2015 attackers were sighted by the police party in the limit of Janakipuram Village of Mothkur Mandal in Nalgonda District. Soon after seeing the police party, the culprits fired at the police as a result of which one more police constable died on the spot and other police officers sustained injuries. In self-defense the police party also opened fire and as a result the two-armed assailants died including Aijajudeen who was later revealed to be also involved in Chennai train blast. On 17th February, 2016, the two other persons Zakir Hussain and Sheik Mehboob were arrested along with Amjad and Mohammed Saliq by the Counter Intelligence Team, Telangana and Odisha Police in a joint operation at Plant Site Police Station in Rourkela, Orissa and a case was registered. He further stated that the confessions of the abovementioned persons confirmed the planting of the bombs on the train due to which 14 passengers sustained injuries and one of them succumbed to the injuries.
- 5.7. All the above-mentioned persons were working under the leadership of Dr. Abu Faizal (Head of the Indore unit of SIMI). They attended Darsh-e-Quran Programs as well as training camps conducted by SIMI. They all met the SIMI leaders frequently from the year 2000 and were very active.
- 5.8. N. Ravikumar (PW-2), tendered his affidavit and stated that during the course of investigation in FIR No.432/2014, registered under Sections 120B/153A/505(2) IPC, it was revealed that one Abdul Rahman @ Umari, former President of SIMI was presently heading the organization *Wahadath-e-Islaam* and carrying out meetings of the same at his residence 131-A, Kallamedu, Selvapuram, Coimbatore city with one Khaja Mohideen and eight other persons to eliminate certain leaders of Hindu Organization. He deposed about one incident dated 18th June, 2014 wherein a representative of Hindu Organization namely Tr. Suresh Kumar was murdered at Chennai. It was revealed during investigation that Khaja Mohideen who was working with Abdul Rahman Umari was behind the same and was accordingly arrested. During the course of investigation multiple other persons who attended the meeting held at the residence of Abdul Rehman were arrested. It was revealed that Abdul Rehman was the State President of SIMI Organization, and after it was banned, he had floated an organization named *Wahadath-e-Islaam* along with the SIMI sympathizers.
- 5.9. A. Ravi (PW-3), tendered his affidavit and stated that further investigation in the above noted FIR was being conducted by him and the trial was at the stage of arguments on framing of charge.
- 5.10. S. Aravind (PW-4) deposed as the Nodal Officer for the State of Tamil Nadu. He stated that earlier in 2001, SIMI was banned under the UAPA by the Central Government and preventive measures were taken at the outset by arresting 21 functionaries/activists of the banned Islamic Outfit SIMI including its Zonal President Syed Abdul Rahman Umari to pre-empt their possible designs to continue with their activities even after the banning of the outfit. He deposed that SIMI and its activists continue to indulge in unlawful activities in a clandestine manner despite the imposition of ban. He further deposed that SIMI activists/cadres are regrouping themselves in the State of Tamil Nadu under the banner of *Wahadat-e-Islaami Hind* (WeIH) to expand their militant outreach among Muslim youth under the guise of spreading Islamic ideology. SIMI activists under the guise of WeIH continue to hold meetings, classes, symposium, seminars etc. to spread their anti-national ideology.

MAHARASHTRA

- 5.11. Statements of four witnesses namely Ravindrasingh Santoshsingh Pardesi (PW-5), Ganesh Shinde (PW-6), Nisar Tamboli (PW-7) and Bhanupratap Shankarrao Barge (PW-8) were recorded from the State of Maharashtra.
- 5.12. Ravindrasingh Santoshsingh Pardeshi (PW-7) tendered his affidavit and deposed about five crime cases bearing Crime No.5/2006, Crime No.3/2006, LAC No.4/2006, Crime No.6/2010 and Crime No.31/2011 registered prior to 2014 and about one crime that took place in 2014 bearing Crime No. 09/2014.

- 5.13. Crime No. 5/2006 was registered at ATS Police Station, Mumbai under Sections 3(1)(i)/3(2)/3(3)/3(4)/3(5) MCOCA read with Sections 10/13/16 /17/18/19/20 UAPA and Sections 302/307/326/325/324/427/436/121A/ 122/123/124A/201/212/120B IPC and Sections 6/9B Explosives Act and Sections 3/4/5/6 Explosives Substances Act read with Section 3/4 of the Prevention of Damage to Public Property Act read with Sections 151/152/153/154 Railways Act and Section 12(1)(c) of the Passports Act with respect to seven different bomb blasts that took place in local trains on Western Railway Line, Mumbai on 11th July, 2006. Crime No.5/2006 was marked as Special Case No.21/2006 commonly known as 7/2011 Mumbai Railway Serial Bomb Blast. Out of a total of 15 accused persons, 12 persons were arrested and put to trial. 10 out of the 12 accused persons namely Tanvir Ahmed Mohd. Ibrahim Ansari, Mohd. Faisal Aatur Rehman Sheikh, Ehetesham Qutubuddin Siddique, Sheikh Mohd. Ali Alam Sheikh, Mohd. Sajid Margub Ansari, Abdul Wahid Din Mohd. Sheikh, Muzzammil Aatur Rehman Sheikh, Suhail Mehmood Shaikh, Zameer Ahmed Latifur Rehman Sheikh, Asif Khan Bashir Khan @ Junaid @ Abdullah in this case were convicted for being members of SIMI vide judgement of the Special Judge dated 30th November, 2015.
- 5.14. LAC case ATS Crime No. 3/2006 was registered at Verul Aurangabad Road where one Tata Sumo car was seized containing AK-47 rifles, 2000 live cartridges, 40 magazines and 30 kg RDX. During the course of investigation, 22 accused persons were arrested and their confessional statements were recorded wherein they admitted that they were members of the banned organization SIMI. 7 out of the 12 accused persons namely Mohd. Amer Shakil Ahmed Sheikh, Bilal Ahmed Abdul Razaq @ Bilal, Sayyed Aakif Sayyad Zafiruddin, Afroz Khan Shahid Khan Pathan, Faizal Aatur Rehman Sheikh, Mohd. Aslam, Sayyed Jabiuddin @ Zabiuddin @ Jabi Sayyed Zakiuddin Ansari @ Zabi @ Zabi Ansari @ Dawood @ Abu Jundal @ Abu Ekarama @ Aasif @ Riyasat Ali were convicted for being members of the banned organization SIMI vide judgment of the Special Judge dated 28th July, 2019.
- 5.15. LAC No.4/2006 was registered at ATS Police Station with respect to one person Ehetesham Qutubuddin Siddique who was carrying on the activities of SIMI. On a raid being conducted at his residence material and literature regarding SIMI in the form of micro cassette tape recorder, chart showing names of office bearers of SIMI at the Central and State level, diaries of attendance were seized. Ehetesham Qutubuddin Siddique was convicted by a judgment of the Special Court dated 21st October, 2016 for being a member of the banned organization SIMI. He further deposed that co-accused Abdus Suban Usman Qureshi @ Tauqir @ Zakir @ Kasim was arrested on 9th July, 2018 and a supplementary chargesheet in LAC No.4/2006 showing his association with the banned organization SIMI has been filed before the learned Special Judge. Ehetesham Qureshi disclosed the name of Abdus Subhan Qureshi as one of the office-bearers of SIMI. He disclosed about one meeting conducted by Abdus Subhan Qureshi at Ujjain with others where they part-took in illegal and anti-national activities.
- 5.16. Crime No. 6/2010 was registered on 13th February, 2010 when a powerful bomb blast took place at German Bakery Koregaon Park in which 17 people died and 56 people were injured. One of the accused persons namely Mirza Himayat Inayat Beg @ Ahmed Beg Inayat Mirza @ Yusuf was convicted for offences punishable under Sections 10/13/16/18/20 UAPA and was held to be a member for the banned organization SIMI. The accused person filed an appeal against the judgment of the Trial Court whereby he was acquitted. During the course of investigation, another accused person namely Yasin Bhatkal was arrested in the present case and is presently under trial. The State has filed a Special Leave Petition bearing SLP (Crl.) No.5289-5290/2016 against the order of the High Court which is pending before the Supreme Court of India.
- 5.17. Crime No.31/2011, was registered on 22nd August, 2011 when a secret information was received that one person namely Haroon Rashid was residing at Amber Guest House, Dadar (West), Mumbai and was in possession of counterfeit Indian currency notes in huge quantity for circulation in the market. A raid was carried out and counterfeit currency amongst other articles was seized. During the course of investigation, it was revealed that Haroon was an active member of SIMI. He further disclosed the names of two other persons namely Asrar Ahmed Abdul Hamid Tailor @ Sagari and Azhar Ul Islam Mohd. Ibrahim Siddiqui @ Munna. It was further revealed that Asrar arranged a meeting of Haroon at the office of SIMI at Phitwala Compound, Kurla, Mumbai and thereafter another meeting was arranged with Riyaz Bhatkal who was supposed to make arrangements for his travel to Pakistan for militant training. The Special Court acquitted Haroon Rashid for the offences punishable under

- Sections 10/11/13/18 UAPA. State has filed an appeal against the acquittal which is pending before the Bombay High Court vide Criminal Appeal No.592/2019.
- 5.18. Crime No.09/2014 was registered on 10th July, 2014 when a low intensity blast took place opposite Shri Swami Snack Centre, Budhwar Peth, Pune where one stolen Hero Honda motorcycle was used in the blast. During the course of investigation CCTV footage from the vicinity were obtained and relevant data of mobile phones was analyzed. Five accused persons namely Mohamad Aijajudeen @ Ajaj @ Rahul @ Arvind, Mehboob Ismile Shaikh @ Gaddu @ Kisan, Zakir Hussain @ Badrukl Hussain @ Vicky Don @ Sadiq @ Vinay Kumar @ Anand, Amjad Khan Ramjan Khan @ Pappu @ Daud and Aslam Mohammad Aslam Khan @ Soheb @ Bilal @ Santosh were found to be involved in the case. During the course of investigation, they were all found to be active members of SIMI. He further deposed that all the accused persons involved in the offence died out of which three died in Madhya Pradesh and two in Telangana.
- 5.19. Ganesh Shinde (PW-6), tendered his affidavit and deposed about cases registered prior to 2014 which are still pending trial and about one POTA case No. 2/2003 in which Saqib Abdul Hamid Nachan and other co-accused persons were convicted for offences inter alia punishable under Section 4 POTA.
- 5.20. Nisar Tamboli (PW-7), tendered his affidavit and deposed about cases registered prior to 2014 bearing Crime No.3050/2001, Crime No.3012/2003, Crime No.3182/2006, Crime No.3065/2009, Crime No.3036/2008, Crime No.II-3047/2001 and Crime No.I-131/2012 wherein material pertaining to SIMI was recovered and are pending trial.
- 5.21. Bhanupratap Shankarrao Barge (PW-12), tendered his affidavit and deposed about the investigation carried out after a low intensity blast occurred on 10th July, 2014 at about 2:05 P.M. in the premises of Faraskhana Police Station, Near Shree Swami Snack Centre, Budhwar Peth, Pune which led to injuries to five persons including a police official for which Crime No.173/2014 was registered for offences punishable under Sections 120B/307/324/427 IPC read with Sections 3/4/5 Indian Explosives Act read with Sections 16/18 Unlawful Activities Prevention Act at Vishrambaug Police Station, Pune. Investigation in Crime No.173/2014 was transferred to ATS Maharashtra and the case was re-numbered as Crime No.9/2014. One black coloured Hero Honda Splendor motorcycle that was used in the blast was stolen from the court premises of Satara. The Improvised Explosive Device (IED) was planted in the dickey of the motorcycle. The FSL detected Ammonium, Potassium Nitrate, Chlorate, Chloride, Sulphate ions and traces of residual petroleum hydrocarbon oil. During the course of investigation, CCTV footages, IDs and other relevant data about the mobile towers were obtained. On analysis of the CCTV footage, two suspects were seen and recognised as the same persons who had boarded a Pune Kolhapur bus at Swargate Bus Stand, Pune. One person namely, Ajay Vijay Thorat who had travelled along with the suspects in the bus from Pune to Kolhapur was traced and images from the CCTV footage were shown to him wherein he recognised Aijajudeen as one of the persons who was travelling in the bus. Aijajudeen was also found to be the same accused who was wanted in the Khandwa Jail break case of 2013. Details of the Khandwa Jail break and Bijnor Blast case were obtained from Kotwali Police Station, Khandwa and Bijnor wherein it was revealed that same suspects were involved in both the cases.
- 5.22. During the course of investigation, information was received about the suspects hideout in Dharwad, Karnataka. They were revealed to be staying in a rental house owned by one Mr. Shivraj Kulkarni. Five accused persons namely Mohamad Aijajudeen @ Ajaj @ Rahul @ Arvind, Mehboob Ismile Shaikh @ Guddu @ Kisan, Zakir Hussain @ Badrukl Hussain @ Vicky Don @ Sadiq @ Vinaykumar @ Anand, Amjad Khan Ramjan Khan @ Pappu @ Daud and Aslam Mohammad Aslam Khan @ Soheb @ Bilal @ Santosh were found to be involved in the case.
- 5.23. Two of the accused persons namely Mohamad Aijajudeen @ Ajaj @ Rahul @ Arvind and Aslam Mohammad Aslam Khan @ Soheb @ Bilal @ Santosh were killed in a cross-fire on 4th April, 2015 in Telangana. Three of the accused persons namely Mehboob Ismile Shaikh @ Gaddu @ Kisan, Zakir Hussain @ Badrukl Hussain @ Vicky Don @ Sadiq @ Vinay Kumar @ Anand, Amjad Khan Ramjan Khan @ Pappu @ Daud were killed during a cross fire on 31st October, 2016 in Madhya Pradesh when they tried to escape from jail. Since all the accused persons were killed, the proceedings were declared abated by the Sessions Court.

TELENGANA

- 5.24. Statements of eight witnesses were recorded from the State of Telangana. D. Hari Kumar Yadav (PW-8) deposed about two crimes bearing Crime Revision No.338/2014 and Crime No. 882/2004. A. Laxminarayana (PW-9), M. Nageshwara Rao (PW-10) and J. Ravinder (PW-13) deposed about a series of crimes for which four crimes bearing Crime No. 34/2015, 120/2015, 23/2015 and 22/2015 were registered. T. Usharani (PW-14), J. Venkateswarlu (PW-15) and G.Venkat Narayana (PW-16) deposed about a bank dacoity and robbery of motorcycles used in the bank dacoity. Rajesh Kumar (PW-11) deposed as the Nodal Officer for the State of Telangana.
- 5.25. D. Hari Kumar Yadav (PW-8), Assistant Commissioner of Police, Special Investigation Team, Hyderabad City tendered his affidavit and deposed about two Crimes bearing Crime Revision No.338/2014 and Crime No. 882/2004.
- 5.26. Crime Revision No. 338/2014 was registered for the offences punishable under Sections 120B/121A/153 (A) IPC, Section 66 Information Technology Act and Section 10 UAPA. On 22nd October, 2014 two persons Shah Mudassir @ Mudassir Talha and Shoaib Ahmed Khan @ Tareek were arrested by SHO Gopalpuram. During search police seized one pen drive and three compact discs which contained Jehadi literature. In their confessional statements the accused persons confessed that they were members of SIMI. They admitted that they were planning to go to Afghanistan in order to undergo militant training under Al-Qaida. In order to communicate with Al-Qaida, they created Facebook profiles and chatted with the Jihadists Abu Said Zahid Al Hindi, Mir Showkath, Sameer Khan and Mothasim Billah. Mothasim Billah who was a resident of Hyderabad became close to them and promised to provide them financial help. The accused persons visited Hyderabad on 2nd/3rd September, 2014 where they met with Mothasim Billah who asked them to bring the explosives formula with them on their next visit to Hyderabad on 10th October, 2014. They also helped Mothasim Billah in preparing a cover for the book '*Jihad Kya Hai*'. On 21st October, 2014 they departed from Nanded, Maharashtra and reached Secunderabad Railway Station on 22nd October, 2014 where they were apprehended by the SHO PS Gopalpuram. On the search of Mudassir, four sets of explosives formula, one pen drive containing '*Jihad Kya Hai*' title page, two mobile phones and net cash of ₹2,420/- was seized. On the search of Shoaib Ahmed Khan, two mobile phones, passport and three HP CDs containing militant training and speech of Zahed Al Hindi wherein he wanted to merge Afghanistan to Hyderabad by waging war downloaded from '*Al Isabha*' website, cash and 12 sheets of literature of SIMI group regarding Jihad was seized. On 28th October, 2014 the case was transferred to SIT.
- 5.27. During the course of investigation, one mail account namely photoshine43@gmail.com belonging to Shah Mudassir was opened where an email was sent to Mothasim Billah on 14th September, 2014 containing three pages relating to cover page of '*Jihad Kya Hai*'. On 3rd November, 2014, two hard disks were seized from Jammu and Kashmir computers where Mudassir used to browse the internet and one more hard disk was seized from Sumayya Arts. One hard disk was also seized from DD Jaiswal construction company, two laptops were seized from AR Khan & Sons and two mobile phones make Karbon and Micro Max were seized at the instance of Shoaib Ahmed.
- 5.28. One photograph of Safdar Nagori (leader of SIMI), was recovered from the mobile of Shoaib Malik. The investigation further disclosed a larger criminal conspiracy of Shah Mudassir and Shoaib Malik in connivance with Mothasim Billah, Kamran Sha, Zahid Al Hind @ Sultan @ Sameer Khan in support of Al Qaeda, Jaish-e-Mohammad and ISIS proscribed terrorist organizations. Safdar Nagori and Shoaib Malik self-radicalized and gave their alliance to proscribed terrorist organizations during their online activities of discussions, sharing views and thereby supporting terrorist activities of Jihadi and Al Qaeda. It was revealed that they wanted to wage war against the government of India. By causing explosions they wanted to create panic among different communities and promote the enmity between different classes, thus they became members of Al Qaeda and Jaish-e-Mohammad.
- 5.29. Shah Mudassir in his confessional statement stated that during his childhood he worked in Shaheen Force and then joined SIMI in 2007. Since SIMI was banned in the year 2001, he joined Association of Indian Minorities (AIMS) which was a frontal organization of SIMI. He finally joined Jamat-e-Islami Hind in the year 2011.

- 5.30. A. Laxminarayana (PW-9), M. Nageshwara Rao (PW-10) and J Ravinder (PW-13) deposed about the escape and final encounter of two persons namely Mohd. Aijajudeen and Mohd. Aslam who were members of SIMI. On the intervening night of 1st - 2nd April, 2015, two persons namely Mohd. Aijajudeen and Mohd. Aslam opened fire on the Suryapet Police who were conducting vehicle checks at Suryapet bus stop resulting in the death of one home guard and one police constable. Two police constables were severely injured. The two persons snatched away one 9mm carbine from the police and escaped. While fleeing they also opened fire on a car resulting in injuries to the driver of the car. The case was registered as Crime No.120/2015 for offences punishable under Sections 302/394/34 IPC and Section 25(1) Arms Act.
- 5.31. On 4th April, 2015 in the early hours on receiving credible information, the complainant M.R. Gangaram, Circle Inspector of Police, Thungathurthy along with staff members while proceeding in a private vehicle towards Thungathurthy, at about 6:00 A.M., found two persons near SRSP canal bridge. When they observed the police party, they tried to escape and on police warning them to stop, they opened fire on the police party. In self-defense the Circle Inspector of Police also fired with his service pistol, but the two persons escaped. The case was registered as Crime No.23/2015 under Section 307 IPC and Sections 25(1)(A) and 27 Arms Act.
- 5.32. Subsequently, on 4th April, 2015 itself, in the morning hours on a tip off, another police team moved towards Jankipuram Nalgonda District. Meanwhile, Mohd. Aslam and Mohd. Aijajudeen confronted the police team at about 8:00 A.M. and an exchange of fire took place between the police party on one side and Mohd. Aslam and Mohd. Aijajudeen on the other side. As a result, Siddaih, Sub Inspector of Police died due to bullet injuries while two other police officers received injuries. Mohd. Aslam and Mohd. Aijajudeen also died due to the exchange of fire. The case was registered as Crime No.34/2015 under Sections 302/307/34 IPC and Section 27 Arms Act. The case was later transferred to PS Addagudur where it was re-registered as Crime No.28/2017 under Sections 302/307/34 IPC and Section 27 Arms Act. The case was referred to as 'Action Abatted' on 20th November, 2018 and final report was filed before the Court.
- 5.33. On 4th April, 2015, a case was registered bearing Crime No. 22/2015 for the offences punishable under Sections 384 IPC and Section 25(1)(A) Arms Act on the complaint of one Bingi Lingamallu who came to PS Arvapally at about 6:30 A.M. and informed that he was proceeding on his motor bike bearing number AP-20-AL-7066 near Arvapally Village Centre when two accused persons stopped him at the point of gun and forcibly took away his bike and went towards Thirumalagiri town. The motorcycle was used by the accused persons while committing Crime No. 34/2015. The complainant also identified the two accused persons who died in the cross-fire as the ones who snatched away his motorcycle.
- 5.34. T. Usharani (PW-14), J. Venkateswarlu (PW-15) and G.Venkat Narayana (PW-16) deposed about the robbery of motorcycles that were later used in a bank dacoity.
- 5.35. On 9th January, 2014 at about 4:00 P.M., case bearing Crime No.10/2014 was registered under Section 379 IPC on the complaint of Narshima Raju who stated that on 9th January, 2014 at about 10:00 A.M., he parked his Hero Honda Splendor Plus motorcycle bearing No. AP-24-L-5116 in front of Hi-Tech Lab at Chenetha Complex, Devarakonda and went into the lab. When he returned after 15 minutes, he found his motorcycle missing.
- 5.36. On 5th February, 2014 at about 5:00 P.M. case bearing Crime No.30/2014 was registered under Section 379 IPC on the complaint of Musabin Sayyed wherein he stated that on 8th January, 2014 at 4:30 P.M., he parked his motorcycle Hero Honda Passion bike bearing No. AP-11-AA-0270 with Chasis No. 06H09C14095, Engine No. 06H08M48535 at Government Hospital, Mahabubnagar and went inside the hospital. When he returned, he found his vehicle missing.
- 5.37. During investigation it was revealed that both these motorcycles were used in the commission of a bank robbery at State Bank of India, Choppadandi District.
- 5.38. On 1st February, 2014, at about 9:00 A.M., some unknown offenders entered State Bank of India, Choppadandi Branch, Karimnagar District where they confined and threatened the bank staff at the point of fire arms and took away net cash of ₹46,00,000/-. The movements of the accused persons were recorded in CCTV cameras installed at the bank. The CCTV footage recorded in the cameras were verified from which photographs of the offenders were developed. Posters and pamphlets with

the clear photos of the offenders were sent to various intelligence agencies all over the country. During the course of investigation, an information was received from Mohd. Sarvar, Incharge of Parking Stand, that two motorcycles were lying parked by five persons in the parking stand since 1st February, 2014 and nobody had come to collect the same. The Investigating Officer of Crime No.16/2014 PS Choppadandi, Karimnagar District visited the said parking lot and showed photographs of the accused captured by the CCTV cameras installed inside the State Bank of India, to the witness Mohd. Sarvar, Incharge of parking stand who identified five accused by the photographs to be the same persons who had parked the two motorcycles on 1st February, 2014 in the parking stand and thereafter did not return to claim the same. After eight months, on 12th September, 2014 a news article was published in all important newspapers wherein it was mentioned that while some persons were preparing bombs at Bijnor, Uttar Pradesh those bombs exploded and some cash pertaining to Choppadandi Bank robbery was recovered. The investigating officer visited District Jail Bijnor and met the arrested persons in the Bijnor Blast Case. Statements of five accused persons namely Husna, Rahiz Ahmad, Abdulla, Nadeem and Mohd. Furkan were recorded. They stated that on 16th May, 2014 three persons namely Amjad @ Umar, Aslam @ Imtiyaz and Younus took the 2nd floor of their building. At the first instance they stated that they were working as private marketing executives but subsequently disclosed that they were terrorists of Jamathe-al-Muzahidin group and three of their associates namely Mehboob @ Guddu, Aijajudeen, and Zakir Hussain @ Vicky Don were staying in a separate room situated at Jatna area. On 12th September, 2014 a bomb accidentally exploded due to which Mehboob @ Guddu sustained burns. The matter was leaked to police teams who were searching for them. The injured person along with his associates requested the house owners to help them escape in return of which they gave them ₹2,00,000/- approximately which they had robbed from Choppadandi Bank. When the photographs of the SBI Bank, Choppadandi robbers was shown to them, they identified them as Amjad @ Umar, Zakir Hussain, Aslam @ Imtiyaz, Guddu @ Sheik Mehaboob and Aijajudeen.

- 5.39. When the Bijnor Blast Case was transferred to NIA, they issued a poster of the accused persons. The said poster was compared with the CCTV footage collected from the bank and the accused persons in both cases were found to be the same.
- 5.40. Aijajudeen and Aslam died in the cross-fire in the jurisdiction of PS Mothkur, State of Telengana. The remaining accused persons were arrested in CR No. 38/2016 registered on 17th February, 2016 at Plant Site, District Rourkela, State of Orissa wherein the accused confessed that they had committed the robbery at SBI Bank, Choppadandi. The accused persons were lodged in Central Jail, Bhopal from where they escaped and died in a cross fire in Madhya Pradesh.
- 5.41. Rajesh Kumar (PW-11), Nodal Officer briefly deposed about all the above-mentioned cases registered in the State of Telangana against activists of SIMI. He stated that even after the ban in 2014, activists and sympathizers of SIMI have committed various crimes including killing and injuring of police officers, dacoities and robberies in order to get finances which were used for terrorist activities in the State of Telangana and other parts of India too. In order to avoid the rigors of the ban imposed on SIMI, the activists of SIMI are also operating under various other organizations like TSSI and *Wahadath-e-Islami*. The investigations have also further revealed that they have tried to collaborate with various international organizations namely *Al-Qaida*, *Jaish-e-Mohammed* and ISIS. The investigations have further revealed that they also have allegiance with Abu Faizal who was also an officer bearer of the Indore Unit of SIMI. He further stated that SIMI targets Muslim students and youth to spread its ideology.

CHHATISGARH

- 5.42. Statement of one witness namely Abhishek Maheshwari (PW-17) from the State of Chhattisgarh was recorded wherein he deposed about Crime No.740/2013 registered for offences punishable under Sections 3/7/10/11/13/15/16/18 UAPA, Sections 121/124A/153A IPC, Sections 25/27 Arms Act and Sections 3 and 4 Explosives Act. The crime was registered when a secret information was received with regard to suspicious activist of SIMI namely Umair Siddiqui. He was apprehended from Raipur and it was revealed that he was giving shelter to various SIMI activists at his residence in Raipur. On the basis of the confessional statement of Umair Siddiqui, the police recovered live cartridges of 315 bore, one iron sword, membership forms of SIMI, ammonium nitrate, laptop, layout of planning of Bodhgaya bomb blast, biography of Osama Bin Laden, diagram and material list of making bombs

and many other objectionable items. Umair Siddiqui in his confessional statement stated that in the year 1997, one person namely Mohd. Asfaque who was a member of SIMI came to him along with Khalid Naim, the Zonal President of Madhya Pradesh Zone of SIMI. On their persuasion he participated in the Aligarh conference of SIMI and thereafter became its member. In the year 2007, SIMI was divided into two groups, one group was led by Sahid Badar Fallah while the second was led by Safdar Nagori. He met Abu Faizal in May, 2007 along with whom he conducted many programs related to SIMI.

- 5.43. Chargesheet against 16 accused persons was filed in Crime No.740/2013 on 19th April, 2014. The first supplementary chargesheet was filed on 21st June, 2015 after the 17th accused was arrested. The 18th person apprehended was a juvenile and report qua him was filed on 16th August, 2018. The investigation is still pending as the remaining accused persons are absconding.
- 5.44. During the course of investigation, it was revealed that Umair Siddiqui along with Azharuddin Qureshi and other accused persons arranged the logistic, planning, hideout, raising of funds and procuring explosives and chemical used in the preparation of IEDs. Umair Siddiqui and Azharuddin Qureshi besides other accused have been found guilty by NIA court in Bodhgaya Bomb Blast.

MADHYA PRADESH

- 5.45. Statements of seven witnesses were recorded from the State of Madhya Pradesh. Brajesh Bhargava (PW-19), Jitendra Singh Patel (PW-20), Chain Singh Raghuvanshi (PW-18), and Gladwin Carr (PW-21) deposed as investigating Officers of Crime No.424/2014, 100/2015, 355/2016 and 270/2016 respectively. Nischal Jhariya (PW-22) deposed as the Nodal Officer for the State of Madhya Pradesh for the abovementioned four crimes. Vijay Singh Dewada (PW-23) deposed about Crime No.393/2016 and Prakash Parihar (PW-24) deposed about 22 cases registered prior to 2014 in which judgments have been delivered.
- 5.46. Nischal Jhariya (PW-22) being the Nodal Officer for the State of Madhya Pradesh deposed about four crimes bearing Crime No. 424/2014, 100/2015, 355/2016 and 270/2016.
- 5.47. Crime No.424/2014 was registered for the offences punishable under Sections 295A, 153B and 34 IPC. On 17th May, 2014 when 18 prisoners namely Abdul Majid, Abdul Faisal, Sajid, Irfan Nagauri, Umer, Sadik, Mohd. Adil, Khalid Ahmad, Abdul Wahid, Javed Nagauri, Abdul Aziz, Juber, Ikrar Ahmed, Mohd. Habib, Mohd. Sazid, Akil Khilzi, Rakib and Abdullah Altaf were taken to Court for hearing before the Chief Judicial Magistrate and Additional Sessions Court at Bhopal, after the hearing was over and while they were being taken back to jail at the time of entering in jail van, they started raising slogans such as “Taliban Zindabad” “Pakistan Zindabad” “Allah-uh-Akbar” etc. for which this case was registered. During the course of investigation, it was found out that these 18 accused persons were also involved in other cases and have been convicted for offences punishable under the UAPA for being members of SIMI. The Investigating Officer, Brajesh Bhargav (PW-19) also tendered his additional affidavit in evidence with copy of the judgment in Crime No.431/2010 dated 31st March, 2018, whereby Abu Faizal and Mohd. Ikrar Sheikh were convicted for offence punishable under Section 10 UAPA and were held to be members of the banned organization SIMI.
- 5.48. Crime No. 100/2015 was registered for offences punishable under Sections 353/506/34 IPC. On 8th May, 2015, a letter addressed to the Thana Incharge Gandhi Nagar was received with an application for recording of evidence through video conferencing of two SIMI members Abu Faizal and Sharafat from Jail. When they were taken for video conferencing, they tried to push the staff and run away. When they were stopped, they physically attacked the police officers on duty and started screaming “Jaisa maine Khandwa police walo ko mara hai, waise hi tum sabhi ko marwa denge”. During the course of investigation, the Jail Superintendent of Central Jail Bhopal informed that Abu Faizal was imprisoned on several counts such as murder, dacoity and cases under various provisions of Arms Act, Explosives Act and UAPA. A letter from the State Government was also received during the course of investigation informing the police officers that Abu Faizal, Sharafat and other SIMI activists had to be produced before the Court via video conferencing as they were of high risk to the society.
- 5.49. Crime no. 270/2016 was registered for the offences punishable under Sections 342/307/302/120B/224/34/353 IPC and Sections 3/10/13/16/18 and 20 UAPA. On 31st October, 2016 at about 4:00 P.M., an information was received that eight accused persons of SIMI who were lodged

- in Bhopal Central Jail, had escaped after jail break, killing HC Rama Shankar Yadav and confining guard Chandan Singh inside.
- 5.50. Pursuant to this information, various check-posts were created. At 9:30 A.M. on the subsequent day information was received that the eight accused who had escaped from Central Jail, Bhopal, had been spotted at Khejada Naala near Malikheda Kot Pathar by local villagers. Three teams which had been constituted for search and arrest of these accused, reached the spot and upon sighting the eight accused, the police party asked them to surrender. When an attempt was made to apprehend them, they injured three officers of the police party by weapons like knives and daggers resulting in injuries to HC Shri Narayan Singh, Constable Mayad Singh and Constable Dinesh Khatri. When the accused persons were asked again to surrender, first they resorted to stone pelting and thereafter started firing. The police team also counter-fired and in the cross-firing, all eight accused who were the activists of SIMI, were killed. From the possession of the eight activists of SIMI, fire arms, cartridges, knives etc. were recovered. The aforesaid case was registered as Crime No.355/2016 for the offences punishable under Sections 307/147/148/149/332 IPC and Sections 25 and 27 Arms Act.
- 5.51. Statement of Abu Faizal was recorded as a witness to the said incident who stated that the information regarding the proposed jail break and the manner in which it was to be done was revealed to him by one person namely Khalid who had escaped from the jail. His statement further confirmed that the accused persons who escaped from the jail were his friends and also members of the banned organization SIMI. All the accused persons namely Sheikh Mujeeb, Akeel Khilji, Zakir Hussain, Khalid, Mohd. Amjad, Sheikh Mehboob, Majid and Mohd. Saliq @ Yunus died in a cross-fire in Crime No.355/2016 for which a closure report was filed.
- 5.52. Vijay Singh Dewada (PW-23) tendered his affidavit and deposed about Crime No.393/2016 registered for offences punishable under Section 124A IPC. On 30th October, 2016, an information was received about one person Asid who was carrying and installing black flag on which some objectionable words in Urdu along with ISIS were written. On reaching the spot, when the police party called out his name, he left the flag and fled from there. During the course of investigation, it was found that the accused person was a SIMI activist who was previously involved in Crime No.256/2006 registered for the offences punishable under Sections 3/10 UAPA.
- 5.53. Prakash Parihar (PW-24) tendered his affidavit and deposed about cases registered prior to 2014 in which judgments have been delivered by the Trial Court.
- 5.54. In Crime No. 181/2008, the learned Trial Court on 29th July, 2015, convicted the accused namely Rafik for offences punishable under Sections 3/10/13 UAPA and awarded sentence of rigorous imprisonment for a period of two years besides imposing fine.
- 5.55. In Crime No. 239/2008, the learned Trial Court on 11th June, 2015 convicted the accused persons namely Abdul Karim Ansari and Mohd. Rafiq for offences punishable under Sections 3/10/13 UAPA and have been awarded sentence of rigorous imprisonment for a period of two years besides fine.
- 5.56. In Crime No. 14/2009, seven accused were sent for trial, however, since four of them namely Akeel Khilji, Zakir, Amjad and Mehboob @ Guddu died in encounters, thus proceedings qua them were abated and Abdulla @ Altaaf, Abdul Rakeeb & Abu Faizal were convicted for offences punishable under Sections 307/120B IPC and awarded life imprisonment vide the judgment dated 29th August, 2017.
- 5.57. In Crime No. 319/2011, the learned Trial Court on 30th September, 2015 convicted the accused Babbu, Abdulla, Khaleel, Wajid and Abdul Rakeeb for offence punishable under Section 25 of the Arms Act and awarded sentence of rigorous imprisonment for a period of three years. The accused were acquitted for offences punishable under Sections 124A/153A/153B and 295A IPC as also for offence punishable under Sections 10/13/18 and 20 of UAPA.
- 5.58. In Crime No.728/2009 two accused persons namely Sheikh Mehboob and Zakir Hussain could not be arrested as they were absconding. Hence only two accused persons namely Abu Faizal @ Irshad @ Akram @ Doctor @ Izhar @ Anwar @ Faem @ Farhaan @ Ajay and Mehtab Ahmed were sent for trial. The Trial Court on 30th October, 2015 convicted Abu Faizal for offences punishable under Sections 302/302A and 120B IPC and Sections 16(1)(a) and Section 18 of the UAPA and Sections 25

- and 27 Arms Act for which he was awarded imprisonment of life till his natural death and Mehtab Ahmed for offences punishable under Section 25 Arms Act.
- 5.59. Crime No. 542/2013 was registered on 1st October, 2013 when Abu Faizal, Amjad, Aijajudeen, Zakir, Guddu @ Mehboob, Aslam and Abid Mirza absconded after the jail break from district Jail, Khandwa. Mirza Ahmed Beig was arrested and committed for trial. He was convicted vide judgment dated 30th November, 2015 for offences punishable under Section 224 IPC. Later, Abu Faizal was also arrested, committed for trial and convicted for offences punishable under Section 224 IPC vide the judgment dated 29th October, 2018. The remaining accused persons died in two encounters thus proceedings qua them abated.
- 5.60. In Crime No.72/2010 the Trial Court vide the judgment dated 10th October, 2017 convicted accused Abu Faizal for offences punishable under Sections 379 and 468 IPC and awarded him sentence of rigorous imprisonment for a period of seven years on the second count and Sharafat Ali for offences punishable under Sections 411 and 468 IPC and also sentenced him to undergo rigorous imprisonment for seven years. Mohd. Aslam died in cross-fire and thus proceedings qua him were abated.
- 5.61. In Crime No.431/2010 charge sheet was filed against 8 accused persons namely Abu Faizal, Mohd. Iqrar Sheikh, Mohd. Aslam, Zakir@Sadiq, Mohd. Aijajudeen, Sheikh Mujeeb Ahmed @ Naved @ Akram @ Moulvi @ Nitin, Sharad Singh and Shailender Kumar Mehto wherein accused Sharad Singh and Shailender Singh absconded and thus could not be tried. The Trial Court vide judgment dated 31st March, 2018 convicted Abu Faizal and Mohd. Iqrar for offences punishable under Section 120B read with Sections 395, 397 IPC besides Sections 10(1)(a) and 17 UAPA and awarded sentence for imprisonment for life. Proceedings qua Mohd. Aslam, Zakir, Mohd. Aijajudeen and Sheikh Mujeeb Ahmed were abated as they died in cross-fires.
- 5.62. In Crime No.149/2010, the Trial Court vide judgment dated 21st June, 2018 convicted Abu Faizal for the offences punishable under Sections 395/397 IPC. Since Zakir, Aslam, Sheikh Mujeeb and Mohd. Aijajudeen died in a cross-fire, proceedings qua them abated.
- 5.63. In Crime No.35/2011 charge sheet was filed against three accused namely Zakir @ Sadiq, Mohd. Farhat @ Khalid and Nizamuddin @ Nizam. The Trial Court vide judgment dated 15th March, 2019 convicted Mohd. Farhat @ Khalid for the offences punishable under Sections 302/307 and Section 16(1)(a) of the UAPA and awarded imprisonment for life along with fine. Mohd. Nizamuddin @ Nizam was acquitted thus the State of Madhya Pradesh filed an appeal before the High Court challenging the order of acquittal. Zakir @ Sadiq died during the trial in cross-fire thus proceedings qua him abated.
- 5.64. In Crime No. 224/2011 the Trial Court vide the judgment dated 28th September, 2018 convicted Mohd. Farhat for the offence punishable under Section 307 IPC and awarded sentence of rigorous imprisonment for 10 years and fine and for offence punishable under Section 25 of the Arms Act, he has been awarded sentence of imprisonment for a period of three years. Nizamuddin was acquitted and accused Zakir Hussain died during the trial in cross-fire hence proceedings qua him abated.
- 5.65. In Crime No. 706/2006 the Trial Court vide the judgment dated 27th December, 2008, convicted nine accused persons namely Sarfaraz, Ameenuddin, Khursheed Ahmed, Wasimuddin, Javed Akhtar, Jameel Ahmed, Sarfaraz Ahmed, Vashfaq Hussain and Parvez Akhtar for the offences punishable under Section 295A and two remaining accused Mohd. Ali and Shakeel were convicted for the said offences vide a separate judgment dated 5th April, 2019.
- 5.66. In Crime No. 120/2008, the Trial Court vide judgment dated 27th February, 2017 convicted seven accused persons namely Safdar Nagori, Amil Parvez, Kamruddin, Kamran, Shivli, Ahmed Baig and Hafiz Hussain for the offences punishable under Section 122/124A/153A IPC and Sections 10(a)(ii)/13(1)(a)(b)/13(2) UAPA and Section 25(1b)(a) Arms Act. Additionally, Safdar Nagori, Amil Parvez and Kamruddin were convicted for the offences punishable under Sections 4 & 5 of the Explosives Act.
- 5.67. In Crime No. 269/2001 the Trial Court vide the judgment dated 23rd July, 2015, convicted Sarfaraz for the offences punishable under Sections 3 & 13 of UAPA.
- 5.68. In Crime No. 01/2014 the Trial Court vide the judgment dated 28th February, 2019, convicted five accused persons namely Abdul Aziz, Javed, Abdul Wahid, Jubair and Mohd. Adil for the offences

punishable under Sections 16B and 18 of UAPA and Sections 4 and 5 of the Explosives Substance Act and awarded punishment for life imprisonment. The State has filed an appeal against the acquittal of the five other accused persons which is pending consideration.

KERALA

- 5.69. Statements of three witnesses were recorded from the State of Kerala. S. Sreejith (PW-25) deposed about six cases as the Nodal officer of the State. Binu T.S. (PW-26) deposed about Crime No.448/2010 and A. Premjith (PW-27) deposed about Crime No.533/2013 and Crime No.697/2013.
- 5.70. Binu T.S. (PW-26) tendered his affidavit deposed about Crime No. 448/2010 registered on 17th August, 2010 for the offences punishable under Sections 124A/153A/153B(1)(c) read with Section 34 IPC. The FIR was registered pursuant to a raid conducted at 'Nanma Books' Court Road, Kozhikode from where large number of books, CDs, VCDs, ID cards and one hard-disc containing indiscriminating contents were seized. The above noted books, CDs, VCDs and hard-disc contained material questioning the secular values of India, inciting hatred against other religions and carrying potential of creating communal disharmony. During the search and seizure, the books named "SIMI Nirodhanam Nerum Nunayum", "Asavarnark Nallathu Islam", "Islamum Deseeyathayum", CD containing soft copy of "Asavarnark Nallathu Islam", VCD having description of "Encounter killing and State Terrorism by Prof. Sayyid Abdul Rahman Geelani, Kashmir", 15 VCDs having description of "Ettumuttal Kolapathakangalum Bharanakooda Bheekarathayum" which means Encounters and Murders and State Terrorism, 18 CDs having description "Madaniyum Thudarum Muslim Vettayum", Shahid Saddam Hussain Nagar, Perumbavoor, 1 Hard disc, some visiting cards, copy of application for registration of Islamic Student Association appealing to District Registrar Kozhikode, copy of ID card of one Mahin, a plastic board having description "Simi Nirodhanam Ullum Puravum-Seminar" were seized. During the course of investigation, confessional statement of Abdu Rahiman was recorded wherein he stated that co-accused Rasik was an activist of SIMI. After the completion of investigation charge sheet was filed against P.K. Abdu Rahman, Shanawaaz, Mahin, Rasik A and K.T. Hanif on 28th October, 2018.
- 5.71. A. Premjith (PW-27) tendered his affidavit deposed about Crime No.533/2013 and Crime No.697/2013.
- 5.72. Crime No. 533/2013 was registered for the offences punishable under Section 153A/153B/34 IPC. On 4th September, 2013, information was received about selling and distribution of a book namely '*Dahvathum Jihadum*' at Thirurangadi Book Stall, Kozhikode. The said book is a Malayalam translation of the book '*Jahiliath ke Khilaf Jung*' written by Abdul Aleem Islahi and translated by Usman Kadungoth. A search was conducted at Thirurangadi Book Stall on 5th September, 2013 from where 19 copies of the book were seized and at Nanma Books on 7th September, 2013 from where 4 copies of the book were seized. The book contained many sentences and ideas to promote enmity and hatred between different religions and questioning the secular values of India as a nation. The confession statement of Abdu Rahiman revealed that he was an active member of SIMI and was involved in its activities. As the investigation in the FIR was complete a proforma report was submitted for sanction of the prosecution on 12th February, 2019.
- 5.73. Crime No.697/2013 was registered for the offences punishable under Section 153A/153B/34 IPC. On 28th September, 2013 a book titled "*Vazhiyadayalangal*" was purchased and it was found that it was allegedly invoking enmity among the people and caused to destruct the communal harmony and integrity of the nation. It was being sold at Vachanam Book Stall, Kozhikode. It was found that "*Vazhiyadayalangal*" was the Malayalam translation of the book named "Milestone" written by one Sayeed Syed Khuthab and translated by Mr. Hafsa who got the book published from Nanma books. During the investigation it was found that P.K. Abdu Rahiman was an accused in Crime No.533/2013 too where he had made a confessional statement accepting his connection with SIMI. After completion of investigation, proforma charge sheet was prepared and sent for sanction of the prosecution.
- 5.74. S. Sreejith (PW-25) tendered his affidavit and deposed about the three abovementioned cases as the Nodal Officer of the State. In addition, he also deposed about three other cases for the State of Kerala that had been transferred to NIA.

- 5.75. Crime No. 257/2008 was registered for the offences punishable under Sections 122/124A/153A/120B IPC and Sections 10/13 UAPA and Sections 25/27 Arms Act wherein it was noted that the activists of SIMI had assembled at an isolated place at Tangal Para near Kolahalamed, Wagamon and were conducting physical training and arms training of its members. They even marked signs on the rocks promoting enmity between different groups and trying to break the integrity of the nation. Investigation in this case was transferred to NIA vide communication dated 22nd February, 2010 and the FIR was re-registered as RC-04/2010/NIA/DLI. Ankit Kumar Garg (PW-28) tendered his affidavit and deposed that during the course of investigation it was revealed that a secret training camp was being organized by members of SIMI at Thangalpara, Wagamon and the training camp was attended by various SIMI activists from various States across the country. During the camp participants were engaged in physical training, arms training, firing practice, manufacture of petrol bombs, motor bike racing and rope climbing. Statement of one accused person namely Manjar Alam was recorded under Section 164 Cr.P.C. wherein he confessed that he was a member of SIMI and gave various details about the training camp. On completion of investigation chargesheet was filed on 13th January, 2011 against 37 accused persons. The learned Special Court (NIA) vide judgment dated 14th May, 2018 convicted Saduli, Hafeez Hussain, Safdar Nagori, Shibily P, Mohammed Ansar P A, Abdul Sathar, Aamil Parwaz, Mohammed Sami, Mohd Asif, Nadeem Sayeed, Mufti Abdul Bashir, Danish @ Safi, Manzar Imam, Alam Jeb Afridi, Dr. Asadulla H A, Mohammed Abu Faisal Khan @ Shamsheer, Kamaruddin Nagori, Shakeel Ahammed and Dr. Mirza Ahamed Baig for the offences punishable under Sections 120 B/122/124A and 153 IPC, Sections 10/13/18/20 and 38 of the UAPA, Section 4 of Explosives Substances Act and Sections 25 and 27 of Arms Act.
- 5.76. Crime No. 159/2006 was registered for offences punishable under Section 120B read with Section 124A IPC and Sections 10/13 of UAPA. Five ex-SIMI activists were found taking classes on the subject of the part played by the Muslims in the independence struggle. They were found distributing pamphlets and books containing the principles and views of the banned organization SIMI amongst the participants. They also propagated the activities of SIMI in Kashmir and their activities against the Government in Kashmir. Investigation in this case was transferred to NIA and case was registered as RC-03/2010/NIA/DLI on 21st January, 2010. Chargesheet was filed on 24th April, 2014 against 17 accused persons. Learned Special Court (NIA) vide judgment dated 25th November, 2015 convicted five accused persons namely P.A.Shaduly @ Haris, Abdul; Rasik, Ansar @ Ansar Nadvi, Nizamudeen @ Nizumon and Shammi @ Shamma for offences punishable under Sections 120-B IPC read with Section 124-A IPC and Sections 10(a) (ii) and 13(1)(b) of the UAPA. The High Court of Kerala reversed the judgment of the Special Court and acquitted the accused persons. Hence, NIA is in the process of filing a Special Leave Petition in the Supreme Court.
- 5.77. Crime No.356/2008 was registered for the offences punishable under Sections 120B/121/121A/124A IPC and Section 3 read with Sections 13(2)/16/18/38 and 39 of UAPA. During the investigation of this case it was revealed that four persons residing in Distt. Kannur were taken by the activists of SIMI to Kashmir for being given the teachings and trained in the activities of SIMI. Investigation in this case was transferred to NIA.

BIHAR

- 5.78. Statements of two witnesses were recorded from the State of Bihar. Kundan Kumar Singh (PW-32) deposed about Crime No. 377/2017 which was later renumbered as Crime No.1/2017 on transfer. Rajesh Kumar (PW-33) deposed as the Nodal officer of the State.
- 5.79. Crime No.377/2017 was registered for the offences punishable under Sections 216/124A/120B/34 IPC and under Sections 13/16/18/19/20/38 UAPA. On 13th September, 2017, on an information received, two persons namely Pathan Tausif Khan and Sanna Khan @ Shahansha were apprehended and arrested by a raiding party. During search and seizure, when the accused persons were asked about the material recovered, they stated that in the devices seized there was a sketch of training module, code word for the use of arms and ammunition and date related to messages sent to members of their own organization. In furtherance of their Jehadi mission they used different cyber cafes situated at different areas of the town for sending messages and to strengthen their organization. On recovery of voter ID card of Pathan Tausif Khan, information was received from Gujarat police revealing that he was an active member of the banned organization SIMI and was an absconder in the Ahmedabad Serial Bomb Blast case. He had taken shelter in the house of an ex-member of SIMI Gulam Sarvar Khan in

- Gaya. He was teaching at Mumtaz High School under the fake identity of Atik Khan. During the time he was a teacher he became close to Sanna Khan @ Shahansha who was influenced by his thought and ideas and thus started to work for SIMI. During the period that he was a teacher he used to send messages through e-mail to the activists of SIMI and used the same for propagating Islam. They were active in Gaya Town and its nearby areas to collect funds for Islamic Jehadi movement that they spent at Ranchi, Patna, Mumbai, Delhi and other places in order to strengthen the organization. The case was then transferred to ATS Bihar and was re-numbered as Crime No.1/2017 on 26th September, 2017. In one of the hand-written documents name of the CBI Spl. Judge Palodia who had convicted Safdar Nagori and 10 other SIMI activists, name of the Government Advocate Bimal Kumar Mishra, were mentioned. Besides Jehadi literature, train and bus tickets, hand-written terror plans, code used for the same and a mobile phone with a SIM-Card were recovered. In the Jehadi literature, photocopy of the book written by Hazrat Mohmood Moullana Masud Azhar titled Darso-A-Jehad, Khilafat Ka Tamam Masayakka Waheed Hal, Khilafat Ki Wapasiki Wasaraten, Khilafat Or Barre Zaheer, and five photo copies of another Jehadi literature namely Fahrista-e-Avabav in spiral binding were recovered. Additionally, different type of code words, Nabha jail break strategy – failure and success, Naxalite jail break strategy, information relating to Sabarmati jail and name of some SIMI terrorist who had been killed in Police encounter were recovered.
- 5.80. Pathan Tausif Khan in his confessional statement stated that he had joined the banned organization SIMI while he was residing at Ahmedabad when he got acquainted with members of SIMI namely Alam Zeb Afridi, Mujib Sheikh, Qayamuddin Kapria and Md. Zahid. They used to meet and talk about making the organization stronger. He further stated that he was arranging weapons and wanted to form a new organization by adding like-minded people for which he has made a training program which included physical and arms training. He further stated that organizations like IM and SIMI are working hard for the betterment of Muslims, but these organizations are being banned by the government.
- 5.81. Gulam Sarvar Khan in his confessional statement stated that he was a member of SIMI and harbored Pathan Tausif Khan since December, 2008 in his house. He further stated that members of SIMI used to retire at the age of 30 after which they used to join Jamaat-e-Islami. In the year 1982, due to the activation of SIO, the distance between SIMI and Jamaat-e-Islami Hind organization increased, then a new organization Wahadath-e-Islami-Hind was established by retired members of SIMI, whose head office was made in Saharanpur. The pen drive, SIM-card and the memory card recovered were sent to FSL and as per the report of FSL, 722 document files were retrieved out of which 45 items containing books published from Lahore and Pathankot (Pakistan) written by Syed A'la Maududi, who was the founder of Jamaat-e-Islami, Indian Army, Kargil War, India-Pakistan War of 1965, plan syllabus, book and material relating to linking him to Al-Qaida, SIMI and ISIS were recovered. The video files which included songs, slogans, lectures of banned organization such as ISIS, Al-Qaida, JEM, LET were also recovered.
- 5.82. During the course of investigation, statement of one witness Anurag Basu was recorded under Section 164 Cr.P.C. wherein he stated that he was the owner of a cybercafé. On 13th September, 2017 in the afternoon two persons came to his shop and asked for the computer for their use, but did not provide any proof of identification. He had seen photos of Al-Qaeda terrorists on the Internet issued by the Delhi Police. He identified one of the persons as the one in the photograph. While using the computer, one of the persons wanted to attach a file of Chand on Facebook.
- 5.83. Statement of another witness Pramod Kumar Srivastav was recorded wherein he stated that Gulam Sarvar Khan had been a full member (Ansar) of banned organization SIMI and was still engaged in providing support to this banned organization. Statement of Md. Aftab Alam Khan was recorded under Section 161 Cr.P.C. wherein he informed that under the fake name Atik Khan he was giving tuitions to the students of Class-IX of Shatabadi School.
- 5.84. Statement of Sahanabaj Khan younger brother of Gulam Sarvar Khan was also recorded under Section 161 Cr.P.C., who stated that after the partition of the property in the family, he was running the school where Pathan Tausif Khan was teaching in the fake name Atik Khan. He got to know about him and that he was involved in terrorist activity in Gujarat on 15th September, 2017.
- 5.85. Rajesh Kumar (PW-33) deposed as the Nodal Officer for the State of Bihar. In addition to Crime No.377/2017 he deposed about five more FIRs.

- 5.86. On 7th July, 2013, in early morning hours a series of bomb explosion took place in the campus of Mahabodhi Temple at different places and also at Terger Monastery, 80ft. statue of Lord Buddha, under a bus bearing registration number UP-65-BT-8455 stationed at Sujhata Bypass road resulting in injuries to several persons and damage to property connected with highest religious seat of Buddhism situated at Bodhgaya. Three live bombs (Cylinder IEDs) were recovered from 80 ft. statue of Lord Buddha, Terger Monastery and Baiju Bigha Rampur Mor, Bodhgaya, Bihar. Three FIRs bearing no. 162/2013, 163/2013 and 164/2013 were registered pursuant to the blast. The cases were transferred to NIA on 9th July, 2013 and were re-registered as RC-07, 08 and 09/2013/NIA/DLI. Ankit Kumar Garg (PW-28) tendered his affidavit deposed that during the course of investigation confessional statements of Umair Siddiqui and Azharuddin Qureshi were recorded under Section 164 Cr.P.C. wherein they confessed that they were members of SIMI and gave details about the planning of the Bomb Blasts. Three protected witnesses were examined during the course of trial who confirmed the association of the accused persons with SIMI. Witness X-10 stated that he attended the Darsh programme organized in the year 2008 and that in the said programme, Tabrez, Majid, Muzammil Uzair, Haider etc. used to come and say that Muslim Communities across the world are being tortured and they are not getting their rights so they should take revenge of it. Witness X-12 stated that while offering Namaz at Rehmat Colony, he came in contact with Tabis Nayaj and Ujair Ahmad whereafter he started attending programmes of Darsh-e-Quran. Haider used to attend the said programme every time and never missed the same. Later he was informed by Haider that Darsh-e-Quran is the programme of SIMI whereafter the witness stopped attending the said programme despite reminders by Haider two-three times. Witness X-18 stated that his meeting was arranged with one Umair Siddiqui, who used to conduct Darsh programme at his house where he was also introduced to one Abdullah. During the meeting of Darsh, discussion on Quran and Jihad used to take place. It used to be discussed that Muslim community across the world are being beaten and killed and they should take revenge of Gujarat riots where Muslims have been killed.
- 5.87. In the charge sheet (Ex.PW-28/4) filed by NIA based on the investigation carried out in RC No. 07, 08 and 09 of 2013 as also initial breakthroughs revealed in the investigation of RC 06/2012 after the arrest of Indian Mujahideen (IM) operative Ahmed Siddiqui @ Yasin Bhaktal by the NIA in August, 2013 (after one and half months of Bodhgaya blasts), it was found that Yasin Bhaktal used to chat with IM Chief Riyaz Bhaktal (reportedly to be present in Pakistan) on internet, in which they also disclosed about targeting Bodhgaya. They wanted to take revenge against the alleged atrocities by Buddhist on Rohingya Muslims in Myanmar. In one of the chat sessions, Riyaz Bhaktal told Yasin about some operatives of SIMI including a person namely "Beauty" (later identified as Black Beauty @ Haider @ Abdullah of Ranchi) who may be involved in the Bodhgaya serial blasts. The chat also referred to one SIMI operative Manzar Imam, who had been arrested by then. The relevant chat conversation between Yasin Bhaktal and Riyaz Bhaktal related to Bodhgaya were placed on record with the charge-sheet.
- 5.88. By the judgment dated 25th May, 2018, learned Special Judge convicted accused Umair Siddiqui, Azharuddin Qureshi, Imtiyaz Ansari @ Alam, Haider Ali @ Abdullah @ Salim and Mujibullah Ansari for various offences and noted that the accused persons were members of SIMI and in that capacity conducted several programmes and were also part of the planning of the bomb blast at Bodh Gaya.
- 5.89. On 27th October, 2013, a bomb blast took place inside the public convenience area at platform No. 10 of Patna Railway Junction, Bihar. In the said incident serious injuries were received by one of the accused as well, namely, Tarique, who succumbed to the injuries, however, injured Imtiyaz Ansari was arrested and interrogated. FIR No. 361/2013 was registered at PS Patna, GRP with respect to this incident. During the investigation Imtiyaz Ansari revealed that their co-accused were attending the Hunkar rally at Gandhi Maidan, Patna and on the same day a series of bomb blasts took place at Gandhi Maidan Patna leading to the death of six persons and injuries to 89 persons. In this regard FIR No. 451/2013 was registered at PS Gandhi Maidan, Patna on 27th October, 2013. The FIRs were transferred to NIA for further investigation on 31st October, 2013. Later, on the basis of information provided by accused Imtiyaz Ansari recovery of IEDs and other incriminating material was made. One more case was registered as FIR No.985/2013 on 4th November, 2013 at PS Hindipiri Police Station, Ranchi for various offences under the IPC, Explosives Substances Act, Unlawful Activities (Prevention) Act and Criminal Law Amendment

Act. Anurag Kumar (PW-31) tendered his affidavit and stated that NIA re-registered these cases as RC-10, 11, 12/2013/NIA/DLI on 1st November, 2013. Additionally, Ankit Kumar Garg (PW-28) Nodal Officer for NIA also deposed about the Patna blast case.

- 5.90. During the course of investigation Umair Siddiqui and Azharuddin Qureshi were examined. Umair Siddiqui in his statement under Section 164 Cr.P.C. stated that his father was a member of Jamat-E-Islami. During his school life he was associated with SIO, a student organization of Jamat-E-Islami. He further stated that in the year 2007 SIMI was divided into two groups out of which one was headed by Sahid Badr Falah and the other by Safdar Nagori. He joined the Safdar Nagori group along with the SIMI cadres of Madhya Pradesh. Umair Siddiqui and Azharuddin Qureshi disclosed how they along with their associates planned blasts at Patna where a rally was supposed to take place. On completion of investigation a common charge sheet was filed on 24th April, 2014 in RC No.10 and 11/2013/NIA/DLI against accused person Imtiyaz Ansari for the offences punishable under sections 302/324/326/307/121/121A/120B/34 IPC and Sections 3/4/5 of Explosive Substances Act, Sections 16/18 and 20 of UAPA and Sections 151/153 of Railways Act and Section 17 of the Criminal Law Amendment Act. In the chargesheet it was noted that the members of the banned terrorist outfit i.e. IM and SIMI were the key planners of the bomb blast which was carried out on 27th October, 2013.
- 5.91. Subsequently, a supplementary chargesheet was filed on 22nd August, 2014 against Haidar Ali, Numan Ansari, 'T' (a minor), Mujibullah Ansari (A-4), Umair Siddiqui (A-5), Azharuddin Qureshi (A-6), Ahmed Hussain (A-7), Fakhruddin (A-8) Md. Firoz Aslam (A-9) and Md. Iftqaar Alam (A-10) for the offences punishable under sections 120B IPC r/w 302/324/326/307/121/121A/34/468/471 and 201 IPC, Sections 3/4/5 of the Explosive Substances Act, sections 16/18/18A/18B/19/20/21/23/38 and 40 UAPA wherein involvement of various other persons in the attacks was found out.
- 5.92. During the course of trial three witnesses deposed about the association of the accused persons with SIMI. Ratan Mishtri stated that Umair Siddiqui in his presence disclosed that he was the main man of SIMI in Raipur. He further disclosed that he had kept certain articles relating to SIMI in his house. On search of the house, police seized about 25-26 items including sword, ammunition, books in Urdu language, receipt of donation, certificate related to SIMI, some currency notes/paise. The protected witness deposed that he had attended a programme that was organized near his house by Haider who was an activist of SIMI. Faizan Latif deposed that Azharuddin was his senior in the same school. Azharuddin took him to the house of Umair Siddiqui where taqreer was organized. 14-15 persons were present apart from Umair Siddiqui, Azharuddin Qureshi, Haider and Abdullah. In the taqreer, a discussion/appeal was being made to collect fund for SIMI organization. It was also discussed how to get new boys associated with SIMI organization. Haider, Abdullah and Umair Siddiqui educated them about making bombs.

GUJARAT

- 5.93. Statements of three witnesses were recorded from the State of Gujarat. Bhagirathsinh V Gohil (PW-34), Rajendrasinh R Sarvaiya (PW-35) and Himanshu Solanki (PW-36) deposed about crimes registered prior to 2014 in which investigation is still going on.
- 5.94. Bhagirathsinh V Gohil (PW-34) tendered his affidavit and deposed about 35 FIRs. 20 FIRs were registered in 2008 for offences punishable under Sections 307/120B/153(A)(1)(b)/121(A)/124(A)/201/188/465/ 467/471 IPC and under Sections 4/5 Explosive Substances Act, Sections 10/13/15/16/18/20/23/38/39/40 Unlawful Activities (Prevention) Act and under Sections 65/66 Information Technology Act, pursuant to bomb blasts carried out in various areas of Ahmedabad which resulted in the death of 56 persons and grievous injuries to 240 persons. During investigation of the cases it was found that activists of SIMI had organized a training camp where firing, river crossing, swimming and rock climbing were taught.
- 5.95. On the same day bomb blasts took place at Surat City too. Rajendarsinh R Sarvaiya (PW-35) deposed about 15 cases that were registered pursuant to plantation of 29 live bombs found from different locations in Surat from 27th July, 2008 to 9th August, 2008.

- 5.96. The investigation in the 20 cases registered in Ahmedabad and 15 cases registered in Surat were then clubbed together and a common trial is ongoing. 12 accused persons in the above bomb blast are still at large and yet to be arrested, thus investigation is still pending qua them.
- 5.97. During the course of investigation, confessional statements of accused persons were recorded in which they confessed to be members of SIMI. 6 accused persons were arrested after the ban in 2014 and their confessional statements were also recorded subsequently in which they have stated that activities of SIMI are still continuing.
- 5.98. Himanshu Solanki (PW-36) Nodal Officer tendered his affidavit and deposed about the Ahmedabad and Surat Bomb Blast case registered in 2008 in which trial is still pending. He further deposed about six more cases registered prior to 2014.

KARNATAKA

- 5.99. Statements of three witnesses were recorded from the State of Karnataka. D.M. Prashanth Babu (PW-38) deposed about Crime No. 35/2016 and Mohammed Sajjad Khan (PW-39) deposed about Crime No.276/2014 and Crime No.473/2015. Rajendra Prasad (PW-40) deposed as the Nodal officer of the State. Additionally, Pratibha Ambedkar (PW-29) deposed about the Church Street Blast case on behalf of the NIA.
- 5.100. Mohammed Sajjad Khan (PW-39) tendered his affidavit and deposed about Crime No. 276/2014 and Crime No.473/2015 which were registered for the offences punishable under Section 436 IPC on two written complaints given by S. Wajid Babu regarding two fire incidents at the Israeli Visa Centre on 2nd August, 2014 and 29th November, 2015. During the course of investigation statements of witnesses were recorded but accused persons remained unidentified. Subsequently, Alam Zeb Afridi was arrested by NIA and he made the disclosure in respect of his role in FIR No. 276/2014. Supplementary statements of Deepak Kumar Singh and Devraj Gupta were recorded who identified Alam Zeb Afridi as the same person, who had set on fire Israeli Visa Centre office. Alam Zeb Afridi in his confessional statement admitted his involvement in the serial bomb blast at Ahmedabad and Surat City in the year 2008 followed by the Church Street blast at Bengaluru and the two above noted FIRs. He also mentioned about his association with SIMI and stated that he got attracted to terrorist activities after watching the social media and the war which started between Israel and Palestine.
- 5.101. Rajendra Prasad (PW-40), Nodal Officer tendered his affidavit and deposed about the abovementioned cases. He further stated that in the serial blasts that took place in 2008 chargesheet has been filed and the case is pending trial.
- 5.102. He further deposed about Crime No. 309/2014 registered for the offences punishable under Sections 121A/120B/121/153/307/302 IPC and Sections 3/4/5 of Explosives Substances Act and sections 3/10/16 and 18 of UAPA which was later transferred to NIA and re-registered as RC-01/2015/NIA-HYD. Pratibha Ambedkar (PW-29) on behalf of NIA tendered her affidavit deposed that the abovementioned case was transferred to NIA on 18th May, 2015 with respect to IED explosion near Coconut Grove Hotel at Church Street in Bangalore. After the NIA took over the investigation, CCTV data collected during the preliminary investigation was analyzed and video footage of the suspect was identified and uploaded on Youtube for identification. In order to carry out the investigation in the present case NIA officials were present in Bangalore and by the joint team Alam Zeb Afridi was arrested. D.M. Prashant Babu (PW-38) tendered his affidavit and deposed about Crime No. 35/2016 which was registered for the offences punishable under Sections 341/353/333/307/34 IPC. On 23rd January, 2016 the local police who was working with the NIA officials received an input stating that a terror suspect namely Alam Zeb Afridi @ Rafiq @ Javed was moving in Vinayak Nagar, Dodda Nagamangala Road and Hosa Road areas of Bengaluru. On receiving this information, the police team reached the area around 12:00 noon. At around 4.00 P.M. they spotted the suspect and identified him as Alam Zeb Afridi and started following him. On realizing that he was being followed, Alam Zeb Afridi turned around and hit his bike on the police team and fell down. On being apprehended he attacked the police team and the lady who was accompanying him on the bike took out a knife from her bag and handed it over to him. Alam Zeb Afridi attacked one police officer in his abdomen with the knife and tried to flee from

the spot. The portrait of the suspect matched the photograph of the accused in Wagamon Camp conspiracy case that was posted by the NIA on its website.

5.103. During the course of investigation, confessional statement of Alam Zeb Afridi was recorded wherein he stated that while he was studying in Gujarat he was attracted by the writings and advertisements of terrorism through the internet and media. Being inspired by the posts on the internet, he expressed his interest to participate in terrorist groups. Thereafter, he was trained to manufacture explosives and fire arms. In 2008, he participated in a series of bomb blasts that occurred in Gujarat after which he absconded and moved to Hyderabad. In 2010 he moved from Hyderabad to Bangalore. While in Bangalore he was active on social media about terrorism and discussed his ideas with terrorists in other countries. He was an active member of the banned organization SIMI and collected various advertisements and papers on terrorism. He further confessed to have been involved in activities of terrorism in the State of Kerala. A search was conducted at the residence of Alam Zeb Afridi wherein incriminating material including pamphlet/handbills in the name of "STOP ISREAL-SAVE PALASTINE", warning against ISIS, Ramzan Mubarak, Stainless steel knife about 1 ft., Digital Clamp meter, Atlas of Quranplaces, Nations', Landmarks, Aluminium Neutron capacitor, Air Pressure checker, knife type wooden key chain written as Jihad on one side and urdu word on another side, bottle containing some liquid, Banners containing 'Boycott Israel', 'Join Hand with Jamiat Ulma-I-Karnataka', 'Protest against Israel Terrorism', 'Save Lives to stop Zionism-Boycott Israel', 'Think before your purchase-Pray for Gaza', 'Israel is Terrorist state', 'Boycott Israeli products', 'Israel is Terrorist country' etc. were recovered. On completion of investigation, a chargesheet was filed for offences punishable under Sections 341/353/333/307/34 IPC. During the course of investigation, Alam Zeb Afridi confessed that he was living in Bangalore under a fake identity of Rafiq.

5.104. Accused Alam Zeb Afridi was found to be involved in both the cases registered at Halasur Police Station regarding firing at Israeli Visa Centre, Cubbon Park bomb blast and at Wagamon Camp case, Kerala. In the Wagamon Camp case Alam Zeb Afridi has already been convicted for offences punishable under Sections 10 and 38 of the UAPA.

5.105. Additionally, Ankit Kumar Garg (PW-28) Nodal Officer for NIA also deposed about the Bangalore Church Street Blast case.

UTTAR PRADESH

5.106. Statements of two witnesses were recorded from the State of Uttar Pradesh. Akash Kumar (PW-42) deposed about Crime No. 9/2019 and Asim Arun (PW-43) deposed as the Nodal Officer for the State of Uttar Pradesh.

5.107. Crime No.9/2019 was registered for the offences punishable under Sections 420/467/468/471 IPC and Section 8 Notaries Act when one person namely Mohd. Faiz who was also under trial in FIR No.186/2001 for offences punishable under Sections 153/153A/153B/505 IPC and Sections 3A/10/13 UAPA was arrested on 27th January, 2019 at the immigration counter at the Varanasi Airport in furtherance of a lookout circular that was issued against him. During the course of investigation, it was revealed that Mohd.Faiz had travelled abroad to promote the ideas and objectives of SIMI and raise funds for the organization.

5.108. Asim Arun (PW-43) tendered his affidavit and deposed about 20 cases registered prior to 2014 which are pending trial. He further deposed about three FIRs bearing no. 590/2014, 597/2014 and 598/2014 pertaining to the Bijnor Blast. Investigation in these cases was transferred to NIA and were re-registered as RC-01/2015/NIA/DLI, RC-10/2015/NIA/DLI, RC-11/2015/NIA/DLI. Sudhanshu Singh (PW-30) tendered his affidavit and deposed on behalf of the NIA in regard to these cases.

5.109. On 12th September, 2014, one bomb blast took place in the house of one Leelo Devi at Jattan Mohalla, Bijnor. During the course of investigation, it was revealed that six persons were residing in the house of Leelo Devi on rent on the day of the incident after which they absconded. After analysis of CCTV footages, six persons were identified as Mohd. Amjad, Sheikh Mehboob, Zakir Hussain, Mohd. Aslam, Mohd. Aijajudeen @ Aijajudeen and Yunus @ Mohd. Saliq. Among the accused persons Mohd. Amjad, Zakir, Sheikh Mehboob, Mohd. Aslam and Mohd. Aijajudeen were found to have escaped from Khandwa Jail in Madhya Pradesh.

- 5.110. Husna, Nadeem, Furkan, Raees and Abdulla were arrested for providing logistical support and shelter to the accused persons in their house. From their house detonators and cash amounting to ₹7,74,600/- were recovered. During the course of investigation, it was found that after escaping from Khandwa jail Aijajudeen, Aslam, Zakir and Mehboob had committed bank robbery. The money recovered from the house of Husna was found to be the one looted from SBI bank, Choppadandi Branch, Karim Nagar, Telengana. It was further revealed that Aijajudeen and Aslam died at Nalgonda District in Telengana in an encounter on 4th April, 2015. The remaining accused persons Zakir, Amjad, Mehboob and Saliq were arrested on 17th February, 2016 by Rourkela Police in Orissa. During the interrogation, Zakir, Amjad, Mehboob and Saliq revealed about their association with SIMI. Mehboob in his interrogation stated that he was in contact with senior leaders of SIMI including Safdar Nagori and Abu Faisal. He had attended various camps organized by SIMI including the Wagamon camp and was involved in Khandwa Jail break and the Bijnor Blast.
- 5.111. On 31st October, 2016 Zakir, Amjad, Mehboob and Saliq along with four other SIMI activists killed a Head Constable and escaped from Central Jail Bhopal. Shortly after their escape, all of them died in an encounter in Bhopal. The same has been discussed in detail in the testimony of Nischal Jhariya (PW-22).
- 5.112. During the course of investigation statements of witnesses were recorded establishing the association of the accused persons with SIMI. Ms. Rinki deposed about the stay of Aslam, Mehboob, Saliq, Aijajudeen and Zakir in the house of Leelo Devi when blast took place on 12th September, 2014. Statements of family members of Aslam, Mehboob, Amjad and Zakir were also recorded wherein they stated that the accused persons were members of the banned organization SIMI.
- 5.113. During the course of investigation, a laptop and CPU was seized from the scene of crime and sent for FSL. Words like JIHAD, ISIS and SIMI were found in the seized articles as per the FSL report.

ODISHA

- 5.114. Statement of one witness namely Tapan Kumar Mohanty (PW-46) was recorded from the State of Odisha. He tendered the affidavit and deposed about Crime No. 2/2016 registered for offence punishable under Sections 147/148/120-B/121/121-A/122/307/467/471/149 IPC read with Sections 27 of the Arms Act and Sections 18/20 of the UAPA. On 17th February, 2016 at 12.05 am, information was received at P.S. Plant Site Rourkela about 4 young boys, who were staying with a lady at the house of one person namely Mohd. Usman on rent for the last few months. These persons were suspected of possessing fire arms and ammunitions that were being used for unlawful activities. Pursuant to this information, a raid was conducted at the house of Mohd. Usman from where, four young boys namely Shaikh Mehboob, Zakir Hussain, Mohd. Saliq and Amjad Khan along with one lady namely Nazma Bee were apprehended. Three of them were equipped with small fire arms. Apart from that, live ammunitions and incriminating articles such as cash, mobile phones, laptops, memory cards, dongles, SIMI's literature and fake PAN Cards were recovered.
- 5.115. Mohd. Amjad Khan in his disclosure statement stated that in the year 2004, Mehboob, Saliq and Feroz took him to Akhil Khilji's house where he was delivering a speech on the revival of SIMI. In 2005, Mehboob informed him about the Darsh programme and its affiliation with SIMI. He was also informed that since SIMI was a banned organization, they could not conduct programmes openly. During their weekly meetings, Mehboob and Saliq used to discuss about holy war Aayat in Quran. In the year 2006, he was introduced to Ekrar Sheikh and Abu Faizal who informed him about working in SIMI. He along with Abu Faizal conducted various illegal activities like open firing on R.S.S. volunteers, committing bank robbery and theft of motor cycles etc. He was arrested in 2009 and was eventually lodged in Khandwa Jail. While he was in Khandwa Jail, he along with his fellow SIMI members, Abu Faizal, Aijaz, Aslam, Zakir Hussain, Mehboob and Akhil Khilji made a plan to escape from jail. On 1st October, 2013, they escaped from Khandwa jail. Immediately on their escape, a police patrolling team tried to nab them but they attacked the police personnel and snatched away two weapons and two motor cycles and escaped from there. After their escape, they stayed at various places in Maharashtra and Karnataka. He further confessed about the planning and execution of the bank robbery conducted at State Bank of India at Choppadandi, Telangana. After the execution of the bank robbery, they moved around in various

areas of U.P. and Uttarakhand. While they were residing at Bijnor, an accidental blast took place, during the preparation of bombs. After the Bijnor blast, they were residing near Zeenatul Masjid, Rourkela from where they were apprehended on 17th February, 2016. Disclosure statements of Zakir Hussain, Sheikh Mehboob and Mohammad Saliq were also recorded wherein they also confessed their role in the bank robbery at Choppadandi and the Bijnor blast. During the course of investigation, illegal arms and ammunitions along with literature relating to SIMI and books, cash and one car were seized from their possession. All four accused persons namely Shaikh Mehboob, Zakir Hussain, Mohd. Saliq and Amjad Khan were shot dead during exchange of fire with the police after escaping from Central Jail, Bhopal.

RAJASTHAN

- 5.116. Statements of three witnesses were recorded from the State of Rajasthan. Anant Kumar (PW-47) deposed about FIR No.3/2014, Shiv Bhagwan Godara (PW-48) deposed about FIR No.112/2014 and FIR No.113/2014. Alok Vashishta (PW-49) deposed as the Nodal Officer of the State.
- 5.117. FIR No.3/2014 was registered for the offences punishable under Sections 16/17/18/18A/18B/19/20/23 UAPA and under Sections 121/121-A/122/465/468/471/120B IPC and Sections 4/5/6 Explosives Substances Act when one person namely Zia-ur-Rehman @ Waqas who belonged to the banned terrorist organization IM was arrested and in the custody of Delhi Police in FIR No. 54/2011 revealed during interrogation, that a module of IM was also active in Rajasthan under the leadership of Maruf @ Ibrahim and Mohd. Wakar. Pursuant to the said information a raid was conducted at the residence of Maruf @ Ibrahim in Jaipur. During the raid, several incriminating materials including laptop, mobile phone, pen drive, books and documents were seized and Maruf @ Ibrahim was arrested. During interrogation, Maruf @ Ibrahim stated that one of his associates namely Wakar Azhar was also a resident of Jaipur. Thereafter, a raid was conducted at the house of Wakar Azhar in Jaipur from where Wakar Azhar and Mohd. Niyajuddin were arrested and several incriminating materials were seized from Wakar Azhar's room.
- 5.118. During the course of investigation, one person namely Ashraf Ali was also arrested in Jodhpur for which FIR No.113/2014 was registered. He was also arrested in the present FIR and he was found to have been associated with the banned organization SIMI. Investigation from Ashraf Ali inter alia revealed that he was associated with members and activists of SIMI and IM. It was further revealed that he was attending programs of Ahle-A-Hadees since 1996 and was looking after the work of Indian Union Muslim League. He was associated with Abdul hamid Khilji, Naseer Gauri, Tariq Gauri, Prof. Abdul Hai, Siddiq Ramaji, Azam, Suhail, Javed Modi, Javed Qureshi, Suwaleym Imran Mahawat and Imran Behlim who were active members of SIMI. In the year 2008, Azam and Suhail were arrested for being members of SIMI and the situation in Jodhpur at that time was very tense. It was also revealed that they were involved in various Jihadi campaigns and activities of Indian Mujahideen which had come up as a front organization of SIMI.
- 5.119. On the basis of the disclosure statement of Maruf @ Ibrahim, two raids were conducted in Jodhpur. On 23rd March, 2014 a raid was conducted at the house of Sakib Ansari and several incriminating materials and huge quantities of ingredients of bomb and explosives were recovered from his house. Pursuant to this raid FIR No.112/2014 was registered for the offences punishable under Sections 18/19/20 UAPA read with Section 4/5 Explosive Substances Act and Section 120B IPC. A second raid was carried out at the house of Liyakat Ali from where 34.880 kg gun powder was recovered amongst various other incriminating materials pursuant to which FIR No.113/2014 was registered for offences punishable under Sections 3, 4 and 5 of Explosive Substances Act and Sections 5 and 9B of Explosives Act.
- 5.120. During the course of investigation, computer, hard drives, laptop etc. were sent for forensic examination. On examination, it was found to contain various jihadi videos and other incriminating contents. On 6th April, 2016 pursuant to an administrative order FIRs No.112/2014 and 113/2014 were clubbed together and renumbered as 113/2014. A combined charge sheet was filed on 3rd April, 2016 against Barkat Ali, Mohd.Sakib Ansari, Ahsraf Ali, Mashraf Iqbal, Mohd.Javed, Jahir Haq, Mohd.Maruf, Mohd.Wakar Azhar @ Haneef @ Mohseen, Mohammad Ammar Yasar, Tahseen Akhtar @ Monu @ Hassan @ Sahil and Jiyaurrahman @ Wakas.

- 5.121. Alok Vashishtha, (PW-49) deposed as a Nodal Officer of the State of Rajasthan. Apart from the abovementioned cases he deposed about three cases that were registered prior to 2014 which are pending trial. He further stated that the banned organization SIMI has been active in Rajasthan for many years. The organization has influence in many districts of Rajasthan and has contributed in an adverse manner to the peace and communal harmony of the State. SIMI has been broaching a rigid and intolerant ideology among the minority community and mainly in the youth.

DELHI

- 5.122. Statements of three witnesses were recorded from the National Capital Territory of Delhi namely Govind Sharma (PW-41), Attar Singh (PW-44) and Manishi Chandra (PW-45).
- 5.123. Manishi Chandra (PW-45) tendered his affidavit and deposed about FIR No.54/2011 which was registered on the apprehension of accused Mohd. Quateel Siddiqui @ Sajan @ Siraj @ Vivek Mishra on 21st November, 2011. Arms, ammunition, fake Indian currency and other incriminating articles were recovered from his possession. During the course of investigation, he disclosed that he was a member of the banned organization Indian Mujahidin (IM) and was involved in various terrorist activities across the country. Subsequently, 18 other accused persons were arrested, and an arms and ammunition factory being run by IM was also unearthed at Meer Vihar in Delhi. As the investigation continued, more incriminating evidence was found against IM and more accused persons were arrested. In September of 2012, Riyaz Bhatkal along with his associate Tehsin @ Monu were planning a blast and discussions were going on for procurement of explosives, arms, fake IDs and participation of Waqas in the blast. It is during this time that Riyaz Bhatkal directed Tehsin @ Monu to get in touch with Haider @ Black Beauty. In December, 2012, when Riyaz asked Monu about the status of explosives he was informed that as per instructions from his seniors Haider @ Black Beauty told him that they were not interested in working with IM. Monu told him that Haider @ Black Beauty's group (SIMI) believed in '*hijrat*' that is migration before action which professed that for waging jehad its followers should leave India and join ranks with the jehadis in Afghanistan and from there, consolidate to wage war against India. Riyaz Bhatkal was interested in establishing contact with the *Amir* of Haider for the purpose of forging an alliance. Tehsin @ Monu informed him that Haider @ Black Beauty would assist them in the operation. Monu believed that Haider @ Black Beauty was not in agreement with the earlier SIMI philosophy that doing jehadi work before hijrat was wrong. Agreeing with this, Riyaz Bhatkal had said that these ideological differences between IM and SIMI could be discussed keeping in mind the Quran and Hadees. Tehsin @ Monu further informed him of Haider @ Black Beauty's apprehension about Riyaz Bhatkal's connection with ISI. Haider @ Black Beauty further informed Tehsin @ Monu about the fact that Safdar Nagori had condemned their way of functioning. On 30th December, 2012, Monu informed Riyaz Bhatkal about his meeting with Haider @ Black Beauty and discussed whether he could be taken along with for future assignments. Tehsin @ Monu further informed Riyaz Bhatkal that senior members of SIMI were not in the mood to share their IDs for establishing communication. In March, 2013, Tehsin @ Monu discussed the arrangement of explosives with Haider @ Black Beauty. Tehsin @ Monu in his disclosure statement, stated that under the directions of Yasin Bhatkal, he had taken shelter in Ranchi at the house of Imtiyaz Alam who was a member of SIMI. He confessed he had moulded Imtiyaz Alam and taken him out of the fold of SIMI/Haider @ Black Beauty and indoctrinated him to IM. During interrogation, Imtiyaz Alam disclosed that he had met Haider @ Black Beauty in the year 2010 in a Masjid in Ranchi. Haider talked to him about the various atrocities committed on Muslims and about jihad. After his introduction to Haider, he also became a member of SIMI. In the year 2011, Tehsin @ Monu and he discussed plans to unite SIMI and IM to wage jihad. Imtiyaz Alam in his disclosure statement further stated that Tehsin made him meet Yasin Bhatkal while he was residing at his home. Yasin told them that if SIMI and IM reunite, then they can do some great work together. Yasin and Riyaz Bhatkal were both interested in meeting Abdus Subhan @ Tauqeer. Tauqeer was Haider @ Black Beauty's *Amir*. In August, 2012, Tehsin had told him that the next terrorist activity would take place in Delhi. Imtiyaz Alam in his supplementary disclosure statement stated that Tehsin @ Monu used to talk to Haider @ Black Beauty and request him to arrange his meeting with Tauqeer because Riyaz Bhatkal and Yasin Bhatkal were looking for their old accomplice. Haider @ Black Beauty informed him that the one way to meet Tauqeer is via Umair Siddiqui as he was an old link between SIMI and IM.

- 5.124. Govind Sharma (PW-41), tendered his affidavit and deposed about FIR No. 50/2014, which was registered pursuant to a credible information received on 20th October, 2014 about the accused of Bijnor blast who were planning to carry out terrorist activities in Delhi. Pursuant to the Bhopal and Khandwa jail break encounters, there was panic among the leaders of SIMI and IM, due to which, members of SIMI and IM were organizing various meetings outside the country to revive SIMI and IMs cadres in India again. During the course of investigation, information was also received that Abdul Subhan @ Abdus Subhan @ Tauqeer was the main conspirator for reviving both SIMI and IM in India. In 2018, Abdul Subhan @ Tauqeer was arrested in FIR No. 08/2018 for offences punishable under Sections 186/353/307/34 IPC & Sections 25/27 of the Arms Act. Abdul Subhan @ Tauqeer in his disclosure statement stated that after the Ahmedabad Surat blasts in 2008, he had escaped to Nepal where he stayed at different places till January, 2018. During his stay in Nepal, he tried to connect with SIMI and IM cadres. He managed to contact one person namely Afif, who was residing in Pakistan through various social media channels. Thereafter, Afif met him at Riyadh in March, 2016 where they discussed the future of SIMI and IM and the purpose for which these organizations were established. In November, 2016, Afif again met him in Riyadh along with Riyaz Bhatkal, Iqbal Bhatkal, Mohsin Chaudhary and Ariz Khan. Subsequently, they had 4-5 meetings in order to discuss the revival plan of SIMI and IM. They also discussed about the killing of 8 SIMI cadres in Bhopal police encounter and decided that they had to take revenge for the same. Since Ariz Khan and he were not in touch with either the SIMI or IM cadre in India, they presumed that they were out of the radius of India's intelligence agencies so they could make a visit to India for the purpose of reuniting SIMI and IM. According to their plan, they visited U.P. and Bihar in India multiple times. In January, 2018, when he was visiting India, he was arrested. Ariz was also supposed to visit India in January/February, 2018 as he had fixed up meetings with ex-cadres of SIMI/IM in U.P. and Delhi.
- 5.125. On 13th January, 2018, Ariz Khan was arrested from the India-Nepal border. Ariz Khan in his confessional statement, stated that in the year 2002-03, he came in touch with Atif Ameen who was highly radicalized and motivated for Islam and wanted to do jihad. On motivation from IM and ex-SIMI members, he got involved in execution of several terrorists' incidents in India. He was involved in U.P. Court blast in 2007 and Delhi serial blasts in 2008. In 2008, when the Delhi Police raided his flat at Batla House, he managed to escape while his associates got trapped. After escaping, he went to Nepal and came in touch with Abdul Subhan Qureshi @ Tauqeer and with the help of top operators of IM based in KSA & Pakistan, he planned to revive IM/SIMI in India again.
- 5.126. Attar Singh (PW-44) tendered his affidavit and deposed about two FIRs registered prior to 2014 bearing Nos. 304/2001 and 532/2001. He further deposed about FIR No.50/2014 wherein the disclosure statement of Abdul Subhan Qureshi @ Tauqeer was recorded who stated that he was a member of the banned organization SIMI. He was the editor of SIMI run magazine 'Islamic Movement' which was published from the Delhi headquarter of SIMI. He used to motivate people to join SIMI through articles in his magazine and public meetings. He was very close to the core group of SIMI, and aware of its organizational structure. He was in touch with Riyaz Bhatkal and Iqbal Bhatkal and other members of SIMI/IM before he got arrested. In his supplementary disclosure statement, he stated that in 2014 one person namely Tehsin Akhtar @ Monu had visited Haider @ Black Beauty and told him that Riyaz and Iqbal Bhatkal wanted to contact him. Haider @ Black Beauty conveyed the message to him through Manzar Imam. Since he was not sure about Tehsin's identity and he did not wish to expose his relationship with IM to Haider @ Black Beauty therefore he denied the request to meet on the basis of ideological differences. However, he remained in contact with them through secret platform.
- 5.127. Though not part of the reference but to bring to notice of the Tribunal regarding the continued activities of SIMI, the Union of India also examined Rahul S. (PW-37) from NIA. He tendered his affidavit deposed about RC-02/2019/NIA/KOC registered for the offences punishable under Sections 18/18B/38/39 of UAPA. The case was registered when input was received by the Central Government that one person namely Mohd. Azharuddin who was a resident of Coimbatore along with his associates had been propagating the ideology of terrorist organization ISIS/DAISH. He had been recruiting vulnerable youth in order to carry out terrorist attacks in South India. The abovementioned case was registered against five other persons apart from Mohd. Azharuddin

namely Akram Sindha, Sheikh Hidayatullah, Abubacker M., Sadham Hussain and Ibrahim @ Shahin Shah. During the course of investigation, search was conducted at the house of Mohd. Azharuddin from where 41 documents including books advocating Jihad, magazines published by the banned terrorist organization SIMI, mobile phones, SIM cards, pen drives, hard disk and internet dongle was seized. Search was also conducted at the house of Sheikh Hidayatullah from where a poster attributable to SIMI was recovered besides magazines published by the banned organization SIMI.

- 5.128. S.C.L. Das (PW-50) was examined on behalf of the Ministry of Home Affairs. He tendered his affidavit and deposed that the notification dated 31st January 2019 banning SIMI was based on information and material received from State Governments, Union Territories and Intelligence Agencies with regard to the activities of SIMI being carried out post the ban in 2014. He further relied upon the background note and earlier bans which have been reproduced in this report.
- 5.129. He further stated that the evidence recorded by this Tribunal clearly establishes that SIMI continues to indulge in unlawful activities causing a serious threat to the internal security of the country. Various intelligence inputs received further establish that SIMI has been continuing its activities throughout the country. He also stated that despite the ban SIMI and its sympathizers have continued to carry on their unlawful activities under the garb of various cover organizations. They have indulged in radicalizing and brain washing the minds of Muslim youth by Jehadi propaganda and through provocative Taqreers. The arrest of various SIMI activists has revealed their plans to eliminate targeted individuals and establish nexus with like-minded Jehadi outfits in India and abroad.
- 5.130. He further tendered in evidence a sealed cover containing intelligence inputs and correspondence received from the various states as also the Draft of the note put up to the Cabinet Committee on Security. In his cross-examination conducted by Mr. Ashok Aggarwal, Advocate for Mr. Humam Ahmed Siddiqui questions with respect to non-application of mind by the Ministry while handing over the Cabinet Note were put up which were denied by him. He further deposed that the note put up to the Cabinet Committee was prepared as per the laid down practice and procedure which consisted of the background of the subject matter, the summary of the cases, the intelligence inputs, analysis thereof and the views of the Ministries consulted insofar as what was relevant for the Government to form its opinion under Section 3(1) UAPA. He further stated that the material placed before the Cabinet Committee shows reasonable association of the accused with SIMI. Furthermore, suggestions were made to him regarding the authenticity of the background note which were strongly denied by him.

PUBLIC HEARING WITNESSES

- 5.131. Statements of two public witnesses namely Mr. Anjum Imandar (PHW-1) and Mr. Sheikh Sarfaraz (PHW-2) was recorded by the Tribunal at Aurangabad and Jabalpur respectively.
- 5.132. Mr. Anjum Imandar (PHW-1) At the outset objection was raised by the Learned ASG with respect to the fact that the affidavit tendered by him was not verified. In his deposition on oath before the Tribunal he deposed about the German Bakery Blast in 2010 and the Farshkhana Bomb Blast in 2014 wherein he stated that the investigation carried out by ATS was faulty and not done as per the procedure. He further handed over a book titled '*Brahminists Bombed Muslims Hanged*' authored by S.M. Mushrif to further his claim that Muslims are being falsely implicated in terrorist cases for crimes that have been carried out by Brahminist organizations. In his cross-examination he stated that the facts stated by him were not based on his personal knowledge but like everybody his knowledge and opinion were based on reading of newspapers, books and magazines.
- 5.133. Mr. Sheikh Sarfaraz (PHW-2) in his testimony stated that he has been falsely implicated in three cases by the local police officers. He further admitted that though the scope of the Tribunal is not to adjudicate the cases registered against him however in most of the cases people have no affiliation to SIMI. He tendered 13 judgments in evidence wherein the accused persons have been acquitted for offences punishable under Sections 3/10/13 UAPA. In furtherance to this claim, during his cross-examination it was revealed that the son of his counsel namely Mohd. Ali was an accused in the Gujarat Bomb Blast case and was in custody for the last 10 years.

VI. Locus Standi – I.A. No. 01/2019

6.1 Mr. Humam Ahmed Siddiqui, the former President of state unit of SIMI, Uttar Pradesh pursuant to a show cause notice received filed an application before this Tribunal being IA No. 01/2019 putting up his appearance, for participation in the proceedings and sought copies of the documents accompanying the reference under Section 4(1) of the UAPA read with Rule 5 of the UAPA Rules as well as copies of any other evidence filed by the Central Government as and when it is filed. Central Government filed a reply to the application taking an objection that under Section 4 of the UAPA only “the association or the office bearers or members thereof” are entitled to show cause as to why the association should not be declared unlawful and that Mr. Humam Ahmed Siddiqui had no locus standi to move the application in his capacity as a former member of SIMI and as admittedly he does not represent the association. The reply also noted that the evidence filed before this Tribunal on behalf of the Central Government contains extremely sensitive information which cannot be put out in the public domain. According to the Central Government, since SIMI has continued its unlawful activities in a clandestine manner as held by successive Tribunals it would be wholly improper to allow the applicant to participate in the proceedings merely on the averment that he was an ex-member during the period prior to 27th September, 2001. The maintainability of the application was also challenged by the Central Government.

6.2 Vide the order dated 1st July, 2019, this Tribunal decided the application by returning a finding that Mr. Humam Ahmed Siddiqui is entitled to participate in the proceedings and receive documents. It was held:

“1. This application has been moved on behalf of Sh. Humam Ahmad Siddiqui, who was a member and also the President of the state unit of SIMI for Uttar Pradesh, seeking copies of the documents accompanying the reference under Section 4 (1) of the Unlawful Activities (Prevention) Act, 1967 read with Rule 5 of the Unlawful Activities (Prevention) Rules, 1968 as well as the copies of any other evidence filed by the Central Government, as and when it is filed. He submits that he is an affected party on account of the ban on SIMI, in term of the Act and Rules made thereunder.

2. Mr. Ashok Agarwal, learned counsel appearing on behalf of the applicant submits that Mr. Siddiqui got the knowledge of these proceedings pursuant to public notice and notice to the applicant issued by this Tribunal. It is further submitted that ever since the organization was banned in 2001, it has not been in existence thereafter and there are no office bearers or members of the organization.

3. The Central Government has filed its reply to the application stating that the applicant is neither representing the association and nor does he claim to be an office-bearer or member thereof, and, thus, he has no locus to seek copies of documents accompanying the reference and is also not entitled to seek copies of other evidence filed by the Central Government. It is further submitted that it is a cardinal principle of law that where a statute specifically prescribes as to who is entitled to show cause under Section 4 of the UAPA, it is not open for any third party to step into the shoes of the association for the purpose of the present proceedings. Learned ASG submitted that the applicant has not even attempted to explain in his application as to whether he is entitled to show cause as to whether the association should not be declared unlawful. This assumes relevance since the present proceedings are in the nature of a lis between two parties, as held by the Hon’ble Supreme Court.

4. Learned ASG has further submitted that even on past occasions when the alleged ex-members were allowed to participate in the proceedings, the same was on the basis that the expression “members” and “office bearers” will include the members and Office Bearers of the Association when the first ban was imposed on SIMI. However, given that the first ban was imposed as far back as 2001 and the fact that despite such ban SIMI has continued its

unlawful activities in a clandestine manner as held by successive Tribunals, it would be wholly improper to allow the applicant to participate in the proceedings merely on the averment that they were ex-members during the period prior to 27.09.2001. It is, thus, submitted that the application is not maintainable and is liable to be dismissed.

5. *Learned ASG while referring to sub-section (2) of Section 3 has submitted that it is only the affected Association, its office bearers and members which is called upon to show cause as to why it should not be declared unlawful. The argument put forth by the learned ASG is that this clause must be interpreted to read exclusion of all the other stakeholders, if any, and only the Association would stand entitled to represent itself before the Tribunal and no one else. It is, thus, argued that the present applicant, by virtue of the said sub-section (2) of Section 3 of the Act stands excluded from the category of persons who can represent the Association in these proceedings.*

6. *In support of her contentions, learned ASG has referred to the decision of the Supreme Court in Jamaat-e-Islaami Hind versus Union of India (1995) 1 SCC 428 wherein the Supreme Court has dealt with the issue of nature of proceedings under UAPA and has held that the nature of enquiry 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 Supreme Court has further held that the entire procedure contemplates an objective determination made on the basis of material placed before the Tribunal by the two sides and the enquiry is in the nature of adjudication as a lis between the two parties, which, in the present case, are the Central Government and the Association. It is submitted that in view of this observation of the Hon'ble Supreme Court, there is no occasion for this Tribunal to permit a third party, not being an Association to participate in these proceedings.*

7. *Learned ASG next referred to the decision of the Supreme Court in Vaiko, General Secretary, MDMK versus Union of India & Ors (2013-4-L.W.391) to contend that the applicant is not an aggrieved party and that his application seeking copies of the documents and proceedings of the Tribunal is liable to be dismissed. Learned ASG referred to paras 8 & 11 of the said judgment to contend that the applicant is neither an office bearer nor a member of the SIMI organization and, thus, no ground is made out for either for supply of copies as sought for by him or for his participation in these proceedings. Learned ASG also referred to the decision of the Supreme Court in Shobha Suresh Jumani versus Appellate Tribunal Forfeited Property and Another (2001) 5 SCC 755 to press home her submissions.*

8. *Learned ASG, while referring to the decision of the Supreme Court in Digi Cable Network (India) Pvt. Ltd. versus Union of India, 2019 SCC OnLine SC 17, submitted that even if the applicant is not afforded the opportunity to participate in these proceedings and to obtain copies of documents and orders, there would be no violation of the principles of natural justice since in cases where issues of national security are involved, like in the present case, it is the duty of the Court to read into and provide for statutory exclusion even if it is not expressly provided in the Rules. Learned ASG submitted that what is in the interest of national security is not a question of law but is a matter of policy and it is for the executive to decide as to what is in the interest of the State and what is not. It is submitted that since the members of the banned organization were acting against national interest,*

even if they are not represented in these proceedings, there shall be no violation of the principles of natural justice. It is contended that the principles of natural justice cannot be imported into the issue relating to national security.

9. Learned counsel for the applicant, in rejoinder, submitted that the observations of the Supreme Court in *Jamaat-e-Islami (supra)* in fact supports their contention that the proceedings before this Tribunal cannot be permitted to be an *ex-parte* proceeding and the other side must be afforded reasonable opportunity to defend the banned organization. Thus, it is contended that the observation of Supreme Court that the *lis* is between the two parties must be read as the Central Government on the one side and the former office-bearers or members on the other.

10. The Central Government declares an Association as an 'Unlawful Association' in terms of sub-section (1) of Section 3 of the Act, and the grounds therefor are required to be specified in terms of sub-section (2). Sub-section (3) of Section 3 provides that no notification declaring an Association as 'Unlawful Association' shall have effect until the Tribunal constituted in terms of Section 4(1) of the Act, has confirmed the declaration made therein and the order of the Tribunal is published in the Official Gazette.

11. The proviso to sub-section (3), however, authorizes the Central Government to declare an Association as an 'Unlawful Association' with immediate effect, without awaiting the confirmation by the Tribunal in terms of Section 4 of the Act, if in its opinion circumstances exist which render it necessary to do so. Of course, the Central Government is required to state the reasons in writing, for exercising its power under this proviso. Relevant portion of Section 3 of the Act reads 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)

(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) “

12. Section 4 of the Act reads as under:

“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.”*

13. *A harmonious reading of the aforesaid provision with sub-section (2) of Section 4 of the Act, makes the legislative intent very clear. Whenever the Central Government forms an opinion that an Association has become an ‘Unlawful Association’ it may declare it to be so, but the ban comes into operation only on a confirmation by the Tribunal constituted under Section 4 of the Act. Thus, on the date when the Central Government declares an Association as ‘Unlawful’, the Association does not cease to exist with immediate effect. The ‘Association’ has the opportunity to appear before the Tribunal and defend itself and it is only after the Tribunal renders its finding on the ‘Sufficiency of material’ that the ban on the Association becomes operational and the Association ceases to exist. Thus, at the stage of issue of notice, in terms of sub-section (2) of Section 4, the legislature has not contemplated a ceasure of the existence of the Association.*

14. *The dichotomy in the provisions of the Act, which has given rise to the argument of the learned ASG, arises when the Central Government exercises its power under the proviso to sub-section (3) of Section 3 by declaring the Association to be ‘Unlawful’ with immediate effect, thus, taking away its right to defend itself before the Tribunal, prior to the ban coming into force. Thus, when the power under proviso to sub-section (3) is exercised, the effect thereof is that the Association, its office-bearers, and members cease to exist with immediate effect and become ‘Ex’ or ‘Former’ ‘office-bearers’ and ‘members’ of the Association, which does not exist after the ban. The said Association, office-bearers and members shall expose themselves to ‘offences and penalties’ as provided in Section 10 to 14 of Chapter-III of the Act, if they continue to espouse the cause of the Association and identify themselves as the office-bearers and members of the Association.*

15. *Thus, when the Central Government had constituted the Tribunal under Section 4 of the Act, after exercising its powers under proviso to sub-section (3) of Section 3 of the Act, by banning the Association with immediate effect, the right to defend the Association does not get taken away but gets vested with the former office-bearers and members of the Association, like the applicant herein.*

16. *In case the argument advanced by the learned ASG is accepted, the right conferred by way of sub-section (2) of Section 4 of the Act pursuant to show cause notice under Sub-Section 4 of Section 3 of the Act to defend is rendered otiose. In that case, no notice is required to be issued since no*

Association exists after the ban and once there is no Association, then there can be no office-bearers or members. This could never have been the legislative intent. The argument of the learned ASG also runs counter to the decision of the Supreme Court in Jamaat-e-Islami Hind (supra) wherein it was held that the proceedings before the Tribunal are in the nature of list and the Tribunal is required to decide the sufficiency of the cause to declare the Association Unlawful on the material placed by the Government, the Association and any other material called for.

17. Right to form an Association is a fundamental right enshrined under Article 19(1)(c) of the Constitution of India subject to clause (4) of Article 19 of the Constitution providing that nothing in sub-clause (c) of clause 1 of Article 19 shall effect the operation of any existing law in so far it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause. Principles of natural justice warrant that no fundamental right be taken away without affording an opportunity of hearing to the person likely to be aggrieved by such taking away of the right. The Association, if banned by exercising the power under the proviso to sub-Section (3) of Section 3 of the Act, shall continue to have a right of representation and to be heard against the ban through its former office-bearers, members and sympathizers. The Statute cannot be interpreted in a manner so as to lead to denial of the fundamental rights conferred on the citizens by the Constitution or to do away the principles of natural justice. A fair opportunity to show cause and defend is an edifice of the Rule of Law, which must be adhered to scrupulously and diligently.

18. Accordingly, in view of the aforesaid discussion, the objection raised on behalf of the Central Government to the locus of Mr. Humam Ahmad Siddiqui, to participate in these proceedings or to receive documents is rejected. Mr. Humam Ahmad Siddiqui is held entitled to participate in these proceedings. Copies of the material being placed before the Tribunal by the Central Government be supplied to the learned counsel representing Mr. Humam Ahmad Siddiqui.

19. Application is disposed of.”

VII **Legal Issues:**

- 7.1 On the arguments of parties, besides the issue of privilege of documents which is being separately dealt, broadly the following three issues arise for consideration:
- i. Nature and scope of inquiry before this Tribunal.
 - ii. Admissibility and relevancy of the evidence adduced before this Tribunal in the form of statements made to the police officers and the seizures made during the course of investigation.
 - iii. Whether the notification suffers from non-application of mind and does not pass the test of reasonable restriction under Article 19(4) of the Constitution of India?
- 7.2 Relying upon the decision of the Supreme Court reported as 1995(1) SCC 428 Jamaat-E-Islami Hind vs Union Of India learned ASG has addressed on the scope of inquiry before this Tribunal. It is contended that the proceedings before the Tribunal are akin to civil proceedings and being a lis between the parties has to be decided on the basis of preponderance of probability. The provisions of Evidence Act cannot be made strictly applicable and the Tribunal can devise its own procedure for inquiry. The scope of inquiry before this Tribunal is the adjudication of the extent of sufficient cause for making the declaration. Despite the fact that the association and its erstwhile members were called upon to show cause, no reply or show cause has been submitted by them. Hence, the material placed on record by the Government before the Tribunal has gone un-rebutted. As held by

the Supreme Court, the standard of proof would not be beyond reasonable doubt but the test of greater probability appears to be a pragmatic test applicable to the present proceedings. Reference to this Tribunal is for the purpose of obtaining a judicial confirmation of existence of sufficient cause to support the declaration. Referring to the orders passed by the Tribunals constituted prior to this Tribunal for adjudicating whether there is sufficient cause to ban SIMI, learned ASG has read in extenso the order passed by Justice Sanjiv Khanna and the analysis of the various provisions as applicable in the proceedings before the Tribunal.

- 7.3 Referring to the decision rendered by Justice Sanjiv Khanna it is contended that statements recorded by the police even though confessional in nature are admissible in evidence before the Tribunal for the reason the proceedings are not in the nature of a trial of the accused for commission of the offences. Further, the bar under Section 25 and 26 of the Indian Evidence Act is on the confessions and not the statements. Statements made by accused in police custody have been held to be admissible in civil proceedings as also ancillary proceedings like recovery/possession/custody of the property, departmental and disciplinary proceedings etc. Thus, proceedings before this Tribunal have to be pragmatic and as per the provisions of Civil Procedure Code and the provisions of Evidence Act have to be applied to the extent possible and practicable.
- 7.4 Mr. Ashok Aggarwal, Advocate appearing on behalf of Mr. Humam Ahmed Siddiqui contends that though the Central Government has led evidence to show that lots of crimes have been committed by various people however the material produced before the Tribunal fails to show that these people are connected with SIMI or are members/activists of SIMI. Further, some accused being involved in or convicted of certain offences, cannot lead to the inference and their acts cannot be attributed to be the unlawful activity of the association. Moreover, mere membership of an unlawful organization would not amount to an offence as held by the Supreme Court in the decision reported as 2011 (3) SCC 377 *Arup Bhuyan Vs. State of Assam*. There are procedural and substantive lapses committed by the Central Government while issuing the notification and adducing evidence before this Tribunal. Learned counsel contended that the 'sufficient cause' to declare an organization as unlawful must be guided by the decision of the Supreme Court in *Jamaat* (supra) and cannot exceed the four corners of restrictions permissible under Article 19(4) of the Constitution of India. 'Sufficient cause' must be determined on the basis of an assessment of the credibility of material that is capable of judicial determination. Since imposing ban on SIMI is a restriction on fundamental right to freedom of association and indirectly to freedom of speech and expression, the provisions of the UAPA and UAP Rules must be strictly construed. Reliance is placed on the decision reported as 1974 (2) SCC 121 *Nawab Khan Abbas Khan Vs. State of Gujarat*.
- 7.5 For a fair adjudicating of 'sufficient cause' the material used by the Central Government to form its opinion for issuing the notification dated 31st January, 2019 was required to be placed on record at the outset in terms of Rule 5 of the UAP Rules. Relying upon the decision reported as 1980 (4) SCC 544 *Shalini Soni Vs. Union of India* it is contended that the grounds stated in the notification issued by the Central Government under Section 3(1) UAPA are not valid and justifiable as the same are vague and lack material particulars. In the absence of complete documents and evidence supporting the grounds for issuing the notification, the notice issued to show cause by the Tribunal is invalid and no justifiable response thereto can be submitted.
- 7.6 Confessions and statements recorded under Sections 161/162 Cr.P.C. cannot be taken into consideration being inadmissible under the Evidence Act. Reliance of the Central Government on the decision reported as 1981 (2) SCC 493 *Khatri Vs. State of Bihar* to claim that such material is admissible in evidence is incorrect and liable to be rejected. Reliance is placed on the decision of the Bombay High Court reported as 1910 Bombay Law Reporter 899 *Emperor Vs. Harisingh Ganpatsingh*. The true ratio even if *Khatri's* (supra) case is applicable would be that such statements may be admissible in subsequent or other proceedings provided they are relevant under the Indian Evidence Act. Section 162(1) Cr.P.C. bars the use of such statements except in the manner permitted in the proviso to the said sub-section. Reliance is placed on the decision reported as 2005 (5) SCC 597 *Vinay D. Nagar Vs. State of Rajasthan* wherein it was held that mere lifting of the bar imposed under Section 162 Cr.P.C. is not by itself sufficient to make a statement recorded by the police admissible in evidence.

- 7.7 Use of the expression 'as far as practicable' in the decision in *Jamaat* (supra) does not amount to saying that the Evidence Act may be applied to the proceedings at the subjective discretion of the Tribunal. Further, the alleged confessional statements and statements under Sections 161/162 Cr.P.C. are neither relevant nor admissible in evidence on a perusal of Chapter II of the Evidence Act. The possible gateway for entry of the above statements are Sections 8, 10, 18, 21, 22, 27, 28, 29, 30, 31, 32, 33 and 35 of the Evidence Act and under neither of these provisions the said statements are relevant/admissible. Major portion of the evidence adduced before the Tribunal is in the form of disclosure statements for which the bar under Section 27 Evidence Act applies and only the said portion of the statement which relates distinctly to a fact discovered in consequence of the information received would be admissible in evidence. Reliance is placed on the decisions reported as AIR 1947 PC 67 *Pulukuri Kottayya Vs. Emperor* and 2005 (11) SCC 600 *State Vs. Navjot Sandhu*. The statements recorded under Section 164 Cr.P.C. and produced before this Tribunal also stand on the same footing as statements recorded under Sections 161/162 Cr.P.C. for the purposes of present proceedings. The Rule against hearsay provided under Sections 60 to Section 73 of the Indian Evidence Act also bars reliance on the statements made under Section 161/162 Cr.P.C.
- 7.8 He further contends that the bar as noted in the decision in *Khatri* (supra) for admissibility of such a statement would also apply to the present proceedings as the same are in continuation in the manner that the ban continues to be imposed since September, 2001 except for a brief break and the material used for the earlier bans has also been used in the present notification and also the offences alleged against SIMI have been under investigation at least since September, 2001 when the first ban order was passed against SIMI. Repeated bans on SIMI under UAPA are violative of Article 19(1)(c) of the Constitution of India and the powers conferred upon Central Government under Section 3(1) read with Section 6 UAPA. The same amounts to permanent denial of the constitutional right to form association as also indirectly, the freedom to speech and expression. Further, no grounds have been made out in the notification to invoke the proviso to Section 3(3) of UAPA. Proviso to Section 3(3) provides that for the notification to come in force with immediate effect reasons in writing are required to be noted however no such reasons have been mentioned in the notification. The satisfaction arrived at for declaring a defunct/non-functional organization as an unlawful organization is not legitimate. The satisfaction arrived at by the competent authority also suffers from non-application of mind. The notification is also violative of the fundamental rights of the members of the association, if at all they exist and guaranteed under Article 14, 19 and 21 of the Constitution of India.
- 7.9. Rebutting the arguments of Mr.Ashok Aggarwal, Advocate, Mr.Sachin Datta, Senior Advocate for the Union of India contends that the Tribunal being vested with the power to regulate its own procedure in all matters as provided under sub-Section (5) of Section 5 subject to Section 9 has been described in *Jamaat* (supra) explaining the reasons why such a latitude is required to be given to the Tribunal. The latitude is not only to the applicability of the provisions of Code of Civil Procedure or the Evidence Act, so as to apply as far as practicable but also to the kind of material that can be considered by the Tribunal and it is thus specifically held that the material to be considered by the Tribunal need not be confined only to legal evidence in the strict sense. Minimum requirements of due process in the form of a written notice, disclosure, opportunity to be heard etc. have been provided under UAPA thus guaranteeing the right of fair hearing and opportunity to the association before the Tribunal. The scrutiny before the Tribunal is not a criminal trial and minimal requirements of principles of natural justice are to be adhered to. Further, the Tribunal is not bound by the material placed by the Government or the association but is competent to call for any other further information as necessary. While adjudicating the sufficiency of cause to declare the association unlawful, the Tribunal is not pronouncing on the guilt of the accused or returning finding as to the guilt by receiving proof beyond reasonable doubt. The Statute itself contemplates that there will be material which may not be disclosed to the association. The proceedings before this Tribunal are in the nature of a lis and the Tribunal is required to weigh the material produced by both the sides and in the present proceedings no material whatsoever has been produced by the association. Contention of learned counsel that the material before the Tribunal is only in the form of confessional statements is incorrect for the reason the witnesses have also produced chats and FSL reports with regard to the data retrieved from the laptops etc. besides various recoveries made. Thus a wide gamut of material has been placed by the Government before the Tribunal. Lastly, the preamble of UAPA itself notes that special provisions have been made for coping with unlawful

activities of the association and it is for this reason that modified procedure of law has been prescribed.

- 7.10. Before proceeding to deal with various legal issues raised by the parties, it would be appropriate to note Sections 3, 4, 5 and 9 of the UAPA and Rules 3 & 5 of the UAP Rules.

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].

XXX XXX XXX

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.”

7.11 The issue with regard to the scope of inquiry before the Tribunal under the UAPA is no more *res integra* having been dealt with in-depth by the Supreme Court in *Jamaat-E-Islami Hind* (supra) wherein it was held:

“11. [Section 4](#) deals with reference to the Tribunal. Sub-section (1) requires the Central Government to refer the notification issued under sub-section (1) of [Section 3](#) to the Tribunal "for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful". The purpose of making the reference to the Tribunal is an adjudication by the Tribunal of the existence of sufficient cause for making the declaration. The words "adjudicating" and "sufficient cause" in the context are of significance. Sub-section (2) requires the Tribunal, on receipt of the reference, to call upon the association affected 'by notice in writing to show cause' why the association should not be declared unlawful. This requirement would be meaningless unless there is effective notice of the basis on which the declaration is made and a reasonable opportunity to show cause against the same. Sub-section (3) prescribes an inquiry by the Tribunal, in the manner specified, after considering the cause shown to the said notice. The Tribunal may also call for such other information as it may consider necessary from the Central Government or the association to decide whether or not there is sufficient cause for declaring the association to be unlawful. The Tribunal is required to make an order which it may deem fit "either confirming the declaration made in the notification or cancelling the same". 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. Credibility of the material should, ordinarily, be capable of objective assessment. The decision to be made by the Tribunal is "whether or not there is sufficient cause for

declaring the association unlawful". Such a determination requires the Tribunal to reach the conclusion that the material to support the declaration outweighs the material against it and the additional weight to support the declaration is sufficient to sustain it. The test of greater probability appears to be the pragmatic test applicable in the context.

12. Section 5 relates to constitution of the Tribunal and its powers. Sub-section (1) of Section 5 clearly provides that no person would be appointed "unless he is a Judge of a High Court". Requirement of a sitting Judge of a High Court to constitute the Tribunal also suggests that the function is judicial in nature. Sub-section (7) says that any proceeding before the Tribunal shall be deemed to be a "judicial proceeding" and the Tribunal shall be deemed to be a "Civil Court" for the purposes specified. Section 6 deals with the period of operation and cancellation of notification. Section 8 has some significance in this context. Sub-section (8) of Section 8 provides the remedy to any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section 4, by an application made to the District Judge who is required to decide the same after giving the parties an opportunity of being heard. This also indicates the judicial character of the proceeding even under Section 8. Section 9 prescribes the procedure to be followed in the disposal of applications under the Act. Provisions of Section 9 of the Act lay down that the procedure to be followed by the Tribunal in holding an inquiry under sub-section (3) of Section 4 or by the District Judge under Section 8 shall, so far as may be, be the procedure prescribed by the Code of Civil Procedure for the investigation of claims. Sections 10 to 14 in Chapter III relate to "offences and penalties" which indicate the drastic consequences of the action taken under the Act including a declaration made that an association is unlawful. The penal consequences provided are another reason to support the view that the inquiry contemplated by the Tribunal under Section 4 of the Act is judicial in character since the adjudication made by the Tribunal is visited with such drastic consequences.

13. In our opinion, the above scheme of the Act clearly brings out the distinction between this statute and the scheme in the preventive detention laws making provision therein for an Advisory Board to review the detention. The nature of the inquiry preceding the order made by the Tribunal under Section 4 of the Act, and its binding effect, give to it the characteristic of a judicial determination distinguishing it from the opinion of the Advisory Board under the preventive detention laws.

14. In Section 4, the words 'adjudicating' and 'decide' have a legal connotation in the context of the inquiry made by the Tribunal constituted by a sitting Judge of a High Court. The Tribunal is required to 'decide' after "notice to show cause" by the process of 'adjudicating' the points in controversy. These are the essential attributes of a judicial decision.

17. The reference to the Tribunal is for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful. Obviously the purpose is to obtain a judicial confirmation of the existence of sufficient cause to support the action taken. The confirmation is by a sitting High Court Judge after a judicial scrutiny of the kind indicated. This being the nature of inquiry and the purpose for which it is conducted, 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. Reference may be made at this stage to the decision in State of Madras vs. V.G. Row, [1952] SCR 597 on which both sides place reliance.

19. In our opinion, 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'.

[Emphasis supplied]

- 7.12 As noted above, sub-Section 5 of Section 5 UAPA provides that subject to Section 9 UAPA, the Tribunal shall have the power to regulate its own procedure in all matters arising out of the discharge of its function and Section 9 provides for the procedure to be followed for disposal of the applications under the Act, according to which 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) in so far as may be the procedure laid down in the Code of Civil Procedure 1908 for investigation of the claims. The Code of Civil Procedure 1908 provides for investigation of the claims under Order XXI Rule 58. The said procedure was a summary procedure and does not require rigours of the regular procedure for deciding a suit. Further Rule 3 of the UAP Rules provides that subject to sub-rule (2) the Tribunal shall follow as far as practicable the rules of evidence laid down in the Indian Evidence Act 1872. Thus, contention of Mr. Ashok Aggarwal, Advocate that the rigours of the provisions of Evidence Act would fully apply except where privilege is claimed as per procedure and is allowed deserves to be rejected.
- 7.13 Modulation of the procedure and applicability of the Code of Civil Procedure and the Indian Evidence Act "as far as may be practicable" has been upheld by the Supreme Court in *Jamat* (supra) wherein it has been held that the Tribunal can devise a suitable procedure whereby it can itself examine and test the credibility of such a material before it decides to accept the same for determining the existence of sufficient cause for declaring the association to be unlawful. The material need not be confined only to legal evidence in the strict sense and such a procedure would ensure that the decision of the Tribunal is an adjudication made on the points in controversy after assessing the credibility of the material it has chosen to accept without abdicating its function by merely acting on the *ipsi-dixit* of the Central Government. It was further held that such a course would satisfy the minimum requirements of natural justice tailored to suit the circumstances of each case while protecting the rights of association and its members without jeopardizing the public interest. It would also ensure that the process of adjudication is not denuded of its content and the decision ultimately rendered by the Tribunal is reached by it, on all points in controversy after adjudication and not by mere acceptance of the opinion already formed by the Central Government.
- 7.14 In *Jamat* (supra) Supreme Court further emphasized that what is a 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 Supreme Court also noted that the Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it.
- 7.15 It has also to be borne in mind that the time period with the Tribunal is six months from the date of issuance of the notification and out of the said six months initial few months are required for notification of the Tribunal and issuance of notice to show cause, as also permitting time for filing reply affidavits. Thus the procedure cannot be so as to not complete the adjudication within the statutory period prescribed.
- 7.16 By incorporation of sub-Section (6) to Section 5 UAPA it is evident that in the inquiry before the Tribunal it is not bound by the material produced by the parties and for a proper adjudication, the Tribunal can also call for any other further material. The reference to Tribunal is thus for the purpose of adjudicating whether or not there is a sufficient cause for declaring the association unlawful.

- 7.17 Before dealing with the rival contentions regarding material and evidence that can be relied upon and the admissibility of the confessions and seizures made during the course of investigation, it would be appropriate to note Sections 25, 26 and 27 of the Indian Evidence Act and Sections 161 and 162 of the Code of Criminal Procedure, 1973.

Sections 25, 26 and 27 of the Indian Evidence Act read as under:

“25. Confession to police officer not to be proved.—No confession made to a police officer, shall be proved as against a person accused of any offence.

26. Confession by accused while in custody of police not to be proved against him.—No confession made by any person whilst he is in the custody of a police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.

[Explanation. – In this section “Magistrate” does not include the head of a village discharging magisterial functions in the Presidency of Fort St. George or elsewhere, unless such headman is a Magistrate exercising the powers of a Magistrate under the Code of Criminal procedure, 1882 (10 of 1882)]

27. How much of information received from accused may be proved.—Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

Sections 161 and 162 of the Cr.P.C. read as under:

161. Examination of witnesses by police.—(1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records:

²*[Provided that statement made under this sub-section may also be recorded by audio-video electronic means:]*

³*[Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, [section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB] section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted shall be recorded, by a woman police officer or any woman officer.]*

162. Statements to police not to be signed: Use of statements in evidence.—(1) No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by

the prosecution, to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872 (1 of 1872); and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (1) of section 32 of the Indian Evidence Act, 1872 (1 of 1872); or to affect the provisions of section 27 of that Act.

Explanation.—An omission to state a fact or circumstance in the statement referred to in sub-section (1) may amount to contradiction if the same appears to be significant and otherwise relevant having regard to the context in which such omission occurs and whether any omission amounts to a contradiction in the particular context shall be a question of fact.”

7.18 Thus according to Section 25 and 26 of the Evidence Act confession made to a police officer or while in custody shall not be proved against a person accused of any offence in a trial of the accused for having committed the offence. These sections do not forbid use of the statement in a proceeding where the accused is not being tried for having committed the said offence or in a civil proceeding or ancillary proceeding like recovery etc.

7.19 Reiterating the law laid down by the Division Bench of High Court of Bombay in (1885) ILR 9 Bom 131 Queen-Empress vs Tribhovan Manekchand And Ors. Supreme Court in the decision reported as 1991 SCC (Cri.) 219 Mahesh Kumar Vs. State of Rajasthan noted the possible use of the statement made by an accused to the police officer and held:

“In Queen Empress Vs. Tribhovan Manekchand (ILR 9 BOM 131) a Division Bench of the Bombay High Court laid down that the statement made to the police by the accused persons as to the ownership of property which was the subject matter of the proceedings against them although inadmissible as evidence against them at the trial for the offence with which they were charged, were admissible as evidence with regard to the ownership of the property in an enquiry held by the Criminal Procedure Code. The same view was reiterated in Pohlu Vs. Emperor (AIR 1943 Lah 312 : 45 PLR 391 : 209 IC 546) where it was pointed out that though there is a bar in Section 25 of the Evidence Act, or in Section 162 Cr.P.C. for being made use of as evidence against the accused, this statement could be made use of in enquiry under Section 517 Cr.P.C. when determining the question of return of property. These two decisions have been followed by the Rajasthan High Court in Dhanraj Baldeokishan Vs. State (AIR 1965 Raj 238 : (1965) 2 Cr LJ 805 : 1965 Raj LW 289) and the Mysore High Court in Veerabhadrappa Vs. Govinda (ILR (1973) 23 Mys 64). In the present case, the amount in question was seized from the accused in pursuance of statements made by them under Section 27 of the Evidence Act. The High Court as well as the courts below have found the property to be the subject of theft and the acquittal of the accused is upon benefit of doubt. The accused persons disclaimed the stolen property and there is no reason why the same should not be returned to the owner i.e. the complainant to whom it belongs.”

7.20 With regard to the admissibility of the statement recorded under Section 162 Cr.P.C. Supreme Court in the decision reported as 1981 (2) SCC 493 Khatri & Ors. Vs. State of Bihar & Ors. discussed the legal provisions as laid down in the decision reported as AIR 1959 SC 1012 Tehsildar Singh & Anr. Vs. State of Uttar Pradesh and held that the prohibition under Section 162 of the Cr.P.C. was applicable for use of the statement at any inquiry or trial in respect of any offence under investigation at the time when the statement was made, however, it does not bar or prohibit the use of the statement in any other proceedings, inquiry or trial. Thus, the bar is limited and would have no application for example in any civil proceedings or proceedings under Article 32 and 226 of the Constitution of India. Even in Vinay D. Nagar (supra) Supreme Court following the decision in Khatri (supra) held that the bar of Section 162 Cr.P.C. is in regard to the admissibility of the statement recorded of a person by the Police officer under Section 161 Cr.P.C. and by virtue of Section 162 Cr.P.C. would be applicable only where such statement is sought to be used at any inquiry or trial in respect of any offence under investigation at the time when such statement was made. If the statement made before a police officer in the course of an investigation under Chapter

XII is sought to be used in any proceeding, inquiry or trial in respect of an offence other than which was under investigation at the time when such statement was made, the bar of Section 162 will not be attracted.

7.21 With reference to police diaries under Section 172 Cr.P.C., Supreme Court in *Khatri* (supra) held that the bar against production of use of case diary enacted in Section 172 Cr.P.C. is intended to operate only in an inquiry or trial for an offence and even this bar is a limited bar and does not operate if the case diary is used by the police officer for refreshing his memory or the criminal court uses it for the purpose of contradicting such police officer, in the said inquiry or trial. This bar also can have no application to a case diary as sought to be produced and used in evidence in a civil proceedings or in a proceeding under Article 32 or 226 of the Constitution of India and particularly when the party calling for the case diary is neither an accused nor is agent in respect of the offence to which the case diary relates. Referring to Section 35 of the Evidence Act it was held that the reports which are part of official record and relate to the fact in issue are relevant and admissible. The language of Section 35 is so clear that it is not necessary to refer to any decided cases on the interpretation of the Section. Supreme Court also noted with approval the decision reported as (1975) 3 SCC 646 *Kanwar Lal Gupta Vs. Amar Nath Chawla* wherein it was held that reports made by the officers of CID (Special Branch) relating to public meetings covered by them at the time of the election were relevant under Section 35 of the Evidence Act on the ground that they were “made by the public servants” in discharge of their official duty and they were relevant under the first part of Section 35 of the Evidence Act, since they contained statements showing what were the public meetings held by the first respondent. Supreme Court in *Khatri* (supra) also affirmed the Division Bench decision of Nagpur High Court reported as AIR 1952 Nagpur 271 *Chandu Lal Vs. Pushkar Rai* wherein it was held that reports made by revenue officers, though not regarded as having judicial authority where they expressed opinions on the private rights of the parties are relevant under Section 35 of the Evidence Act as reports made by public officers in the discharge of their official duties.

7.22 Contention of Mr. Ashok Aggarwal, Advocate that in the present proceedings as well the confessional statements made before the police can be used limited to the extent provided under Section 27 of the Evidence Act insofar as it relates distinctly to a fact discovered in consequence of the information received deserves to be rejected for the reason as noted above, the bar under Sections 25 and 26 of the Evidence Act is applicable only to the use of the statement of the accused so recorded in a trial of the accused for an offence. Further, the UAPA is a special enactment and Rule 3 provides for a modified procedure and indicates that as far as practicable the Rules of Evidence laid down in Indian Evidence Act, 1872 must be followed. It is for this special provision of Rule 3 UAP Rules that the Supreme Court in *Jamaat* (supra) held that the material before the Tribunal need not be confined only to legal evidence in the strict sense. Such a procedure would ensure that the decision of the Tribunal is an adjudication made on the points in controversy after assessing the credibility of the material it has chosen to accept without abdicating its functions by merely acting on the *ipse dixit* of the Central Government. Such a course would satisfy the minimum requirements of natural justice tailored to suit the circumstances of each case, while protecting the rights of the association and its members, without jeopardising the public interest. It was held that the same would ensure that the process of adjudication is not denuded of its content and the decision ultimately rendered by the Tribunal is reached by it on all points in controversy after adjudication. Referring to the decision in *John J. Morrissey and (7. Donald Booher v. Lou B. Brewer)* it was held :

23. In *John J. Morrissey and (7. Donald Booher v. Lou B. Brewer)*, 33 L.Ed. 2d 484, the United States Supreme Court, in a case of parole revocation, indicated the minimum requirements to be followed, as under:

" Our task is limited to deciding the minimum requirements of due process. They include (a) written notice of the claimed violations of parole; (b) disclosure to the parolee of evidence against him; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a 'neutral and detached' hearing body such as a traditional parole board, members of which need not be judicial officers or lawyers; and

(f) a written statement by the fact finders as to the evidence relied on and reasons for revoking parole. We emphasize there is no thought to equate this second stage of parole revocation to a criminal prosecution in any sense. It is a narrow inquiry; the process should be flexible enough to consider evidence including letters, affidavits, and other material that would not be admissible in an adversary criminal trial."

(Emphasis supplied)

- 7.23 Contention raised by Mr. Ashok Aggarwal, Advocate relying on the decision in *Nawab Khan Abbas Khan* (supra) that since UAPA imposes a restriction on the fundamental right to freedom of association and indirectly to freedom of speech and expressions, the provisions of UAPA and the rules made thereunder have to be strictly construed, has also been dealt by the Supreme Court in *Jamaat* (supra) wherein it was held:

"26. An authorised restriction saved by Article 19(4) on the freedom conferred by Article 19(1)(c) of the Constitution has to be reasonable. In this statute, provision is made for the notification to become effective on its confirmation by a Tribunal constituted by a sitting High Court Judge, on adjudication, after a show cause notice to the association, that sufficient cause exists for declaring it to be unlawful. 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 requirements 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."

(Emphasis supplied)

- 7.24 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 which notes it to be a special enactment for effective prevention of certain unlawful activities of individuals and associations as well as dealing with terrorist activities and for the matters connected therewith. The statement of objects and reasons underlines the purpose of the enactment empowering Parliament to impose by law reasonable restriction in the interest of sovereignty and integrity of India on the freedom of speech and expression, right to assemble peacefully and without arms and right to form association. 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. Since UAPA is a special enactment, its provisions and the special procedure prescribed thereunder, has to prevail on the general provisions of law applicable.
- 7.25 From the perusal of the provisions as noted above as also the law on the point laid down in various decisions and since 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 SIMI as an unlawful association, the confessional statements made by the accused before the police officers as also the search lists and seizure memos are admissible in evidence before this Tribunal and can be used for determining the sufficiency of the material before the Central Government to make the declaration.
- 7.26 Contention of Mr. Ashok Aggarwal that the continuous bans on the association are violative of the constitutional right to form an association as also violative of the right to freedom of speech and expression also deserves to be rejected for the reason the very purpose of determination by the

Tribunal as to whether there is a sufficient cause to declare the association unlawful again is based on objective determination of the existence of grounds for adjudging the reasonableness of restriction placed on the right conferred under Article 19(1)(c) to form the association. The scheme as provided under UAPA requires adjudication of the lis making it implicit that minimum requirement of natural justice is satisfied.

- 7.27 As noted above, in para 19 of the decision of the Supreme Court in *Jamaat* (supra) the scheme of UAPA itself provides for the Tribunal to test the factual existence of grounds amenable to objective determination for adjudicating the reasonableness of the restriction placed on the right conferred under Article 19(1)(c) to form the association. The Tribunal thus while adjudicating the lis between the parties is also required to weigh whether the restriction imposed on the fundamental right as guaranteed under Article 19(1)(c) is reasonable in the interest of sovereignty and integrity of India or public order.
- 7.28 Contentions of Mr. Ashok Agarwal, Advocate that the show cause notice issued does not contain the entire material on which the grounds for issuance of the notification are based, hence no show cause thereto could be submitted and that when a reference is made to the Tribunal the entire material with the Central Government in support of the notification should be forwarded to the Tribunal as also provided to the association also deserves to be rejected. The purpose of conducting inquiry by the Tribunal itself is that the material used for issuance of the notification is taken on oath before the Tribunal so that the Tribunal has means and ways to assess the credibility of the material produced. As held by the Supreme Court in *Jamat* (supra) the nature of inquiry contemplated by the Tribunal requires it to weigh the material on which the notification under Section 3(1) UAPA is issued by the Central Government, the cause shown by the association in reply to the notice issued to it and to 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. Reliance of learned counsel on the decision in *Shalini Soni* (supra) is misconceived as in *Jamaat* (supra) itself Supreme Court clarified in para 13 of the report that the scheme of UAPA clearly brings out the distinction between this Act and the preventive detention laws and the nature of inquiry before the Tribunal under Section 4 of UAPA and its binding effect gives to it the characteristic of a judicial determination distinguishing it from the opinion of the advisory board.
- 7.29 Challenge of Mr. Ashok Aggarwal, Advocate to the notification dated S.O. 564(E) dated 31st January, 2019 as also invocation of the proviso to sub-Section (3) of Section 3 UAPA on the ground of non-application of mind also deserves to be rejected, as this Court has perused the sealed cover submitted by Shri S.C.L. Das, Joint Secretary, M.H.A. who appeared as (PW-50) wherein the entire material in the form of notes, correspondence and intelligence inputs have been put up to the Cabinet Committee on security for its approval. Invoking proviso to sub-Section (3) of Section 3 to impose the ban with immediate effect is also well reasoned as noted in the notification itself as under:

“And whereas, the Central Government is further of the opinion that if the unlawful activities of the SIMI are not curbed and controlled immediately, it will take the opportunity to-

- (i) continue its subversive activities and re-organize its activists who are still absconding;*
- (ii) disrupt the secular fabric of the country by polluting the minds of the people by creating communal disharmony;*
- (iii) propagate anti-national sentiments;*
- (iv) escalate secessionism by supporting militancy; and*
- (v) undertake activities which are prejudicial to the integrity and security of the country;*

And whereas, the Central Government is also of the opinion that having regard to the activities of the SIMI, it is necessary to declare the SIMI to be an unlawful association with immediate effect;”

7.30 In view of the discussion aforesaid, the notification under Section (3) UAPA dated 31st January, 2019, neither suffers from the vice of an unreasonable restriction, nor vague nor suffers from non application of mind.

VIII **Claim of privilege**

8.1 Learned ASG contends that the Government is entitled to claim of privilege of certain documents, disclosure whereof affects public interest as provided in the UAPA and the Rules thereunder itself for the reason Rule 3 sub-Rule (2) of the UAP Rules itself provides that if the books of accounts or other documents are claimed by the Government to be of confidential nature the Tribunal or the court as the case may be, shall not make such books or documents a part of the record of proceedings before it nor allow inspection thereof. Further, sub-Rule(5) of the Rule 3 permits the Central Government not to disclose any fact even to the Tribunal which that Government considers against the public interest to disclose. It is contended that dealing with the issue of claiming privilege, Supreme Court in *Jamaat* (supra) held that 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. Thus, subject to disclosure of information which the Central Government considers to be against public interest to disclose, all information and evidence relied on by the Central Government to support the declaration has to be disclosed to the association to enable it to show cause.

8.2 Mr.Ashok Aggarwal, Advocate contends that the material placed by the witnesses of the Central Government in sealed covers cannot be adversely used against the association unless privilege is claimed by a proper procedure founded on an affidavit clearly stating the nature of documents and grounds for seeking non-disclosure. Further, the affidavit should show that each document in question has been carefully read and considered and the person making the affidavit is satisfied that its disclosure would lead to injury to the public interest. No such procedure having been followed by the witnesses, material in the sealed covers is required to be given to the opposite party. Since this Tribunal is required to ascertain the credibility of the conflicting evidence relating to the points in controversy, in the absence of material placed in sealed covers being provided to the opposite party, the said adjudication is meaningless. The claim of privilege under the relevant provisions of UAPA and the Rules thereunder does not stand on a different footing from a claim of privilege under Section 123 of the Evidence Act and is governed by the decision of the Supreme Court reported as 1981 (Supp.) SCC 87 *S.P.Gupta Vs. Union of India & Anr.*

8.3 The issue of claiming privilege by the Central Government on the documents disclosure whereof is injurious to public interest is inbuilt in the UAPA and the rules framed thereunder as provided in Rule 3 and 5 of the UAP Rules re-produced earlier. Sub-Rule (2) of Rule 3 of the UAP Rules starts with a non-obstante clause providing that notwithstanding anything contained in the Indian Evidence Act, 1872 books of account or other documents produced by the Central Government and claimed to be of a confidential nature, the Tribunal shall not make such books of account or documents a part of the records of the proceedings before it or 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. Rule 5 which provides for the copy of notification and all facts on which the grounds specified in the said notification are based, further provides that nothing in the Rule shall require the Central Government to disclose any fact to the Tribunal which it considers against public interest to disclose.

8.4 The provisions under UAPA and the rules made thereunder forbidding disclosure were deliberated by the Supreme Court in *Jamaat* (supra) and it was held:

“20. As earlier mentioned, the requirement of specifying the grounds together with the disclosure of the facts on which they are based and an adjudication of the existence of sufficient cause for declaring the association to be unlawful in the form of decision after considering the cause, if any, shown by the association in response to the show cause notice issued to it, are all consistent only with an objective determination of the points in controversy in a judicial scrutiny conducted by a Tribunal constituted by a sitting High Court Judge, which distinguishes the scheme under this Act with the requirement under the preventive detention laws to justify the anticipatory action of preventive detention based on suspicion reached by a process of

subjective satisfaction. The scheme under this Act requiring adjudication of the controversy in this manner makes it implicit that the minimum requirement of natural justice must be satisfied, to make the adjudication meaningful. No doubt, the requirement of natural justice in a case of this kind must be tailored to safeguard public interest which must always outweigh every lesser interest. This is also evident from the fact that the proviso to sub-section (2) of Section 3 of the Act itself permits the Central Government to withhold the disclosure of facts which it considers to be against the public interest to disclose. Similarly, Rule 3(2) and the proviso to Rule 5 of the Unlawful Activities (Prevention) Rules, 1968 also permit nondisclosure of confidential documents and information which the Government considers against the public interest to disclose. Thus, subject to the non-disclosure of information which the Central Government considers to be against the public interest to disclose, all information and evidence relied on by the Central Government to support the declaration made by it of an association to be unlawful, has to be disclosed to the association to enable it to show cause against the same. Rule 3 also indicates that as far as practicable the rules of evidence laid down in the Indian Evidence Act, 1872 must be followed. A departure has to be made only when the public interest so requires. Thus, subject to the requirement of public interest which must undoubtedly outweigh the interest of the association and its members, the ordinary rules of evidence and requirement of natural justice must be followed by the Tribunal in making the adjudication under the Act.

22. It is obvious that the unlawful activities of an association may quite often be clandestine in nature and, therefore, the source of evidence of the unlawful activities may require continued confidentiality in public interest. In such a situation, disclosure of the source of such information, and, may be, also full particulars thereof, is likely to be against the public interest. The scheme of the Act and the procedure for inquiry indicated by the Rules framed thereunder provide for maintenance of confidentiality, whenever required in public interest. However, the non-disclosure of sensitive information and evidence to the association and its office bearers, whenever justified in public interest, does not necessarily imply its non-disclosure to the Tribunal as well. In such cases where the Tribunal is satisfied that non-disclosure of such information to the association or its office bearers is in public interest, it may permit its non-disclosure to the association or its office bearers, but 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. In such a situation, the Tribunal can devise a suitable procedure whereby it can itself examine and test the credibility of such material before it decides to accept the same for determining the existence of sufficient cause for declaring the association to be unlawful. The materials need not be confined only to legal evidence in the strict sense. Such a procedure would ensure that the decision of the Tribunal is an adjudication made on the points in controversy after assessing the credibility of the material it has chosen to accept, without abdicating its function by merely acting on the ipse dixit of the Central Government. Such a course would satisfy the minimum requirement of natural justice tailored to suit the circumstances of each case, while protecting the rights of the association and its members. 'without jeopardising the public interest. This would also ensure that the process of adjudication is not denuded of its content and the decision ultimately rendered by the Tribunal is reached by it on all points in controversy after adjudication and not by mere acceptance of the opinion already formed by the Central Government.

27. It follows that, ordinarily, the material on which the Tribunal can place reliance for deciding the existence of sufficient cause to support the declaration, must be of the kind which is capable of judicial scrutiny. In this context, the claim of privilege on the ground of public interest by the Central Government would be permissible and the Tribunal is empowered to devise a procedure by which it can satisfy itself of the credibility of the material without disclosing the same to the association, when public interest so requires. The requirements of natural justice can be suitably modified by

the Tribunal to examine the material itself in the manner it considers appropriate, to assess its credibility without disclosing the same to the association. This modified procedure would satisfy the minimum requirement of natural justice and judicial scrutiny. The decision would then be that of the Tribunal itself.

[Emphasis supplied]

- 8.5 Relevant provision under the Evidence Act permitting the State to claim privilege is Section 123 which reads 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.”

- 8.6 Referring to Section 123 of the Indian Evidence Act which permits the Government to claim privilege in regard to the documents relating to the affairs of the State, disclosure whereof is injurious to public interest, Supreme Court in S.P.Gupta (supra) held that while granting privilege two questions fall for determination of the Court namely (1) whether the document relates to the affairs of the State and (2) 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 the affairs of the 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 non-disclosure would thwart the administration of justice by keeping back from the Court a material document. Thus, the Court has to decide which aspect of the public interest pre-dominates or in the other words whether the public interest which requires that the document should not be produced outweighs the public interest that a Court of justice in performing its functions should not be denied access to relevant evidence. It was held by the Supreme Court as under:

“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]

- 8.7 Further, the rigours as noted in *S.P. Gupta* (supra) for claiming privilege have to be read in context of the provisions of UAPA and the Rules framed thereunder which provide that documents, disclosure whereof may not be in the public interest be not disclosed. The Rule as noted above starts with a non-obstante clause and thus an inbuilt mechanism has been provided under the UAPA and the Rules framed thereunder and the Tribunal is mandated to grant privilege forbidding disclosure where the claim of the Government is that disclosure would be against public interest and on perusal the Tribunal also finds that public interest outweighs the interest of the association/members/office bearers.
- 8.8 In other words, the claim of confidentiality has to satisfy on the test of character of the document and if on an objective satisfaction it is concluded that the document is of such a character that its disclosure will injure public interest, the contents thereof cannot be permitted to be disclosed to the other side. Thus, the foundation of immunity from non-disclosure stems from the character of the document and an act of balancing public interest against the interest of the individual, the officer bearer or the association which has been banned, has to be carried out by the Tribunal.
- 8.9 Further the statement of objects and reasons of the UAPA itself underlines the purpose of the enactment being to provide for the more affective prevention of certain unlawful activities of individuals and associations and for matters connected therein. The statute empowers the Parliament to impose by a due process of law reasonable restrictions in the interest of sovereignty and integrity of India on the right to form association and incidentally a restriction on the freedom of speech and expression, to assemble peacefully and with arms. UAPA being a special statute, the procedure provided therein necessarily prevails on the general provisions of law. Further Section 48 of the UAPA itself provides that the provisions of the UAPA and the Rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of an enactment other than this Act giving a clear over-riding position. Thus contention of Mr. Ashok Aggarwal, Advocate that the claim of privilege before this Tribunal can be only in terms of Section 123 of the Indian Evidence Act and as per the mandate of the Constitution Bench in *S.P. Gupta* (supra) deserves to be rejected.
- 8.10 In the present case, as per the procedure eleven witnesses in their affidavits including PW-50 have claimed privilege of documents and submitted documents in sealed covers. In their affidavits, they have stated that the documents submitted to the Tribunal in the sealed cover are privileged and confidential in nature and the same cannot be made available to the banned association or to any third party under the provisions of UAPA as the Government considers it against the public interest to disclose.
- 8.11 A total of 11 sealed covers were handed over by the various witnesses of the Government. Before proceeding to deal with the material in the sealed cover this Tribunal has opened and perused the documents and material placed in sealed covers and re-sealed the same with the seal of the Tribunal while preparing the report.
- 8.12 The nature of material placed in the sealed cover by the ten witnesses is in the form of intelligence reports, secret informations collected from time to time by the investigating and intelligence agencies, communications between the intelligence agencies, informations revealed on investigation and interrogation of the accused which may lead to further recoveries, discoveries of facts as also unearth conspiracies, the disclosure whereof would be clearly detrimental to the larger public interest and the security of the State. One of the reports also note about a one-month campaign organized by activists of SIMI under the name and banner of an umbrella organization and that the activists of SIMI and some of their members and sympathizers are filing RTI applications in the various proceedings to help the accused or members in the trials for committing various offences. The sealed cover placed on record by Shri S.C.L. Das, Joint Secretary, Ministry of Home Affairs, Government of India who appeared as PW-50 contains the note put up to the Cabinet Committee on Security along with documents supporting the note and the grounds on which the notification was issued besides intelligence inputs and correspondence in relation thereto. Hence, this Tribunal concludes that the claim of privilege of the documents by the witnesses is in accordance with law and the documents submitted in sealed cover are not required to be disclosed in the public interest.

IX Analysis of the evidence

- 9.1 Before dealing with the testimony of 50 witnesses of the Government and the reports submitted by them in sealed cover, this Tribunal would like to first deal with the evidence of the two public witnesses who appeared before the Tribunal and deposed. As noted earlier, Anjum Inamdar (PHW-1) is an Advocate and his version was that investigation carried out by the Police staff of ATS Maharashtra in the German Bakery Blast case in 2010 and the Farashkhana bomb blast in 2014 is not in accordance with the procedure. He also handed over the book authored by S.M. Mushrif wherein the author has expressed his views that Muslims are falsely implicated. He admitted that the facts deposed by him were not based on personal knowledge but his opinion is formed on the basis of newspaper reports, books and magazines. An opinion is not an evidence of fact and is not relevant except when the person rendering an opinion is an expert in terms of Section 45 of the Indian Evidence Act, which the witness is not. Further, as noted, grievance of Sheikh Sarfaraz (PHW-2) was his false implication in three cases. Sheikh Sarfaraz had no personal knowledge about the activities of SIMI. He tendered 12 judgments in which accused were acquitted for offences punishable under Section 3/10/13 UAPA out of which six decisions were delivered prior to the last notification. In the six decisions rendered after the last notification, in Crime No.539/2001 the acquittal was directed as the Investigating Agency failed to prove the Hindi translation of the documents in Urdu. In Crime No.142/2008 the witness turned hostile; in Crime Nos.302/2008, 539/2001 and 7068/2008, it was held that there was no proof beyond reasonable doubt that the accused was a member of SIMI and in Crime No.256/2006 it was not proved who were the speakers at the meeting and whether people from other religion were present causing enmity, hatred and disaffection. In most of the judgments placed on record by this witness, Mohd. Ali, son of Moharram Ali was an accused. Further it was evident from the cross-examination that he was deposing at the instance of his learned counsel Mr.Moharram Ali, whose son Mohd. Ali was in custody in Gujarat bomb blast cases for the last 10 years.
- 9.2 For the purposes of analyzing whether there is sufficient cause to declare 'SIMI' an unlawful association, though this Tribunal will be confining itself to the evidence of offences after the last ban and the judgments delivered thereafter even in the cases registered prior to the last ban, however to show the continuity of action it would also refer to some of the earlier offences committed by the members/activists of SIMI. From the evidence of the 49 Police officers from different States and Union Territory of Delhi, it is evident that the presence of activists of SIMI is in many States across the country, particularly in the States of Kerala, Tamil Nadu, Telengana, Madhya Pradesh, Karnataka, Maharashtra, Bihar, Orissa, Uttar Pradesh, Rajasthan and the Union Territory of Delhi and they continue to commit unlawful activities even after the last ban was imposed in January, 2014. Drawing a time line it has been proved before this Tribunal that despite three bans, in November, 2007 a three-day training camp was organized at Halol, Pavagadh District, near Baroda, Gujarat where thirty members of SIMI attended the programme with prominent leaders like Abdus Subhan Qureshi @ Tauqeer, Qayamuddin Kapria, Chand Mohammed, Amil Parvez, Safdar Nagori besides Alam Zeb Afridi, as was revealed by Alam Zeb Afridi in his confessional statement recorded after his arrest on 23rd January, 2016. Again in June, 2008 despite the bans, a camp of the activists of SIMI was organized at Wagamon for which FIR No. 257/2008 was registered wherein besides other accused Abdus Subhan Qureshi @ Tauqeer and Sheikh Mehboob were also accused. The judgment has been pronounced in FIR No.257/2008 on 14th May, 2018 by the learned Special Court convicting accused Saduli, Hafeez Hussain, Safdar Nagori, Shibily P, Mohammed Ansar P A, Abdul Sathar, Aamil Parwez, Mohammed Sami, Mohd Asif, Nadeem Sayeed, Mufti Abdul Bashir, Danish @ Safi, Manzar Imam, Alam Jeb Afridi, Dr. Asadulla H A, Mohammed Abu Faisal Khan @ Shamsheer, Kamaruddin Nagori, Shakeel Ahammed and Dr. Mirza Ahamed Baig inter alia for offences punishable under Sections 120B/122/124A/153 IPC, Sections 10/13/18/20/38 of UAPA, Section 4 Explosive Substance Act and Section 25/27 Arms Act returning a finding that the persons convicted were members of SIMI. Since Abdus Subhan Qureshi @ Tauqeer could not be arrested, trial qua him was separated and trial qua Sheikh Mehboob stood abated as he died during the trial. The learned Special Judge also held that almost all the persons including accused 1 to 7, 14, 24, 26, 29, 30 and 34 were workers of SIMI who took part in the camp of SIMI and some of them were leaders of SIMI hailing from different States namely Kerala, Gujarat, Madhya Pradesh, Uttar Pradesh and Jharkhand. The lectures given at the camp propagated ideologies and advocated the interests of SIMI which has been declared an unlawful association. Even the various study classes

organized in the camp advocated the ideology of SIMI. While concluding, the learned Special Judge in Para 143 of the judgment held as under:

“The evidence on record clearly establishes that the accused No. 1 to 7, 11, 14, 15, 24, 26, 29, 30, 33, 34, 36 and 38 who attended the training camp organized by SIMI at Wagamon on 10th, 11th and 12 of December, 2007 have undergone various training such as swimming, motor bike racing, rock climbing, rope climbing, firing practice and also conducted classes for promoting ideologies of the SIMI. At the place of occurrence and in MOI car, the presence of explosive substances such as Potassium Chloride, Aluminum powder and Sulphur were detected. The accused hail from various parts of the country such as Kerala, Karnataka, Madhya Pradesh, Maharashtra, Jharkhand and Gujarat. It has come out in evidence that they came from different parts of the country to a hillock in Kerala at Wagamon and conducted a secret camp there for three days. Unless there was a prior meeting of their minds, the accused from six different States of India could not have come together at Wagamon with the intention furthering the objectives of the banned organization SIMI. On a careful examination of the roles played by each accused at the camp it is evident that it is pursuance of a criminal conspiracy hatched by them at the camp was conducted. The various criminal acts committed by the accused at Wagamon prove the prior meeting of their minds. The existence of criminal conspiracy can be readily inferred from the acts of the accused detailed above. Considering all these aspects I am of the view that the prosecution has succeeded in establishing the requirements and ingredients of Section 120B of IPC also.”

- 9.3 The activities of the members/activists of SIMI continued and while lodged in Khandwa jail Abu Faizal, Amjad, Aijajudeen, Zakir Hussain, Sheikh Mehboob, Mohd. Aslam and Abid Mirza escaped from the jail on 1st October, 2013. On 1st February, 2014 at about 9:00 A.M., six armed men committed dacoity on the point of fire-arms at the State Bank of India, Choppadandi Branch, Karimnagar District, State of Telengana and after confining and threatening the bank staff took away net cash of ₹46,00,000/- The accused were captured in the CCTV cameras. Investigations also revealed that they were the same accused persons who had robbed two motorcycles on 1st February, 2014 and after the commission of offence of dacoity had parked the motorcycles at a parking stand. The six accused identified with the help of CCTV footages were Aijajudeen, Sheikh Mehboob, Zakir Hussain, Amjad, Mohd. Aslam and Yunus @ Mohd. Saliq all members of SIMI, professing its ideology out of which Sheikh Mehboob was one of the accused chargesheeted in the Wagmon Camp case. After escaping from the jail Aijajudeen, Mohd. Aslam, Sheikh Mehboob, Zakir Hussain, Amjad Khan and Mohd. Saliq were also involved in the twin blast in coach Nos. S-4 and S-5 at Chennai Central Railway Station on 1st May, 2014 at 7:20 A.M. causing injuries to 15 persons. These accused were duly identified from the photographs captured in the CCTV footages in the other incidents which were identified by the co-passengers. The movement of these accused at the relevant time of the train was also corroborated by the call details.
- 9.4 After committing twin blast at Chennai Central Railway Station on 1st May, 2014 Aijajudeen, Sheikh Mehboob, Zakir Hussain, Amjad Khan and Mohd. Aslam stayed in a rental house at Dharwad, Karnataka under assumed identity and thereafter on 10th July, 2014 Aijajudeen, Sheikh Mehboob, Zakir Hussain, Amjad Khan, Mohd. Aslam were involved in the low-intensity blast that occurred near Shri Swami Snack Centre, Budhwar Peth, Pune causing injuries to five persons including Police officials. The five accused named were identified from the images retrieved from the footages recovered from the CCTVs installed in the area.
- 9.5 After fleeing from Pune, Aijajudeen, Zakir Hussain, Mohd. Aslam, Mohd. Saliq @ Yunus, Amjad Khan and Sheikh Mehboob took refuge in tenanted accommodation at Bijour where they continued their clandestine activities and when they were preparing bombs, an accidental explosion took place causing burn injuries to Sheikh Mehboob. The part-money looted from the State Bank of India at Choppadandi was recovered from the house of the co-accused who had given shelter to these six accused. Further the laptop recovered from the tenanted accommodation where these accused stayed before the blast revealed that they were active members of SIMI. Having escaped from Bijour, Aijajudeen and Mohd. Aslam went into hiding in Telengana. Since on the basis of CCTV footages and identification by the people their complicity in the offence of bank dacoity was known, the

police of Telangana was searching them. While making their escape, on 1st April, 2015 Aijajudeen and Mohd. Aslam first killed two Police officers who were checking at Suryapet Bus Stop and severely injured two Police Constables. They snatched their carbine as well and fled away. On 4th April, 2015 while escaping they again killed one Police Officer and injured two others when Mohd. Aslam and Aijajudeen also died in exchange of fire.

- 9.6 The remaining four accused who were involved in the Bijnour blast and in the earlier cases, escaped and took refuge in assumed identity and were finally arrested by the Police at Rourkela Plant Site on 17th February, 2016. In view of their other involvements they were transferred subsequently to Bhopal jail. On 31st October, 2016, eight SIMI activists escaped from the jail killing one Police officer and confining a guard. On the next day when the eight accused who had fled from Bhopal, Central Jail were spotted by the local villagers, on arrival of the police team, they tried to run on being apprehended and injured three Police officers by knives and daggers besides pelting stones and firing. In the cross-fire all the eight accused namely Sheikh Mujeed, Akeel Khilji, Zakir Hussain, Khalid, Amjad Khan, Sheikh Mehboob, Majid and Mohd. Saliq @ Yunus were killed.
- 9.7 After the arrest of Sheikh Mehboob, Amjad Khan, Zakir Hussain and Mohd. Saliq @ Yunus at Rourkela plant site on 17th February, 2016 as noted above in the testimony of Tapan Kumar Mohanty (PW-46) statement of Amjad Khan was recorded who disclosed that in the year 2004 Sheikh Mehboob, Mohd. Saliq and Firoz took him to the house of Akhil Khilji where he was delivering a speech about revival of SIMI. Thereafter, he was informed about the Darsh programmes and its affiliation by the members of SIMI in the year 2005 and he started attending the weekly meetings with Sheikh Mehboob and Mohd. Saliq @ Yunus where he was introduced to Ekrar Sheikh and Abu Faizal and along with Abu Faizal, he conducted illegal activities and later they were all lodged in Khandwa jail when he along with other SIMI members namely Abu Faizal, Aijajudeen, Mohd. Aslam, Zakir Hussain, Sheikh Mehboob and Akhil Khilji made a plan to escape from jail. That all these above named accused who committed the above noted offences were active members of SIMI is also evident from the statement of Abu Faizal recorded after the Bhopal Jail break on 31st October, 2016
- 9.8 Though Bodh Gaya blast took place on 7th July, 2013 the two main accused Umair Siddiqui and Azharuddin Qureshi were arrested from Raipur in FIR No.740/2013 on 4th November, 2013 and 6th November, 2013 respectively. Imtiyaz Ansari was arrested at Patna Railway Junction where he revealed that his co-accused were attending Hunkar Rally at Gandhi Maidan. On the same day, a series of bomb blasts took place at Gandhi Maidan which resulted in death of six persons and injuries to 89 persons. It was revealed that Umair Siddiqui, Azharuddin Qureshi, Haider Ali and Mujibullah Ansari were the main accused involved in both the Bodh Gaya blast as well as Patna blast.
- 9.9 Confessional statements of Umair Siddiqui and Azharuddin Qureshi recorded on 21st December, 2013 under Section 164 Cr.P.C. and exhibited before this Tribunal as Ex.PW-28/2 and PW-28/3 respectively revealed that even after the ban was imposed by the Central Government on SIMI on 27th November, 2001 in 2004, Mohd. Ali of Jabalpur along with Abdus Subhan Qureshi @ Tauqeer, both members of SIMI, visited Raipur. Later, it was revealed that Mohd. Ali, son of Moharram Ali was the editor of an English magazine and wanted in Ahmedabad blast cases. In the year 2007 SIMI was divided in two groups one of Shahid Badr Falah and the second one of Safdar Nagori. The SIMI cadres of M.P. went to Safdar Nagori and Umair Siddiqui was in the said group. In October, 2010 Iqrar Sheikh, Inamul Sheikh and Abu Faizal had brought Haider to Raipur for the first time. He disclosed his name as Abdullah and that he was the member of SIMI but did not tell from which place he was coming. In the Taqreer that followed, Abu Faizal and Iqrar Sheikh spoke about various topics. A programme was arranged in March, 2001 on the occasion of Holi where lecture on Darsh-E-Quran was given and a film on the WTC attack i.e. 9/11 was shown on the laptop besides lectures on jihad etc. were given. In 2011 Abu Faizal, Iqrar Sheikh and Mojibur Rahman were arrested and Haider Ali again came to meet him for the second time in October, 2011 when he asked Umair Siddiqui and other members of Raipur about the functioning and networking of SIMI. Haider had brought ₹4 lakh which were given to him by Abu Faizal out of which ₹2 lakh were meant for the families of those who were behind the bars and ₹2 lakh for legal aid. In January-February, 2013 Tehseen @ Monu and Waqas had asked Haider to work with them since they wanted to use the network of SIMI and Haider informed them that they were working for ISI. Thereafter, with the

help of Haider Ali, he agreed to the proposal and carried out the blasts. Azharuddin Qureshi also revealed about the networking as also how he along with Umair learnt making the bombs. The two confessional statements of Umair Siddiqui and Azharuddin Qureshi show that despite repeated bans SIMI and its activists continued to work and in a concerted manner committed various offences. During the course of trial besides the confessional statements, protected witnesses also spoke about the Darsh-e-Quran, a programme of SIMI and about the association of the various accused to SIMI.

9.10 The learned Special Judge, NIA has delivered the judgment in the Bodh Gaya blast case on 25th May, 2018 which was exhibited as Ex.PW-28/12 before the Tribunal, wherein these two confessional statements have been held to be admissible and relevant and besides the other evidence available relying upon these confessional statements, the learned Special Judge, NIA has convicted Umair Siddiqui, Azharuddin Qureshi, Imtiyaz Ansari, Haider Ali and Mujibullah Ansari inter alia for offences punishable under Sections 153-A/120-B IPC and Sections 16/18/20/23 UAPA. The learned Special Judge held :

“..... I have read the confessional statements of both the accused, Exts. 48 and 48/1 a number of times in light of its denunciation by the ld. Defence lawyer as not being voluntary and liable to be discarded. On perusal of Exts. 48 and 48/1 it would appear that Umair and Azhar, apart from confessing their role in the matter of planning and conspiracy for causing bomb blast, in the matter of being member of SIMI and in that capacity conducted several programmes at various places in association with other members of SIMI, where the ‘Jehadi’ talks used to take place for taking revenge, in the matter of procuring explosive materials and in harbouring the offenders after bomb blast. Both the said accused have also attributed about different role of accused Haider Ali in the commission of such offence. It seems fair to note here that since all these three accused persons are facing joint trial, the confession of Umair and Azharuddin are relevant against Haider in view of Section 30 of Indian Evidence Act. The law decided by Hon’ble Apex Court in the case of Kashmira Singh Vrs. State is worth to note here in this regard. On meticulous perusal of evidence of PW 67 it would appear that repeatedly he tried to make both the accused, understand the implications and consequences of their confession and it also appears that not only he warned them, but also made them understand by giving time for reflection, as both the accused persons were brought before him in the pre-lunch session at about 11.30 a.m. and they were asked questions by the ld. Magistrate and then they were handed over to the Bench Clerk to keep them in the court room and to produce after 2-3 hours and accordingly, they were produced and their confessional statements were recorded, wherein they have said about the details of their family and their role with regard to bomb blast at Bodh Gaya, they have admitted about their activities as member of SIMI and regarding its programmes. Accused Umair Siddiqui and Azharuddin have confessed about their participation in the planning for committing bomb blast at Bodh Gaya temple and have also confessed that they had procured and supplied chemical to Haider Ali in carrying out the bomb blast at Bodh Gaya. Accused Umair Siddiqui has confessed that he along with his family members and others including Haider, Mujibullah had gone to Keral to see the first Masjid. Haider came to him on 12th July at Raipur and at that time his hairs were very small. The record reveals that prior to making their confession before the Magistrate both the accused persons remained in custody for quite good times and during the period they might have disclosed the names of the area and as such naming those area by them in their confession is absolutely natural and normal phenomena. Section 463 of Cr.P.C. gives a corrective measure to this court with regard to confessional statement of both the accused persons while recording their confessional statement u/s 164 Cr.P.C. general questions were put to them by the Magistrate (as reflects from PW 67) and were not reduced into writing in Exts. 48 and 48/1 by the ld. Magistrate does not frustrate the essence of confessional statement of Umair Siddiqui and Azharuddin because such omission had not prejudiced the accused as during evidence of the Magistrate (PW 67) series of questions were asked by ld. Defence lawyer regarding the entire episode of recording of both the confessional statements.....”

- 9.11 These confessional statements of Umair Siddiqui and Azharuddin Qureshi recorded on 21st December, 2013 under Section 164 Cr.P.C. also corroborate the statement of Yasin Bhatkal which he made after his arrest and revealed that Riyaz Bhatkal, presently the leader of Indian Mujahideen (IM) and erstwhile member of SIMI (presently supposed to be in Pakistan) was making efforts to use the cadres of SIMI for furthering the unlawful activities of IM and it is for this reason that they were trying to use the services of Tehsin @ Monu and Wakas to get in touch with Haider who could contact his *Amir* i.e. Abdus Subhan Qureshi @ Tauqeer, an erstwhile member of SIMI and an accused in the Wagamon camp case who had shifted his base to Nepal.
- 9.12 Evidence adduced by the witnesses who appeared from NIA and Special Cell, Delhi Police revealed that Riyaz Bhatkal was making his efforts and using the cadres of SIMI for furthering the unlawful activities of IM. Mohd.Quateel Siddiqui was arrested in FIR No.54/2011 along with arms, ammunitions, fake currency etc., the same being the first arrest of a member of IM followed by eighteen other accused being arrested. Investigations carried out from the various accused revealed that Riyaz Bhatkal along with his associate Tehseen @ Monu were planning blast and discussions were going on in this regard and about the participation of Wakas. Riyaz asked Tehseen @ Monu to get in touch with Haider @ Black Beauty so that he could involve his *Amir* i.e. Abdus Subhan Qureshi @ Tauqeer who had fled the country after the Ahmadabad Blast in 2008 and was residing in Nepal. Abdus Subhan Qureshi did not agree to meet Riyaz Bhatkal via Haider @ Black Beauty rather met him on his own directly at Riyadh along with Ariz Khan, Iqbal Bhatkal, Mohsin Chaudhary, Afif and two more persons. Abdus Subhan Qureshi @ Tauqeer knew Riyaz Bhatkal very well as they used to meet in Mumbai for SIMI programme.
- 9.13 At Riyadh they discussed about the revival plan of SIMI/IM and decided to take revenge for the death of eight SIMI cadres in encounter after the Bhopal Jail break on 1st November, 2016. It was thus decided that Abdus Subhan Qureshi @ Tauqeer and Ariz Khan would go to India to revive the SIMI/IM modules. However after Abdus Subhan Qureshi crossed the Indo-Nepal Border and was coming to Ghazipur, he was arrested on 9th July, 2018. He also stated that he was in contact with Afif in Pakistan and also about the SIMI cadres having escaped Khandwa jail out of which he knew Abu Faizal and Sheikh Mehboob. He established contact with Alam Zeb Afridi also in December, 2014 whereafter Alam Zeb Afridi was arrested by NIA. Though he did not agree to meet Riyaz Bhatkal through Haider @ Black Beauty, Afif met him at Riyadh in March, 2016 where they discussed about SIMI/IM's future and again in November, 2016, whereafter they met four to five times.
- 9.14 Statement of Ariz Khan @ Junaid who was arrested also while entering into India revealed that on the motivation of ex-SIMI members and IM, he got involved in execution of several terrorist incidents including the UP Court Blast 2007, Jaipur, Ahmadabad, Delhi Serial Blast in the year 2008. On 19th September, 2008, a Delhi Police Team raided their flat at Batla House where he and Shahzad managed to escape from the flat while Atif Ameen, Mohd.Saif and Mohd.Sajid were trapped. He stayed in various hideouts initially in India together with Shahzad and then later went to Nepal where he get in touch with Abdus Subhan Qureshi @ Tauqeer and with the help of top operatives of IM based in KSA and Pakistan planned to revive IM/SIMI in India by contacting the SIMI sympathizers and sleeper cells.
- 9.15 The fact that IM is trying to operate through SIMI cadres is also evident from the evidence of the witnesses who appeared from the State of Rajasthan who deposed about the arrest of Zia-ur-Rehman @ Waqas, Maruf @ Ibrahim and Mohd.Wakar Azhar and Niyajuddin. Further arrest of Ashraf Ali at Jodhpur also revealed the association between the member and activists of SIMI and IM.
- 9.16 Alam Zeb Afridi who has been convicted for being a member of SIMI in the Wagamon Camp Case after being released in the said FIR continued his activities and was involved in two fire incidents at the Israeli Visa Centre at Bangalore on 2nd August, 2014 and 29th November, 2015. Alam Zeb Afridi was also one of the accused in Church Street Blast case on 28th December, 2014 at about 8:30 P.M., killing one woman and causing grievous injuries to number of people. Alam Zeb Afridi was involved in 32 blast cases which took place in 2008 in Ahmedabad and Surat. Finally Alam Zeb Afridi was arrested by the joint team of Karnataka Police and NIA on 23rd January, 2016.
- 9.17 In his confessional statement Alam Zeb Afridi stated about his association with SIMI. He also spoke about a three day training camp at Halol attended by Safdar Nagori, his group members and other

SIMI members including Abdus Subhan Qureshi @ Tauqeer. Alam Zeb Afridi stated that he was a native of Juhapura, Ahmadabad, Gujarat and that after failing in the 12th standard he joined Jamat-E-Islami in the year 2004. He used to go to the library and read books, magazines and other material. He also read about the riots of Gujarat in the year 2002. He used to read Tehrik-e-Millat, a monthly magazine published by SIMI. Though the said magazine was not on the register in the library but one unknown person used to keep these magazines in the library. After being attracted to the ideology of SIMI, he became its executive member and committed firstly the blasts at Ahmadabad and Surat, then fire on Israeli Visa Centre twice and was also involved in Church Street Blast.

- 9.18 As held by the Supreme Court in *Jamat (supra)* this Tribunal is required to modulate a procedure so as to objectively determine the credibility of the material produced before it and thereafter weigh the same in the nature of adjudication of a lis between two parties, the outcome whereof would show whether or not there is sufficient cause for declaring the association unlawful. The material placed before the Tribunal is pursuant to affidavits on oath tendered by Police officers, some of whom are also the investigating officers and have thus direct information with regard to the facts revealed during the course of investigations and statements made before them. Other witnesses are supervisory officers and/ or nodal officers who have collected informations on the basis of records maintained in the various offices of the Police department, the material produced being, inter alia, admissible under Section 35 of the Indian Evidence Act. The credibility of the statements of the accused recorded before them also gets established by the fact that in the statements of some of the accused recorded by different Police officers from different jurisdiction similar facts and evidences are emerging.
- 9.19 From the evidence led before this Tribunal it is evident that the accused who have committed various offences in various jurisdiction have been found to be members/activists of SIMI and by entering into conspiracy they committed various offences in line with the ideologies and propagation of SIMI. Further evidence has come on record in the form of statement of witnesses as also findings by the Courts of competent jurisdiction that some of the accused who have committed the offences as noted above are members of SIMI, some of whom have also been convicted for being members of the unlawful association/ raising funds for the association participating in its activities, thereby negating the plea that the offences were committed in individual capacity with no linkage to SIMI.
- 9.20 From the material placed before the Tribunal and as noted above, it is evident that members/activists of SIMI who were involved in commission of heinous offences and unlawful activities prior to the seventh ban continued commission of heinous offences and unlawful activities then after the last ban with members within and outside the country, on their own and/or with the support of other terrorist organizations.
- 9.21 The arrest of Abdul Rehman Umari, the erstwhile State President of SIMI operating under the name of *Wahadat-e-Islami* and Khwaja Moinuddin on 18th June, 2014, Shah Mudassar and Shoaib Alam in Crime No.338/2014 on 22nd October, 2014 and shouting of slogans by 18 persons including Abu Faizal, Irfan Nagori, Umer Ahmed etc. on 17th May, 2014 shows that the members and activists of SIMI are continuing with their objectives.
- 9.22 From the arrest of Pathan Tausif Khan and Sanna Khan @ Shahansha and Gulam Sarvar Khan in Crime No.377/2017 extensive recoveries in the form of training modules, code words, messages, jehadi literature, jail break strategies at different jails, names of the SIMI activists who had been killed in police encounter, name of the CBI Special Judge who convicted Safdar Nagori and other SIMI activists, name of a Government Advocate, pen drives, SIM cards, memory cards inter alia were recovered which clearly shows that the activists of SIMI were still continuing with their activities despite the repeated bans on SIMI and some of the accused involved in terrorist activities like Pathan Tausif Khan were given shelter by Gulam Sarvar Khan who was an Ansar of SIMI and that the members of SIMI who retired, joined the new organization *Wahadat-e-Islami Hind* and continued with the activities. Thus, members of SIMI continue to give support to other members. Further the materials/files recovered from the pen drives, memory card etc reveal the links between Al-Qaida, ISIS, JEM, LET and SIMI.
- 9.23 From the evidence of witnesses particularly PW-8, PW-11, PW-14, PW-17, PW-28, PW-31, PW-33 and PW-45, there is sufficient material to show that the activists of SIMI are getting finances in two forms besides the foreign funding. The funds received within the country can be broadly classified

in two different heads; i) Jhakat/Donation and funds from members/ ex-members and sympathizers and ii) by robberies and dacoities.

- 9.24 Jhakat/Donation/Funds from members/ex-members and sympathizers: Though the literal meaning of Jhakat is religious tax, however from the evidence of witnesses it is revealed that monies were being collected as donations for which donation slips were issued and they were being utilized for funding the unlawful activities of members, activists, sympathizers of SIMI and to carry out its aims and objectives. D. Hari Kumar Yadav (PW-8) who has deposed about the CR.No. 338/2014 stated that on 22nd October, 2014 at 9.50 hours while Inspector S. Ramachander Reddy was on normal checking duty on Secundrabad Railway Station, he noticed two persons in suspicious circumstances, namely Shah Mudassir Talha and Shoaib Ahmed Khan @ Tareek. On their search incriminating material in the form of literature, CDs, pen-drives, mobile phone, original passport of Shoib Ahmed, cash and a donation slip for a sum of ₹100/- in favour of SIMI were recovered. Ankit Garg (PW-28) also deposed that Farooq Saheb, the Treasurer of Jhakat Committee went for Haj when protected the witness (X-10), worked as the Treasurer of the Committee for two months and found that a sum of ₹ 30,000/- had been given from the Committee fund to Haider. Abhishek Maheshwari (PW-17) deposed that in CR.No. 740/2013 on search of Umair Siddiqui's residence blank SIMI Membership forms, ammonium nitrate, laptop, lay-out planning of Bodh Gaya bomb blast, etc. were recovered. From the house search of Umair Siddiqui donation slips were recovered. In his statement recorded under Section 164 Cr.P.C. Umair Siddiqui stated that he received ₹ 2.5 lakhs from Haider which had been given by Abu Faizal. The said amount was given through one Saddani Darbar at Raipur. Further, Haider gave ₹ 55,000/- to Abu Faizal which he kept for Patna bomb blast and also borrowed money from one of his friends. Haider also brought ₹ 70,000/- to deposit and send for the expenses of Muslim families relating to SIMI of Madhya Pradesh. Umair's personal expenses were met through Hidayat Bhai and Aslam Bhai of Ranchi and Aftab Bhai of Mujafarpur. Azharuddin Qureshi stated that Umair Siddiqui used to bear the expenses of their lodging and boarding through the money of Jhakat and used to get all his work done through him. Witness Ramesh Sahu stated that Amar Parvez used to collect donations for SIMI from Raipur and even now a sum of ₹ 72,500/- was kept as donation for SIMI from Raipur with his associate Wahid. Witness Abdul Mosim Khan stated that he had attended one of the programmes of SIMI wherein it was stated that those killed in the attack were martyrs and will go to Jannat, that they had to do Jihad against Hindustan and collect funds for training of Jehadees. Further, Anurag Kumar (PW-31) also deposed in relation to the collection of funds for Jihad. The learned Special Judge while convicting Umair Siddiqui, Haider Ali and Azharuddin Qureshi held that Haider was given ₹10,000/- as funds collected as Chanda on the request of Shahbaz. The witness who appeared before the Trial Court also gave ₹30,000/- to Haider Ali and the said money was given by Jhakat Committee run by Ujair Bhai. After taking money Haider asked him '*bomb rakhne chalega*', however the witness refused.
- 9.25 Rajesh Kumar (PW-33) deposed about the statements made by Umair Siddiqui and Azharuddin Qureshi who revealed that they arranged the logistics, plannings, hide-outs, raising of funds and procuring explosives and chemicals used in the preparation of IEDs in which Haider Ali @ Black Beauty, a trained bomb maker, also helped them to raise funds and to carry out the attack. Ankit Garg, (PW-28) the Nodal Officer of NIA deposed on the basis of statements of Umair Siddiqui recorded under Section 164 Cr.P.C. which revealed that Haider was given ₹ 4 lakhs by Abu Faizal, ₹2 lakhs for the families of members of SIMI who were inside and ₹ 2 lakh for their legal aid. In the Bodh Gaya blast for which FIR No. 162/2013, 163/2013 and 164/2013 were registered and were transferred to NIA and re-registered as NIA case RC No. 7/2013, 8/2013 and 9/2013, the Special Judge, NIA Court has already convicted Umair Siddiqui, Azharuddin Qureshi, Imtiyaz Ansari, Haider Ali and Mujibullah Ansari for various provisions including Section 16/18/20/23 of UAPA besides Sections 120B/153A/307 IPC and 3/4 of Explosives Act. Haider Ali, Umair Siddiqui, Azharuddin Qureshi have also been convicted for offence punishable under Section 17 of the UAPA for raising funds for terrorist activities vide the judgment dated 25th May, 2018. Further during the course of trial witnesses have also spoken of efforts made by SIMI members in its meetings to collect funds.
- 9.26 Collection of funds through robberies and dacoities: T. Usha Rani (PW-14) deposed about the dacoity committed at State Bank of India Choppadandi, Karimnagar District on 1st February, 2014 by six persons out of which four entered inside the bank and at the point of knife took away net cash

approximately ₹ 46 lakhs for which CR. No. 16/2014 was registered at PS Choppadandi, Karimnagar. The movements of the accused while committing the dacoity were captured in the CCTV cameras and from the photographs so developed it was revealed that the accused had first robbed two motorcycles and after the incident parked the said two motorcycles at the parking stand. Chance prints of left thumb and left middle finger of Mohd. Aslam S/o Ramjan recovered from the State Bank of India, Choppadandi Branch tallied with his finger impressions. After the Bijour blast took place on 12th September, 2014 photographs of the accused collected from the CCTV it was revealed that the accused who were hiding at Bijour and making explosives which accidentally exploded were the same who were involved in the Choppadandi dacoity case. Further, from the house of the co-accused who had given shelter to the main accused namely Husna, a sum of ₹7,74,600/- was recovered, which were the same currency notes robbed from State Bank of India, Choppadandi Branch i.e. the train blasts at Chennai Central Railway Station on 1st May, 2015, followed by the low intensity blast at Pune on 10th July, 2015, whereafter they moved to Bijour, which fact has also been proved by the testimony of Sudhanshu Singh (PW-30). It is thus evident that the activists of SIMI after the escape from Khandwa jail committed dacoity of ₹ 46 Lakhs on 1st February, 2014 and thereafter the looted money was used in committing number of offences. Even prior thereto Abu Faizal, Chief of SIMI of Indore Unit and Aijajudeen etc., were found involved in the dacoity which took place at Mannapuram Gold Finance Company in the year 2010 wherein judgment was delivered by the Competent Court on 31st March, 2018 and Abu Faizal and Mohd. Iqrar have been convicted for offences punishable under Section 120B read with 395/397 IPC, Section 10(1)A and 17 of UAPA. However, proceedings qua Mohd. Aslam, Zakir Hussain, Mohd. Aijajudeen and Sheikh Mujib Ahmed, the accused also involved in the Choppadandi dacoity case, were abated as they had died in cross-fires after their escape.

- 9.27 **Foreign funding:** In his confessional statement recorded Yasin Bhatkal stated about the influence of Riyaz Bhatkal, one of the superiors of IM and earlier member of SIMI based in Pakistan. He stated that pursuant to a message received from Riyaz he received a sum of ₹40,000/- by transfer via Western Union. Yasin Bhatkal also revealed that as and when required Riyaz used to send money through Western Union in the names of two/three persons. The decoded chats also revealed that money sent by Riyaz through different channels was received at various places and distributed including to the activists of SIMI which cadre they were using. Further arrest of Mohd. Faiz in Crime No. 9/2019 where he was trying to travel abroad on a fictitious name also revealed about his earlier visits to different countries for raising funds for SIMI.
- 9.28 **Frontal Organization/connect with other Terrorist Organizations :** In relation to FIR No.338/2014 PW-8 D.Hari Kumar Yadav stated that the material recovered from the facebook account of Shoaib had literature about forming of the explosive material, Jehadi methodology along with chats with counterparts in Afghanistan, Iran, Pakistan, for example belonging to Zahid A1 Hindi, Abu Saif etc. The two accused were in touch with foreign organization namely ISIS and Al-Qaida. The analysis of the laptops and the hard-disks contained incriminating material like speeches of Maulana Masood Azhar, Jaish-E-Mohammad, formally quoted as 'Hyderabad Biryani', with few videos bites downloaded from *Al Isabha* websites which is the media of ISIS. Pen drives/memory cards recovered after the arrest of Pathan Tausif Khan and Ghulam Sarvar Khan revealed the links of Al-Quida, ISIS, JEM and LET with SIMI. Further sufficient evidence has come on record to prove that IM is using the cadres of SIMI for its terrorist activities.
- 9.29 Evidence on record also reveals that in the early adolescent age boys are indoctrinated resulting in their commission of offences even when they are juveniles or immediately on attaining the age of majority. During the trial in Bodh Gaya blast case witnesses have spoken that in the meetings of SIMI it was also discussed how to associate new boys with SIMI organization. Some of the accused arrested and facing trial/ convicted were as young as 18-25 years and before reaching the age of majority trained into making bombs etc. Illustrative example of recruitment of young boys is an inquiry report submitted before the Juvenile Justice Board in respect of one 'T' on 16th August, 2018 in CR. No. 740/2013 registered at PS Civil Lines, Raipur for offences punishable under Sections 212/ 216/ 121/ 124A/ 153A IPC, Sections 3/7/10/11/13/15/16/18/19/20/39/41 UAPA, Sections 25/27 Arms Act and Section 345 Explosive Substance Act. The association of 'T' started with SIMI in the year 2012 when he was aged 14 years. 'T' stated that he came in contact with Haider Ali @ Abdullah, head of SIMI organization in Bihar in the year 2012 and on the asking of

the Haider, he took membership of SIMI and became its active member. He went to Raipur with Haider number of times in the year 2013 and stayed in Raja Talab where meetings used to take place with other organizations of SIMI. He was also involved in the Bodh Gaya bomb blast and Patna bomb blast with Haider. 'T' stated that in the meetings of SIMI activists in Raipur, the members used to discuss about waging war against India, sedition and explosion of bomb and bringing Islamic governance in India etc. One of the witnesses has also stated that the members of SIMI retire at the age of 30 years and thereafter form *Jamaat-E-Islami*.

- 9.30 Ten witnesses of the police have given information including intelligence reports and interrogation reports of the various accused in sealed cover which reveal about the funds received by the members/activists of SIMI and that the activities and ideologies of SIMI are being carried out by frontal organizations, the cadres of SIMI are being used by other terrorist outfits and also reveal names of other accused involved in the larger conspiracies who have not been arrested as yet. Material in sealed cover also reveals about number of Frontal Organizations and connect with other terrorist organizations disclosure whereof would be injurious to public interest.
- 9.31 From the evidence adduced before this Tribunal and the material placed on record it is evident that the activities of SIMI are continuing through its members/activists/sympathizers, they are expanding the cadres by indoctrinating young boys and that its cadre is being used by other terrorist organizations to continue unlawful/terrorist activities in India. Some of the Members/activists of SIMI are working under the umbrella of frontal organization and/or are having links with number of other terrorist organizations e.g. Al-Qaeda, LET, JEM, ISIS, IM etc. It is also evident that they are continuing to receive funds within India as also through foreign funding despite SIMI having been declared a banned organisation in the year 2001 which ban is still continuing till date except for a very brief period.

X. **Conclusion**

- 10.1 Having analyzed the evidence led before this Tribunal, there is sufficient material to hold that conditions of Section 2(p)(i) and (ii) of UAPA are satisfied in the present case. Hence, in view of the findings as above, it is held that there is sufficient cause for declaring Students Islamic Movement of India (SIMI) as an "unlawful association" and an order is passed under Section 4 (3) of the UAPA confirming the declaration made in the notification of the Ministry of Home Affairs S.O. 564(E) dated 31st January, 2019 issued under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967.

JUSTICE MUKTA GUPTA

UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

July 29, 2019

[F. No. 14017/29/2019-NI-III]

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

ANNEXURE – I

DETAILS OF CASES REGISTERED AGAINST SIMI ON OR AFTER 1ST FEBRUARY 2014

BIHAR

1. Case Crime No. 377/2017 has been registered at Civil Lines Police Station, Gaya, Bihar under sections 216, 124A, 120B and 34 of the Indian Penal Code and under sections 13, 16, 18, 19, 20 and 38 of the Unlawful Activities (Prevention) Act, 1967 against the accused Pathan Tauseef Khan *alias* Mohd. Atiq, Shahanshah Khan *alias* Sanna Khan, Gulam Sarvar Khan and their unknown associates for their alleged involvement into seditious activities, harboring terrorist, being the member of proscribed terrorist organization and getting involved into terror related activities.

KARNATAKA

2. Case Crime No. 309/2014 has been registered at Cubbon Park Police Station, Bengaluru, Karnataka under sections 121, 121A, 120B, 153, 307 and 302 of the Indian Penal Code and sections 3, 4 and 5 of the Explosive Substances Act, 1908 and sections 3, 10, 15, 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 against the accused Alamjeb Afridi *alias* Alamjeb Khan *alias* Mohammed Rafiq *alias* Jaweed *alias* Jaid Afridi *alias* Alamzeb Khan *alias* Chikna *alias* Javed in the matter of Bangalore Church Street Blast. This case was taken over by National Investigation Agency and re-registered the case as National Investigation Agency Case No. RC 01/2015/NIA/Hyd. on 20.05.2015.

MADHYA PRADESH

3. Case Crime No. 424/2014 has been registered at MP Nagar Police Station, Bhopal, Madhya Pradesh under sections 295, 153B and 34 of the Indian Penal Code and section 10 of the Unlawful Activities (Prevention) Act, 1967 against the accused Majid Nagori and seventeen others. Accused Akil Khilji, Khalid Ahmed and Abdul Majid had shot dead in police encounter after absconding from judicial custody. After hearing, the Court of Chief Judicial Magistrate, Bhopal has convicted the rest of the fifteen accused under sections 153B and 295B of the Indian Penal Code for three years rigorous imprisonment and fine of rupees one thousand for each accused person.
4. Case Crime No. 100/2015 has been registered at Gandhi Nagar Police Station, Bhopal, Madhya Pradesh under sections 294, 353, 506 and 34 of the Indian Penal Code against the accused Abu Faizal and Sharafat. After hearing, the Court of Chief Judicial Magistrate, Bhopal has convicted both the accused under section 353 of the Indian Penal Code for two years rigorous imprisonment and fine of rupees five hundred each and convicted under section 506 of the Indian Penal Code for three years rigorous imprisonment and fine of rupees five hundred for each accused person.
5. Case Crime No. 393/2016 has been registered at Moghat Road Police Station, Khandwa, Madhya Pradesh under section 124A of the Indian Penal Code against the accused Mohd. Aasif Shayar.
6. Case Crime No. 270/2016 has been registered at Gandhi Nagar Police Station, Bhopal, Madhya Pradesh under sections 342, 307, 302, 120B, 224, 34 and 353 of the Indian Penal Code and sections 3, 10, 13, 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 against Akeel Khilji and seven others. All the accused have been shot dead in police encounter in Bhopal on 31.10.2016.
7. Case Crime No. 355/2016 has been registered at Gunja Police Station, Bhopal, Madhya Pradesh under sections 307, 147, 148, 149 and 332 of the Indian Penal Code and sections 25 and 27 of the Arms Act, 1959 (54 of 1959) and sections 3, 10 and 13 of the Unlawful Activities (Prevention) Act, 1967 against Akeel Khilji and seven others. All the accused have been shot dead in police encounter in Bhopal on 31.10.2016.

MAHARASHTRA

8. Case Crime No. 09/2014 has been registered by Anti Terrorism Squad, Mumbai, Maharashtra under sections 307, 324, 427 and 120B of the Indian Penal Code read with sections 3, 4 and 5 of the Explosives Act, 1884 (4 of 1884) read with sections 16 and 18 of the Unlawful Activities (Prevention) Act, 1967 against five SIMI activists, in the matter of blast occurred opposite to Shree Swami Samarth Snack Centre, Budhwar Peth, Pune, Maharashtra. Out of five accused, two were shot dead in police encounter with Telangana Police at Nalgonda, Telangana and three were shot dead in Police Encounter with Madhya Pradesh Police, after illegally escaping from the Bhopal Central Jail.

ODISHA

9. Case Crime No. 38 dated 17.02.2016 at Plant Site Police Station, Rourkela, Odisha under sections 147, 148, 120B, 121, 121A, 122, 307, 467, 471 and 149 of the Indian Penal Code read with sections 25 and 27 of the Arms Act, 1959 and sections 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 has been registered against four SIMI hard core terrorists along with mother of one of the terrorist namely (1) Sk. Mehboob *alias* Guddu *alias* Aftab; (2) Md. Amzad Khan *alias* Pappu *alias* Daud *alias* Umar *alias* Gopal Singh; (3) Zakir Husain *alias* Sadiq *alias* Vicky Don *alias* Vinay Kumar *alias* Anand Joshi *alias* Imtiaz; (4) Md. Saliq *alias* Sallu *alias* Yunus *alias* Sanjay; and (5) Najma Bee (Mother of Sk. Mehboob) for their arrest on 16/17.02.2016 night from Qureshi Mohalla, Nala Road, Rourkela, District-Sundargarh. During investigation, it is learnt that, the above four terrorists were active members of SIMI which is a banned organisation and were killed in Police encounter in Bhopal on 30/31.10.2016, following Jail break in Bhopal (Madhya Pradesh).

TAMIL NADU

10. Case Crime No. 02/2014 has been registered by S.B.C.I.D. Metro Police, Chennai, Tamil Nadu under sections 326, 307 and 302 of the Indian Penal Code read with sections 3, 4 and 5 of the Explosive Substances Act, 1908 read with section 151 of the Railways Act, 1989 (Formerly Chennai Railway Police Cr. No. 273/2014) in the matter of two IED blasts, occurred in Train No. 12509 (Bangalore-Guwahati Express) at Platform No. 9 in Chennai Central Railway Station. During the investigation, the involvement of three ex-SIMI activists have been established. All these ex-SIMI cadres have been killed in two separate encounters.
11. Case Crime No. 432/2014 has been registered by D2 Selvapuram Police Station, Coimbatore, Tamil Nadu under sections 120B, 153A and 505(1) of the Indian Penal Code against ten accused persons including some ex-SIMI cadres for hatching a conspiracy with an intention to eliminate Hindu Organisation leaders in Coimbatore in order to create communal disharmony.

TELANGANA

12. Case Crime No. 30/2014 has been registered by Mehboobnagar-II Town Police Station, Mahabubnagar, Telangana under section 379 of the Indian Penal Code against six SIMI activists for theft of motorcycle at Mahaboobnagar, Telangana. Out of these six accused persons, three died in Police Encounter at Bhopal on 30.10.2016.
13. Case Crime No. 10/2014 has been registered by Devarakonda Police Station, Nalgonda, Telangana under section 379 of the Indian Penal Code against six SIMI activists for theft of motorcycle at Devarakonda, Nalgonda, Telangana. Out of these six accused persons, three died in Police Encounter at Bhopal on 30.10.2016.
14. Case Crime No. 16/2014 has been registered by Choppadandi Police Station, Karimnagar, Telangana under sections 395 of the Indian Penal Code, clause (a) and clause (b) of sub-section (1) of section 25 and section 27 of the Arms Act, 1959, sections 10, 13, 17, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 against six SIMI activists for robbery of rupees forty six lakhs from State Bank of India, Choppadandi, Karimnagar, Telangana. Out of these six accused persons, three died in Police Encounter at Bhopal on 30.10.2016.
15. Case Crime No. 120/2015 has been registered by Suryapet TN Police Station, Nalgonda, Telangana under sections 302, 307, 394 and 34 of the Indian Penal Code, sub-section (1) of section 25 of the Arms Act, 1959 against two SIMI activists for opening fire on police team, killing two police personnel and injuring Circle Inspector and Home Guard, while the police team conducted frisking on suspicious passengers in Suryapet Hi-tech bus stop at Nalgonda district on 01/02.04.2015. The accused grabbed a 9 MM Carbine weapon from police team and fled away. These accused died in Police encounter on 04.04.2015 at Janakipuram, Nalgonda, Telangana.
16. Case Crime No. 34/2015 has been registered by Mothkur Police Station, Nalgonda, Telangana under sections 302, 307 and 34 of the Indian Penal Code and section 27 of the Arms Act, 1959. The facts of the case are that, in the morning hours on 04.04.2015, Police team was moving to Janakipuram, Nalgonda district. In the meantime, two assailants came from opposite direction and an exchange of fire took place between the police and the assailants, resulting in death of assailants and a Police Constable, besides injuring an Inspector of Police of Ramannapet Police Station and a Sub-Inspector of Police of Atmakur Police Station. Police seized two country made short weapons and one 9 MM carbine from the scene of offence which was stolen from the slain policemen at Suryapet, Nalgonda. The dead assailants were identified as activists of SIMI cadre.
17. Case Crime No. 22/2015 has been registered by Arvapalli Police Station, Telangana under section 384 of the Indian Penal Code. The facts of the case are that, while the complainant was proceeding on his bike and reached Arvapalli village centre, where the two accused persons stopped him and kept gun on his abdomen and head and forcibly took his bike and fled away with high speed towards Thirumalagiri. The two assailants died later and were identified as activists of SIMI cadre.
18. Case Crime No. 23/2015 has been registered by Arvapalli Police Station, Telangana under section 307 of the Indian Penal Code and clause (A) of sub-section (1) of section 25 of the Arms Act, 1959. The facts of the case are that, the complainant stated that on credible information he along with his staff crossed bridge of Sri Ram Sagar Project canal at Seethampuram where they found two persons

escaping. On being asked to stop, they started firing with weapons and in return the complainant also fired against them with his service pistol but the accused escaped. The two assailants died later and were identified as activists of SIMI cadre.

19. Case Crime No. 338/2014 has been registered by Gopalpuram Police Station, Hyderabad, Telangana under sections 121, 121A, 153A and 120B of the Indian Penal Code and section 10 of the Unlawful Activities (Prevention) Act, 1967. The facts of the case are that, the Hyderabad Police arrested two accused (both resident of Maharashtra State) at Secunderabad Railway Station. They were the members of the newly created 'Electronic War Fare Technology Group/SIMI' to help the Indian branch of Al-Qaeda. It is learnt that they came to Hyderabad to go to Afghanistan to participate in Al-Qaeda training programme.

UTTAR PRADESH

20. Case Crime No. 964/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 121A, 122, 216 and 120B of the Indian Penal Code against eleven SIMI activists for Improvised Explosive Device Blast that took place in a rented room in Bijnor (Uttar Pradesh). Out of the eleven accused persons, two were killed in an encounter with Telangana Police on 04.04.2015 and four were killed in an encounter with Madhya Pradesh Police on 31.10.2016.
21. Case Crime No. 965/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 13, 18, 23, 21, 38, 39 and 40 of the Unlawful Activities (Prevention) Act, 1967 against eleven accused for Improvised Explosive Device Blast that took place in a rented room in Bijnor (Uttar Pradesh). The case was transferred to National Investigation Agency for further investigation. It was found in the case that, a SIMI module was involved in the incident. Out of the eleven accused persons, two were killed in an encounter with Telangana Police on 04.04.2015 and four were killed in an encounter with Madhya Pradesh Police on 31.10.2016.
22. Case Crime No. 966/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under section 25 of the Arms Act, 1959 against eleven SIMI activists for Improvised Explosive Device Blast that took place in a rented room in Bijnor (Uttar Pradesh). Out of the eleven accused persons, two were killed in an encounter with Telangana Police on 04.04.2015 and four were killed in an encounter with Madhya Pradesh Police on 31.10.2016.
23. Case Crime No. 967/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under section 4/25 of the Arms Act, 1959 against eleven SIMI activists for Improvised Explosive Device Blast that took place in a rented room in Bijnor (Uttar Pradesh). Out of the eleven accused persons, two were killed in an encounter with Telangana Police on 04.04.2015 and four were killed in an encounter with Madhya Pradesh Police on 31.10.2016.
24. Case Crime No. 968/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 4 and 5 of the Explosive Substances Act, 1908 against eleven SIMI activists for Improvised Explosive Device Blast that took place in a rented room in Bijnor (Uttar Pradesh). Out of the eleven accused persons, two were killed in an encounter with Telangana Police on 04.04.2015 and four were killed in an encounter with Madhya Pradesh Police on 31.10.2016.
25. Case Crime No. 974/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 121A, 122 and 120B of the Indian Penal Code in the matter of Bijnor Blast case. Later on, this case was merged with Case Crime No. 964/2014.
26. Case Crime No. 975/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 4 and 5 of the Explosive Substances Act, 1908 in the matter of Bijnor Blast case. This case is pending in trial Court.
27. Case Crime No. 976/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 13, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 in the matter of Bijnor Blast case. This case is pending in trial Court.
28. Case Crime No. 977/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 121A, 122, 216 and 120B of the Indian Penal Code in the matter of Bijnor Blast case. Later on, this case was merged with Case Crime No. 964/2014.

29. Case Crime No. 978/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 4 and 5 of the Explosive Substances Act, 1908 in the matter of Bijnor Blast case. This case is pending in trial Court;
30. Case Crime No. 979/2014 has been registered by Kotwali Police Station, Bijnor, Uttar Pradesh under sections 13, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 in the matter of Bijnor Blast case. This case is pending in trial Court.

DELHI

31. Case Crime No. 50/2014 has been registered by Special Cell Police Station, Delhi under section 120B of the Indian Penal Code and sections 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 after the accidental blast in Bijnor (Uttar Pradesh) on 12.09.2014 in the hideout of reported absconding members of SIMI.

NATIONAL INVESTIGATION AGENCY (NIA)

32. Case Crime No. RC-01/2015/NIA-DLI has been registered by National Investigation Agency under sections 121A and 122 of the Indian Penal Code, section 25 of the Arms Act, 1959, sections 4 and 5 of the Explosive Substances Act, 1908 and sections 13, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 against eleven accused in the matter of Improvised Explosive Device Blast at Bijnor, Uttar Pradesh.
33. Case Crime No. RC-10/2015/NIA-DLI has been registered by National Investigation Agency under sections 120B, 121A and 122 of the Indian Penal Code, sections 4 and 5 of the Explosive Substances Act, 1908 and sections 13, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 against one accused in the matter of Improvised Explosive Device Blast at Bijnor, Uttar Pradesh.
34. Case Crime No. RC-11/2015/NIA-DLI has been registered by National Investigation Agency under sections 120B, 121A and 122 of the Indian Penal Code, sections 4 and 5 of the Explosive Substances Act, 1908 and sections 13, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 against two accused in the matter of Improvised Explosive Device Blast at Bijnor, Uttar Pradesh.

ANNEXURE - IIDETAILS OF CASES IN WHICH, JUDGEMENT HAVE BEEN DELIVERED AND ENDED WITH CONVICTION OF ACCUSED SIMI ACTIVISTS ON OR AFTER THE BAN IMPOSED ON 1ST FEBRUARY, 2014.MADHYA PRADESH

- (1) One SIMI activist was sentenced to two years rigorous imprisonment and a fine of rupees one thousand by the Court of Additional Chief Judicial Magistrate, Indore in Case Crime No. 479/2001, registered at Aerodrome Police Station, Indore, Madhya Pradesh under section 10 of the Unlawful Activities (Prevention) Act, 1967.
- (2) One SIMI activist was sentenced to two years simple imprisonment by the Court of Judicial Magistrate of first class, Indore in Case Crime No. 304/2001, registered at Khajrana Police Station, Indore, Madhya Pradesh under section 10 of the Unlawful Activities (Prevention) Act, 1967.
- (3) One SIMI activist was sentenced to two years imprisonment and a fine of rupees five hundred by the First Class Court, Burhanpur in Case Crime No. 269/2001, registered at Kotwali Police Station, Burhanpur, Madhya Pradesh under section 153A of the Indian Penal Code and sub-section (1) of section 10 of the Unlawful Activities (Prevention) Act, 1967.
- (4) Two SIMI activists were sentenced to one year rigorous imprisonment and a fine of rupees five hundred each under sections 153A and 153B of the Indian Penal Code and two year rigorous imprisonment and a fine of rupees five hundred each under sections 10 and 13 of the Unlawful Activities (Prevention) Act, 1967 by the Court of Chief Judicial Magistrate, Sihor in Case Crime No. 239/2008, registered at Kotwali Police Station, Sihor, Madhya Pradesh under section 153A of the Indian Penal Code and sections 3, 10 and 13 of the Unlawful Activities (Prevention) Act, 1967.

- (5) Three SIMI activists were sentenced to five years rigorous imprisonment each and eleven SIMI activists were sentenced to life imprisonment by Fourth Additional District and Sessions Judge, Indore in Case Crime No. 120/2008, registered at Pithampur Police Station, Dhar, Madhya Pradesh under sections 122, 124A and 153A of the Indian Penal Code and sections 3, 10 and 13 of the Unlawful Activities (Prevention) Act, 1967 and sections 25 and 27 of the Arms Act, 1959 and sections 3, 4, 5 and 6 of the Explosives Act, 1884 (4 of 1884).
- (6) One SIMI activist was sentenced to three years rigorous imprisonment and a fine of rupees five hundred by the Court of Judicial Magistrate of first class, Indore in Case Crime No. 181/2008, registered at Aerodrome Police Station, Indore, Madhya Pradesh under sections 3, 10 and 13 of the Unlawful Activities (Prevention) Act, 1967.
- (7) Three SIMI activist were sentenced to life imprisonment each and a fine of rupees one thousand each under sections 307 and 120B of the Indian Penal Code by the Court of Special Judge, National Investigation Agency, Bhopal in Case Crime No. 14/2009, registered at Kotwali Police Station, Khandwa, Madhya Pradesh under sections 307, 295, 153A, 124A, 120B, 212 and 34 of the Indian Penal Code and sections 3, 10, 13, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 and sections 25 and 27 of the Arms Act, 1959. Case against four other accused has been dropped due to their death in police encounter in the case.
- (8) One SIMI activist was sentenced to life imprisonment and fine of rupees one thousand under sections 302 and 120B of the Indian Penal Code, life imprisonment and fine of rupees one thousand under clause (a) of sub-section (1) of section 16 of the Unlawful Activities (Prevention) Act, 1967, ten years rigorous imprisonment and fine of rupees one thousand under section 18 of the Unlawful Activities (Prevention) Act, 1967, seven years rigorous imprisonment and fine of rupees one thousand under section 27 of the Arms Act, 1959, three years rigorous imprisonment and fine of rupees one thousand under clause (a) of sub-section 1B of section 25 of the Arms Act, 1959. Another SIMI activist was sentenced to three years rigorous imprisonment and fine of rupees one thousand under clause (a) of sub-section 1B of section 25 of the Arms Act, 1959 (54 of 1959) by the Court of Special Judge, National Investigation Agency, Bhopal in Case Crime No. 728/2009, registered at Kotwali Police Station, Khandwa, Madhya Pradesh under sections 302, 120B and 34 of the Indian Penal Code, sections 3, 10, 13, 15, 16A, 18, 20, 38 and 39 of the Unlawful Activities (Prevention) Act, 1967 and sections 25 and 27 of the Arms Act, 1959. Case against four other accused has been dropped due to their death in police encounter in the case.
- (9) One SIMI activist was sentenced to three years rigorous imprisonment and fine of rupees one thousand under section 379 of the Indian Penal Code, seven years rigorous imprisonment and fine of rupees one thousand under section 468 of the Indian Penal Code. One another SIMI activist was sentenced to three years of rigorous imprisonment and fine of rupees one thousand under section 411 of the Indian Penal Code, seven years of rigorous imprisonment and fine of rupees one thousand under section 468 of the Indian Penal Code by the Court of Special Judge, National Investigation Agency, Bhopal in Case Crime No. 72/2010, registered at Itarsi Police Station, Hoshangabad, Madhya Pradesh under sections 379, 468 and 411 of the Indian Penal Code and sections 3, 10, 13 and 18 of the Unlawful Activities (Prevention) Act, 1967. Case against one another accused has been dropped due to his death in police encounter by Telangana Police.
- (10) Two SIMI activists were sentenced to life imprisonment for each and fine of rupees one thousand each under sections 395 and 397 of the Indian Penal code, life imprisonment for each and fine of rupees one thousand each under section 120B of the Indian Penal Code, two years of rigorous imprisonment and fine of rupees one thousand each under clause (a) of sub-section (1) of section 10 of the Unlawful Activities (Prevention) Act, 1967, life imprisonment and fine of rupees one thousand each under section 17 of the Unlawful Activities (Prevention) Act, 1967 by the Court of Special Judge, National Investigation Agency, Bhopal in Case Crime No. 431/2010, registered at Hanuman Ganj Police Station, Bhopal, Madhya Pradesh under sections 395, 397 and 120B of the Indian Penal Code, sections 25 and 27 of the Arms Act, 1959, sections 3, 10, 13, 16, 17, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967. Case against two accused is pending trial in the court and against four other accused has been dropped due to their death in police encounter.
- (11) Three SIMI activists were sentenced to life imprisonment and fine of rupees one thousand each under sections 395 and 397 of the Indian Penal Code by the Court of Special Judge, National Investigation

- Agency, Bhopal in Case Crime No. 149/2010, registered at Pipaliya Mandi Police Station, Mandasaur, Madhya Pradesh under sections 195, 397 and 124 of the Indian Penal Code, sections 3, 10, 13(1), 15, 16, 17, 20 and 21 of the Unlawful Activities (Prevention) Act, 1967 and sections 25 and 27 of the Arms Act, 1959. Case against four other accused has been dropped due to their death in police encounter in the case.
- (12) Five SIMI activists were sentenced to three years of imprisonment and fine of rupees two thousand each under 25-1(B) of the Arms Act, 1959 by the Court of Additional Sessions Judge (Second), Khandwa in Case Crime No. 319/2011, registered at Kotwali Police Station, Khandwa, Madhya Pradesh under section 153A of the Indian Penal Code, sections 3, 10, 13, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967 and sections 25 and 27 of the Arms Act, 1959.
- (13) One SIMI activist was sentenced to two years of rigorous imprisonment under section 224 of the Indian Penal Code by the Court of Special Judge, National Investigation Agency, Bhopal in Case Crime No. 542/2013, registered at Kotwali Police Station, Khandwa, Madhya Pradesh under sections 224, 120B, 212 and 216 of the Indian Penal Code, sections 3, 10, 13, 16, 17, 18, 19, 20 and 21 of the Unlawful Activities (Prevention) Act, 1967 and section 3 of the Prevention of Damage to Public Property Act, 1984 (3 of 1984). Case against one accused is pending trial in the court and against four accused has been dropped due to their death in police encounter. Case against two other accused has not started due to their death in police encounter in their absconding period in the case.
- (14) Fifteen SIMI activists were sentenced to three years of rigorous imprisonment and fine of rupees one thousand each under sections 153B and 295B of the Indian Penal Code by the Court of Chief Judicial Magistrate, Bhopal in Case Crime No. 424/2014, registered at MP Nagar Police Station, Bhopal, Madhya Pradesh under sections 295, 153B and 34 of the Indian Penal Code and section 10 of the Unlawful Activities (Prevention) Act, 1967. Case against three other accused has been dropped due to their death in police encounter in the case.

MAHARASHTRA

- (15) Two SIMI activists were sentenced to rigorous imprisonment for life and one SIMI activist was sentenced to fourteen years of rigorous imprisonment by the Maharashtra Control of Organised Crime Special Court, Arthur Road, Mumbai in L.A.C. No. 03/2006, registered by Anti Terrorism Squad, Mumbai, Maharashtra under section 120B of the Indian Penal Code read with sections 5, 6 and 9-B of the Explosives Act, 1884 read with sections 4 and 5 of the Explosive Substances Act, 1908 (6 of 1908) read with sections 3 and 25 of the Arms Act, 1959 read with sections 10, 13, 16, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 read with section 3(1)(ii), 3(2) and 3(4) of Maharashtra Control of Organised Crime Act, 1999 (30 of 1999).
- (16) Three SIMI activists were sentenced to death and six SIMI activists were sentenced to life imprisonment by the Maharashtra Control of Organised Crime Special Court, Brihan Mumbai in Case Crime No. 05/2006, registered by Anti Terrorism Squad, Mumbai, Maharashtra under clause (i) of sub-section (1) of section 3, sub-section(2) of section (3), sub-section (4) of section 3 and sub-section (5) of section 3 of the Maharashtra Control of Organised Crime Act, 1999 read with sections 10, 13, 16, 18, 19, 20 and 40 of the Unlawful Activities (Prevention) Act, 1967 read with sections 302, 307, 326, 325, 324, 427, 436, 121A, 123, 124A, 120B, 201 and 212 of the Indian Penal Code read with sections 6 and 9-B of the Explosives Act, 1884 read with sections 3, 4, 5 and 6 of the Explosive Substances Act, 1908 read with sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984 (3 of 1984) read with sections 151, 152, 153 and 154 of the Railways Act, 1989 (24 of 1989) read with section 12(1)(c) of the Passports Act, 1967 (15 of 1967).
- (17) One SIMI activist was convicted for seven years of rigorous imprisonment and fine of rupees thirty thousand by Additional Chief Metropolitan Magistrate, Sewri Court in L.A.C. No. 04/2006, registered by Anti Terrorism Squad, Mumbai, Maharashtra under sections 10 and 13 of the Unlawful Activities (Prevention) Act, 1967. Supplementary Charge Sheets were filed against some other SIMI activists in this case and the trial is pending for the same.
- (18) One SIMI activist was convicted and sentenced to death by Special Sessions Court, Shivaji Nagar, Pune in Case Crime No. 06/2010, registered by Anti Terrorism Squad, Mumbai, Maharashtra under sections 120B, 153A, 302, 307, 326, 325, 324, 427, 467, 468, 471, 474, 109 and 34 of the Indian

Penal Code read with sections 3, 4 and 5 of the Explosive Substances Act, 1908 read with sections 10, 13, 16, 18, 20 and 21 of the Unlawful Activities (Prevention) Act, 1967.

- (19) Two SIMI activists were convicted under section 489C of the Indian Penal Code and sentenced to rigorous imprisonment for six years and to pay fine of rupees ten thousand each and in default of payment of fine to suffer simple imprisonment of six months by the Additional Chief Metropolitan Magistrate, Mazgaon, Mumbai in Case Crime No. 31/2011, registered by Anti Terrorism Squad, Mumbai, Maharashtra under sections 120B, 489B, 489C and 489E of the Indian Penal Code read with sections 10, 13, 17 and 18B of the Unlawful Activities (Prevention) Act, 1967.
- (20) Ten SIMI activists were convicted and sentenced to rigorous imprisonments and/or life imprisonments and/or fine under various sections of law by the Court of Special Judge designated under the Prevention of Terrorism Act, 2002 (2 of 2002) at Greater Mumbai, Maharashtra under the Prevention of Terrorism Act Special Case No. 02/2003, registered as C.R. No. 21/2003 and C.R. No. 59/2003 by DCB CID Unit-6, Mumbai, Maharashtra for offences under the Prevention of Terrorism Act, 2002, the Indian Penal Code, the Explosive Substances Act, 1908, the Explosives Act, 1884, the Prevention of Damage to Public Property Act, 1984 and the Railways Act, 1989 for having been committed the act of three bomb explosion at places namely Mc Donald Hotel, Mumbai Central Railway Station, Monghibhai Market Vile Parle and in second class general compartment of Kalyan local train by way of conspiracy, the act preparatory to a terrorist act with intent to threaten the unity, integrity, security or sovereignty of India and to strike terror in the public at large.

TELANGANA

- (21) Three SIMI members were convicted under sections 148, 324 and 332 of the Indian Penal Code in Case Crime No. 882/2004, registered by Saifabad Police Station, Hyderabad, Telangana under sections 147, 148, 307, 332, 224, 427 and 149 of the Indian Penal Code. The facts of the case are that, on 31.10.2004, Moulana Md. Naseeruddin attended Crime Investigation Department Control Room in the Director General of Police Office, Hyderabad and while leaving office Dr. Narendra Kumar Amin, Assistant Commissioner of Police, Crime Investigation Department, Ahmedabad executed non-bailable arrest warrant on him. At that time, accused led by Mahabub Ali, President, Darsghah-e-Jihad-o-Shahadat (DJS) attacked on Police, beat them indiscriminately and took away Naseeruddin. The Assistant Commissioner of Police, Ahmedabad opened fire and took over possession of the accused. The SIMI accused in this case were responsible for supplying of CDs to SIMI leaders who were also connected in Case Crime No. 462/1998 of Mahakal Police Station, Ujjain, Madhya Pradesh for the same.

NATIONAL INVESTIGATION AGENCY (NIA)

- (22) Two SIMI activists were convicted under sections 120B and 124A of the Indian Penal Code besides section 10 and clause (b) of sub-section (i) of section 13 of the Unlawful Activities (Prevention) Act, 1967; two SIMI activists were sentenced to seven years rigorous imprisonment and fine of rupees sixty thousand and two SIMI activists were sentenced to five years rigorous imprisonment and fine of rupees fifty five thousand by the Special National Investigation Agency Court, Ernakulam, Kerala in Case Crime No. RC-03/2010/NIA-DLI, registered by National Investigation Agency under sections 120B and 124A of the Indian Penal Code and section 10 and clause (b) of sub-section (i) of section 13 of the Unlawful Activities (Prevention) Act, 1967.
- (23) Eighteen SIMI activists convicted and sentenced to seven years rigorous imprisonment with fine for each accused by the Special National Investigation Agency Court, Ernakulam, Kerala in Case Crime No. RC-04/2010/NIA-DLI, registered by National Investigation Agency under sections 120B, 122, 124A and 153A of the Indian Penal Code, sections 3, 5, 10 and 13 of the Unlawful Activities (Prevention) Act, 1967 besides sections 25 and 27 of the Arms Act, 1959.
- (24) Two SIMI activists were convicted and sentenced to three years imprisonment under section 153A read with section 120B of the Indian Penal Code and life imprisonment and a fine of rupees forty thousand under sections 16, 18, 20 and 23 of the Unlawful Activities (Prevention) Act, 1967; two SIMI activists were also convicted and sentenced to three years and ten years imprisonment with a fine of rupees ten thousand under section 153A read with section 120B of the Indian Penal Code and section 120B read with section 307 of the Indian Penal Code respectively, along with life imprisonment and a fine of rupees forty thousand under sections 16, 18, 20 and 23 of the Unlawful

Activities (Prevention) Act, 1967; one SIMI activist was convicted and sentenced to three years, ten years and fourteen years of imprisonment and fine of rupees twenty thousand under section 153A read with section 120B of the Indian Penal Code, sections 120B and 307 of the Indian Penal Code and section 458 of the Indian Penal Code respectively, along with life imprisonment and fine of rupees forty thousand under sections 16, 18, 20 and 23 of the Unlawful Activities (Prevention) Act, 1967 by the Special National Investigation Agency Court, Patna, Bihar in Case Crime No. RC-07/2013/NIA-DLI, RC-08/2013/NIA-DLI and RC-09/2013/NIA-DLI, registered by National Investigation Agency under sections 153A, 324, 307, 427 and 452 of the Indian Penal Code, section 17 of the Indian Criminal Law Amendment Act, 1908 (14 of 1908), sections 3 and 4 of the Explosive Substances Act, 1908 and sections 16, 18, 20 and 23 of the Unlawful Activities (Prevention) Act, 1967. One Juvenile accused was also convicted for three years in the case.