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PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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गृह मंत्रालय

अधिसूचना

नई दिल्ली, 20 मार्च, 2008

का. आ. 542(अ).—केन्द्रीय सरकार ने विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) की धारा 3 की उप-धारा (1) द्वारा प्रदत शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना संख्या का. आ. 1481 (अ), दिनांक 29 अगस्त 2007 द्वारा दीनदार अंजुमन को विधि विरूद्ध संगम होना घोषित किया था;

और, केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना संख्या का. आ. 1597 (अ), दिनांक 25 सितम्बर, 2007 द्वारा विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण का गठन किया था, जिसमें दिल्ली उच्च न्यायालय के न्यायाधीश न्यायमूर्ति श्री मुकुल मुद्गल थे;

और, केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह न्यायनिर्णयन के प्रयोजन के लिए कि क्या उक्त संगम को विधि विरुद्ध घोषित किए जाने का पर्याप्त कारण था या नहीं, दिनांक 27 सितम्बर, 2007 को उक्त अधिकरण को उक्त अधिसूचना निर्दिष्ट की थी;

और, उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, अधिसूचना संख्या का. आ. 1481 (अ), दिनांक 29 अगस्त, 2007 में की गई घोषणा की पुष्टि करते हुए, दिनांक 27 फरवरी, 2008 को एक आदेश पारित किया था;

अत:, अब, केन्द्रीय सरकार, विधि विरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) की धारा 4 की उप-धारा (4) के अनुसरण में उक्त अधिकरण के आदेश को प्रकाशित करती है, अर्थात् :—

(सम्पूर्ण आदेश अंग्रेजी पाठ के साथ छपा है)

[फा. सं. 14017/7/2008-एन. आई.-III]

अरुण कुमार यादव, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 28th March, 2008

S.O. 542(E).—Whereas, the Central Government in exercise of the powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), declared the Deendar Anjuman to be unlawful association *vide* notification of the Government of India in the Ministry of Home Affairs number S.O. 1481(E), dated the 29th August, 2007;

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 consisting of Mr. Justice Mukul Mudgal, Judge of the High Court of Delhi *vide* notification of the Government of India in the Ministry of Home Affairs number S.O. 1597 (E), dated 25th September, 2007;

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 27th September, 2007 for the purpose of adjudicating whether or not there was sufficient cause for declaring the said association as unlawful;

And whereas the said Tribunal, in exercise of the powers conferred by sub-section (3) of Section 4 of the said Act, made an order on the 27th February, 2008

confirming the declaration made in the notification number S.O. 1481(E), dated the 29th August, 2007;

Now, therefore, in pursuance of sub-section (4) of Section 4 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby publishes the order of the said Tribunal, namely :—

BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

In the matter of :

Gazette Notification dated 29-8-2007 declaring Deendar Anjuman as an unlawful association.

And in the matter of:

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

CORAM :

HON'BLE MR. JUSTICE MUKUL MUDGAL

Present : Mr. Sidharth Mridul, Sr. Advocate with Mr. Sanjay Katyal and Mr. Shailendra Sharma, Advocates for UOI

Mr. Mushtaq Ahmed and Mr. Hameed Pasha, Advocates for Deendar Anjuman Organization with Moulvi Syed Basha, Former General Secretary, Deendar Anjuman Asifnagar, Hyderabad, A.P. With Dr. Md. Bashiruddin Ahmed.

Mr. S. B. Faria, Advocate for the State of Goa.

Ms. Subhangi Tuli, Advocate for State of Maharashtra. Mr.H.N. Nilogal, Advocate for the State of Karnataka. Mr. A.K. Rao, Advocate for the State of Andhra Pradesh. Mr. S.P. Singh Premi, Registrar of the Tribunal.

Mr. Y.K. Baweja, Director with Mr. Hardeep Singh, Under Secretary, Ministry of Home Affairs, Govt. of India.

In Re : Deendar Anjuman

ORDER

1. By Notification S.O. 1481(E) dated 29th August, 2007, the Central Government in exercise of the powers conferred by the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as 'the Act') had *inter alia* expressed the opinion that the activities of the Deendar Anjuman necessitated its being declared as an unlawful association. The said Notification reads as under:

"MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 29th August, 2007

S.O. 1481(E).—Whereas the Deendar Anjuman is having links with Pakistan, and is indulging in activities which are prejudicial to the security of the country, having the potential to disturb peace and communal harmony and to disrupt the secular fabric of the country;

And whereas, the Central Government in exercise of the powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), declared Deendar Anjuman to be an unlawful association *vide* notification number S.O. 373(E) dated the 28th April, 2001. The Unlawful Activities (Prevention) Tribunal was constituted for the purpose of adjudicating whether or not there is sufficient cause for declaring the Deendar Anjuman as unlawful association and the Tribunal upheld the ban *vide* its Order dated 27th October, 2001. Deendar Anjuman continued to be indulged in activities for which it was banned earlier, a fresh ban was imposed on Deendar Anjuman *vide* notification No. S.O. 479(E) dated the 26th April, 2003. The Unlawful Activities (Prevention) Tribunal was constituted for the purpose of adjudicating whether or not there is sufficient cause for declaring the Deendar Anjuman as unlawful association and the ban was upheld by the Tribunal *vide* its Order dated 23rd October, 2003. As Deendar Anjuman continued to be indulged in activities for which it was banned on earlier occasions, a fresh ban was imposed on Deendar Anjuman *vide* notification No. S.O. 672(E) dated the 17th May, 2005. The Unlawful Activities (Prevention) Tribunal was constituted for the purpose of adjudicating whether or not there is sufficient cause for declaring the Deendar Anjuman as unlawful association and the ban was upheld by the Tribunal *vide* its order dated the 14th November, 2005;

And whereas, the Central Government is also of the opinion that,

(i) during May to July, 2000, the Deendar Anjuman engineered bomb explosions in Church premises and other places in the States of Andhra Pradesh, Karnataka and Goa;

(ii) the said organization was engaged in distribution of objectionable anti-Christian literature and pamphlets, and in espionage activities;

(iii) the said organization has links at Mardan in Pakistan and has been organizing bands of disgruntled Muslim youths in India into a militant outfit for launching Jehad with the avowed objective of total Islamisation of the sub-continent;

(iv) the said organization planned to create disturbances, particularly by promoting hatred and creating suspicion and ill-will among the Christians and Hindus as well as among other communities;

(v) the said organization had directed its activists to attack Christian institutions with the objective of embarrassing the Government, particularly in the international community and weakening it internally; and

(vi) the said organization had plans to target major infrastructural installation including railways, telecom network, electricity grids, oil refineries and defence installations;

And whereas, the Central Government is also of the

opinion that for the aforesaid reasons, the activities of Deendar Anjuman are detrimental to the peace, communal harmony, internal security and maintenance of secular fabric of the Indian society, and that it is an unlawful association;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967); the Central Government hereby declares the Deendar Anjuman to be an unlawful association;

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

(i) create tension among the Christians and other communities with a view to disrupting the social fabric and tarnish the secular credentials of the country;

(ii) re-organize itself and indulge in sabotage of vital installations.

And whereas, the Central Government is also of the opinion that having regard to the activities of Deendar Anjuman as mentioned above, it is necessary to declare it as an unlawful association with immediate effect, and accordingly, in exercise of the powers conferred by the proviso to sub-section (3) of Section 3, the Central Government hereby directs that this notification shall, subject to any order that may be made under Section 4 of the said Act, have effect from the date of its publication in the Official Gazette" .

2. Thereafter by Notification No. S.O. 1579 (E), dated 20-9-2007 all the powers exercisable by the Central Government was also conferred on the State Governments and the Union Territory Administrations in relation to Deendar Anjuman. This Notification reads as follows:

"MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 20th September, 2007

S.O. 1579 (E).— Whereas, in exercise of the powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government have declared the "Deendar Anjuman" as an unlawful association *vide* S.O. 1481 (E), dated 29th August, 2007 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) of same date.

Now, therefore, in exercise of the powers conferred by Section 42 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby directs that all the powers which are exercisable by it under Sections 7 and 8 of the said Act shall be exercised also by the State Governments and the Union Territory Administrations in relation to the aforesaid unlawful association."

3. This Tribunal was constituted pursuant to Notification 1597 (E), dated 25-9-2007 published in the Gazette of India, Extraordinary on the same date. This Notification reads as under:

"MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 25th September, 2007

S.O. 1597 (E).—In exercise of the powers conferred by sub-section (1) of Section 5 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby constitutes the "Unlawful Activities (Prevention) Tribunal" consisting of Mr. Justice Mukul Mudgal, Judge of the High Court of Delhi for the purpose of adjudicating whether or not there is sufficient cause for declaring the Deendar Anjuman as unlawful association."

4. On 1st October, 2007, a preliminary hearing was held, on which date the learned senior counsel for the Union of India Mr. Sidharth Mridul along with Shailender Sharma, Central Government Panel Counsel for Union of India, Ms. Shubhangi Tuli, Advocate, for the State of Maharashtra with Mr. P.S. Khatarkar, Additional Dy. Commissioner of Police and Mr. R.T. Bagwe, A.I.O., S.I.T., Maharashtra, Dr. Vasanta Kumar Gonu, Inspector of Police, CID, Andhra Pradesh, Mr. Y.K. Baweja, Director along with Mr. Hardeep Singh, Under Secretary, Ministry of Home Affairs were present. It was ordered that notice be issued to Deendar Anjuman under sub-section (2) of Section 4 of the Act. The notice was directed to be served in the same manner as the Notification banning Deendar Anjuman had been served by the Central Government, i.e. through publication in the Daily National and local Newspapers circulated and published in the States of Andhra Pradesh, Maharashtra, Karnataka and Goa as well as by broadcasting on radio and television. Notices were also ordered to be served by pasting them on the Notice Board of the office of each District Magistrate/Tehsildar at the Headquarters of the District or Tehsil as feasible. Notice was also ordered to be served on Deendar Anjuman by publication in a Daily Newspaper circulated in the locality where they have establishments or presence in the State of Andhra Pradesh and outside. Notice was also ordered to be served on all its office bearers, at their respective addresses or, if under detention, through the concerned Superintendent (Jail). It was directed that notices be served within two weeks from 1st October, 2007. It was further directed that the Central Government and State Governments should produce relevant documents and other material in their possession, on which they intend to rely and they should also produce the evidence by way of affidavits of the concerned officials who effected the service along with the supporting documents. The proceedings were thereafter adjourned to 2nd November, 2007.

5. On 2nd November, 2007, the Tribunal noted that notices as directed *vide* order dated 1st October, 2007 had been served by publication in the National and local Newspapers in English and in vernacular language by the States of Karnataka, Andhra Pradesh, Goa and Maharashtra. It was also noted that the contents of the notice had also been broadcast over the All India Radio by the States of Karnataka, Andhra Pradesh and Goa and

telecast by Doordarshan by all these States. The notices had also been served at the headquarters of Deendar Anjuman at Asif Nagar, Hyderabad to the members of the banned organization in Hyderabad and had also been pasted at prominent places in the Collectorate, Tehsildar, Mamaldar office in all the four states including the Police Stations. This was on the basis of affidavits of service filed by the States of Andhra Pradesh and Maharashtra. The State of Goa was directed to file the affidavit in original before the next date of hearing. The State of Karnataka was directed to file its affidavit within one week from 2nd November, 2007. Mr. Mushtaq Ahmed, counsel for the Deendar Anjuman had also appeared after service was effected on him on 15th October, 2007. He was directed to file a reply by 21st November, 2007 and was also directed that all documents, written statements and submissions etc. be filed and be made available with a copy of the English Translation where these documents are in any other language. It was also directed that evidence by way of affidavit was to be filed by 20th November, 2007 by the Central and State Governments and an advance copy to be served to the counsel for Deendar Anjuman. The next hearing was held on 22nd November, 2007 and the written objections were filed by the learned counsel for the organization with an advance copy to the learned counsel for the Central Government as well as to the respective States. The learned counsel for the Central Government further submitted that it was not feasible to record evidence at Delhi and accordingly suitable dates may be fixed for recording evidence in all the four States to enable the Central/State Governments to produce the witnesses before the Tribunal. It was also requested by the learned counsel for the Central Government that since the period of reference expires on 28th February, 2008, the recording of evidence of witnesses may be fixed as per the following schedule:

18th to 20th December at Bangalore

27th to 28th December at Mumbai

29th to 30th December at Pune

17th to 19th January at Panaji, Goa

29th to 31st January at Hyderabad

6. Mr. Musthaq Ahmed, counsel appearing for the organization stated that service may be effected through the counsel as far as the organization was concerned. It was also directed by the Tribunal that all the aforesaid four State Governments should give due publicity in the local newspapers and through media regarding the dates of sitting and venue of the Tribunal. The matter was to be listed for recording of evidence of the States and the public witnesses accordingly.

On an application moved by the learned counsel for the organization for the pre-ponement of dates at Bangalore, Mumbai and Pune, it was directed by the Tribunal that the dates at Mumbai and Pune had already been fixed with the consent of the learned counsel for the Government and organization. However, the dates for the sitting of the Tribunal at Bangalore were directed to be preponed to 17th of December, 2007.

7. The Tribunal held the hearings from 17th December, 2007 to 12th February, 2008 where the evidence of witnesses were recorded. The witnesses also made oral deposition on oath, proving their respective affidavits and documents filed. The counsel for the Deendar Anjuman also cross-examined the said witnesses.

A. Hearings commenced in Bangalore, Karnataka on 18th December, 2007. (The Karnataka State witnesses are henceforth referred to as KSWs)

(i) KSW-1—Shri Shankar, ACP, North Division, KSW2— Shri Mehaboob Khan, Police Inspector, KSW5—Shri Jackson D'souza, Sub-Inspector, Sub-Urban P.S., KSW6—Shri Nisar Ahmed, Police Inspector, Kundagol P.S. and KSW7—Shri Victor D'souza, ACP North Division deposed to the effect that:

(a) Sd. Muneeruddin Mullah and Rishi Hiremath were the two main accused against whom cases had been registered at Dharwad and Hubli in the State of Karnataka. These were the same co-accused who were being tried for the bomb blast cases in special courts in Bangalore, Karnataka. Rishi Hiremath was the Joint Secretary of the Hubli branch of the organization and Muneeruddin Mullah was the secretary of the Hubli branch of the organization.

(b) These accused persons had the common intention of creating disharmony and disaffection between the two classes, i.e., the Hindu and Christian communities.

(c) The organization was still conducting meetings clandestinely and circulating literature in Hubli and Dharwar Corporation. The aim of the organization was to disturb the communal harmony between Hindus and Christians. The objective of the members of the Deendar Anjuman was to create disharmony amongst religious communities.

(d) It was their opinion that if the ban on the organization was removed then there would be communal disharmony in the area.

(e) KSW-2, further deposed that the organization was still conducting clandestine operations and spreading disaffection between Hindus and Christians purportedly in the name and garb of organizations such as Vishwa Hindu Parishad.

(ii) KSW-3—Shri Ashok, Circle Inspector of Police deposed that:

(a) On 25th December, 2004, three accused persons by the name of Sayed Mohammed Umar Faruq, Sayed Magdum Hussain and Mohammed

Nasaruddin @ Manohar being the followers of the organization, knowing fully well that the Deendar Anjuman was a banned organization, were propagating the aims and objectives of the organization by disputing the literature and collecting funds for the activities of the organization in Jumma Masjid, Soundatti, Belgam District.

(b) That the members of the organization were still distributing pamphlets and conducting meetings clandestinely. This knowledge was based upon credible information received by him through his resources.

(iii) KSW-4— Shri R. Ramanna, Police Inspector, Ramapur P.S., deposed that :

(a) Sayed Abdul Razaak @ Jamin Ali an active member of Deendar Anjuman organization was propagating the principles of the organization and conducting the meeting in his house at Upparahalli, Tumkur, inspite of the ban against the organization.

(b) That the members of the organization were still distributing pamphlets and conducting meetings clandestinely. This knowledge was based upon credible information received by him through his resources.

(iv) KSW-7 deposed that :

(a) The intelligence input report maintained in their office clearly demonstrated that even after the ban on 17th May, 2005 the activities of the organization were still continuing. On a question asked by the Tribunal as to whether he had any inputs on these activities, if continued, after the ban imposed on 29th August, 2007, he ans posed. He also submitted the intelligence report in a sealed cover which was taken on record.

B. Hearings commenced in Mumbai, Maharashtra on 27th December, 2007. (Henceforth the State witnesses are termed as SWs).

(i) SW1-Shri Bhimrao Namdeorao Shingade, Police Inspector, SW2-Shri Deepak Dynoba Shinde, API, Sonpeth P.S., SW3 - Shri Balasahed Bhanudas Waghmode, Dy. Superintendent of Police, Maharashtra, SW4 - Shri Rafik (Yusuf Shaikh, Police Inspector, SW5 - Shri Bhikanrao Shamrao Bibne Police Inspector, SW6 - Shri Ranjit Dadasaheb Dhure, Police Inspector, SW7 - Shri Mohan Anant Rao Vidhate, Sub Inspector, SW8- Shri Mahesh Madhukar Joshi, Police Inspector and SW10- Shrihari Dagadu Munde, Police Inspector, Local Crime Branch deposed to the effect that:

(a) The members of the organization were responsible for the bomb blast in the States of Andhra Pradesh, Karnataka and Goa.

(b) The organization indulged in anti-national activities and tried to disturb the peace and harmony of the country.

(c) The accused connected in the various criminal cases were active members of pro-Pakistan organization Deendar Anjuman which was responsible for anti-national incidents.

(ii) SW9-Shri Pramod Shripad Khatavkar, Addl. Dy. Commissioner (Security), SID, Maharashtra stated that :

(a) Lifting the ban at this juncture would encourage the militant organizations and its members in regrouping themselves in pursuance of their avowed militants activities to embolden the activists of the organization to embark upon morecinister plans affecting the internal security, unity and communal harmony of the nation. Since 2001 till the present date, activities of the said organization had been controlled by the government only because of continuous operation of the ban. If the ban was not upheld the activities of the organization would restart damaging the secular fabric of the society and create rifts between difference religious groups and spread disharmony and would be detrimental to national integrity and sovereignty.

(b) The remaining 10 cases were still pending in various courts in Maharashtra. If the ban was lifted it would adversely affect the interest of the prosecution and would also affect the adjudication of the aforesaid pending cases. It was also stated that Zia-ul-Hasan was the chief of the militant organization, namely, Jamat-e-Hizbul Mujahideen, who was residing at Mardan, Pakistan and as per the intelligence report he was still in touch with the absconding accused members of the organization.

C. Hearings commenced in Goa on 18th January, 2008.

(i) SW11-Shri Om Prakash Kudtarker, Superintendent of Police, AHC, Goa deposed to the effect that :

(a) The ban imposed on the Deendar Anjuman Organization was necessary in order to maintain the peace, tranquility, law and order apart from protecting the sovereignty and integrity of the country.

(b) The accused No. 1 Mirasab Koujalgi was a member of Deendar Anjuman but some of the witnesses stated that he was the Member-Secretary of the Batkurki Unit in Karnataka of Deendar

Anjuman. The basis of making his statement that he was the Member-secretary was not only the confessional statement of the accused but the statement of the proposed witnesses also. His deposition was based upon the testimony of Babusab Sayed and he also showed the said testimony to the Tribunal.

D. Hearing commenced in Hyderabad on 27th January, 2008.

(i) SW12-Shri M. Ganpathi Rao, Police Inspector, CID, Hyderabad, and SW13- Smt. Bhavna Saxena, Superintendent of Police, Crime Investigation Department (CID), Hyderabad, deposed to the effect that :

(a) The proclaimed ostensible aim of the organization was to promote peace and common harmony in universal brotherhood, but its hidden agenda was Islamization of entire India which was evident on a perusal of a written and bounded literature found at the office of Deendar Anjuaman, Asif Nagar, Hyderabad.

(b) The bye-laws of the organization clearly says that only those persons would be the member of the organization who had done Bayyath and was a Muvalligh and every Kalma reciting (Muslim) could only become member of the Deendar Anjuman Organization.

(c) The main objective of the activists of the organization was the Islamization of the whole country by adopting illegal means like 'Nifaq' (hatred) 'Saria' (acquiring money by adopting illegal means) and 'Jehad' (waging holy war).

(d) Zia-ul-Hasan, the Amir of Deendar Anjuman in India and Jamat-e-Hizbul Mujahiddin in Pakistan had been coordinating anti-Indian national activities like sabotage, subversion, espionage etc. directly as well as through his sons, particularly, Javed Pasha and Zahid Pasha.

(e) The main slogan of the Organization was "Allah-e-Hidayat" which means 'Islamisation was the only way to achieve their goal' and therefore they propagated Islamization by administering Bayyath (Oath).

(f) In pursuance of its hidden agenda and ideology, the various followers of the Organization residing in India and Pakistan and other places abroad had acquired explosive substances, fire-arms and other lethal weapons and caused widespread desecration of places of worship and disruption of religious assemblies.

(g) Deendar Anjuman organization had links with Jamat-e-Hijbul Mujahiddin. The organization had also not disowned its connection with Zia ul Hassan, the Deendar Anjuman Chief, based in Pakistan and the founder of the organization. Sayed Basha, the alleged ex-general secretary of the Organization was the father in law of the accused Izhar Beg who had been convicted in CR No. 35 of 2000.

(h) In Andhra Pradesh, 14 cases were booked against the followers of Deendar Anjuman and they were tried by the Specially designated Additional Metropolitan Sessions Judges Court. The main conspiracy case which ended in conviction against the 39 accused clearly visualize the ultimate goal of the Organization.

(i) The accused activists of Deendar Anjuman, even after convictions had not disowned the leadership of the prime accused Zia-ul-Hassan and his sons who were residing at Mardan, Pakistan. The followers of Deendar Anjuman, under the influence of prime accused Zia-ul-Hassan who is also the chief of militant organization "Jamat-e-Hizbul Mujahidin" operating from Pakistan may again indulge in subversive activities to achieve their ultimate goal of Islamization of the entire country. There was information available to the effect that Zia-ul-Hassan was still in touch with the other accused persons who were absconding and also the other members of Deendar Anjuman in India, giving financial and logistic support for anti-national and subversive activities, to achieve their ultimate goal to islamize the entire country.

8. The defence witnesses were examined on 19th January, 2007 at Bangalore and again on 11th and 12th February, 2008 at Hyderabad. The evidence of the witnesses were recorded and the witnesses also made oral deposition on oath, proving their respective affidavits and documents filed. The counsel for the respective States and the Union of India also cross-examined the said witnesses.

A. On 19th December, 2007 at Bangalore the following defence witnesses were examined, DWI Noorullah Baig, DW2 Rehana Kauser, DW3 Mohsin.

(i) DW1 to DW3 deposed to the effect that:

(a) Deendar Anjuman Organization believes in peace, love, amity, brotherhood, communal harmony, national integration, peaceful co-existence and its office bearers had preached and worked for the same. The organization propagated "*Panch Shantimarga*".

(b) The religious leaders, such as priests, saints, monks and Gyanis from different religions had been invited for participating in the International Religious Conference held by the

organization on 26th, 27th, 28th, February 1988, 13th, 14th, 15th January, 1992 and 30th November, 1st and 2nd December 1995. The preachers of the organization had also been invited in the religious functions by the Hindu, Sikh and Cristian leaders such as 4th and 5th World Religious Conferences.

(c) For the last 80 years, there had been no complaint against the organization and the ban should be lifted as the organization had not been able to work for the international unity and peace.

(d) The members of the organization were simple, innocent and poorly dressed but highly educated with comparative religious studies.

(e) Their affidavit was based on what they had heard and believed. They had also heard about the Organization through other people and attended the functions of the organization.

B. The remaining defence witnesses DW4 Sh. Nadir Masdusi, DW5 Sh.Abdul Raheem, DW6 Sri Pandita Pedda Matham rachaveera Devara, DW7 Mohammed Baquer Hussain Shaz, DW8 Sadaqat Hussain, DW9 Mohammed Yousufuddin Khan, DW10 Joshep Raju Pastor, DW11 Mohammed Jafar Sadiq, DW12 Syed Basha and DW13 Mohd. Bashiruddin were examined from 11th to 12th February, 2008 at Hyderabad.

(i) DW5 deposed to the effect that:

(a) The ex-Amir of the organization was Moulana Mohammad Jafer Sadiq Saheb and its eight previous Amirs were known to him.

(b) The Deendar Anjuman was an independent organization working for spreading the message of peace and love and had nothing to do with some Deendar Anjuman in Mardan, Pakistan.

(c) The Deendar Anjuman Organization was a living epitome of Hindu, Muslim and Christianity as its office bearers were invited to deliver sermons in religious organizations organized by other religious associations.

(d) The organization follows all the fundamental principles of Islam and that the organization had no hidden agenda except the agenda of love and peace which was tangible and visible.

(ii) DW6 to DW10 stated that :

(a) There was no justification to ban the organization as it had been wrongly spread that this organization was engaged in illegal activities.

(b) The aims and objects of this organization were to spread the message of love, peace, brother-hood, tranquility and also work for international peace.

(c) Some of the Muslim Ulemas were creating hatred among the members of the organization and between Hindus and Muslims for their ulterior motives and vested interests by unsuccessfully propagating that the office bearers and the members of the organization were not Muslims and were engaged in illegal activities.

(d) The Deendar Anjuman was an independent organization working for spreading the message of peace and love and had nothing to do with some Deendar Anjuman in Mardan, Pakistan.

(e) The organization follows all the fundamental principles of Islam and that the organization had no hidden agenda except the agenda of love and peace which was tangible and visible.

(f) The ex-officer bearers of the organization were a living example and symbol of Hindu, Muslim, Christian and Sikh unity as they attend their religious functions and invited them to attend the functions organized by the organization.

(g) The ex-Amir of the organization was Moulana Mohammad Jafer Sadiq Saheb and its eight previous Amirs were known to him.

(iii) DW 11 stated that :

(a) He was the ex-Amir President of the organization, he was elected as Amir in the year 2000 and there were eight previous Amirs.

(b) The organization had been working since 1924, but it was banned in the year 2000 by leveling certain false charges. The organization had been working for peace and brotherhood, communal harmony and national integration together with universal peace through its five fundamental principles of world peace.

(c) There was no justification to ban the organization as it had been wrongly spread that this organization was engaged in illegal activities.

(d) The aims and objects of this organization were to spread the message of love, peace, brother-hood, tranquility and also work for international peace.

(e) Some of the Muslim Ulemas were creating hatred among the members of the organization and between Hindus and Muslims for their ulterior motives and vested interests by unsuccessfully propagating that the officer bearers and the members of the organization were not Muslims and were engaged in illegal activities.

(f) The Deendar Anjuman was an independent organization working for spreading the message of peace and love and had nothing to do with some Deendar Anjuman in Mardan, Pakistan.

(g) The organization follows all the fundamental principles of Islam and that the organization had no hidden agenda except the agenda of love and peace which was tangible and visible.

(h) The ex-officer bearers of the organization were a living example and symbol of Hindu, Muslim, Christian and Sikh unity as they attend their religious funetions and invited them to attend the functions organized by the organization.

(i) The ex-Amir of the organization was Moulana Mohammad Jafer Sadiq Saheb and its eight previous Amirs were known to him.

(iv) DW12 stated that :

(a) The main aim of the organization was to promote peace, love, amity, brotherhood, religious tolerance and international peace. The members of the organization had comparatively studied all the important religious scriptures of the world and designed five fundamental principles of world peace.

(b) He had also attended meetings organized by the various leaders in the States of Andhra Pradesh, Karnataka, Orissa, Maharashtra and other places of India. He had also participated in International conferences organized by the organization throughout India and delivered lectures.

(c) The organization in Hyderabad had its own constitution and no one controls this organization from outside India. There was no other Deendar Anjuman except the Anjuman which was situated in Hyderabad. The organization had nothing to do with Deendar Anjuman situated in Mardan, Pakistan and Moulvi Zia-ul-Hasan had no connection with the Deendar Anjuman Organization in India.

(d) The organization had no hidden agenda as stated in the police records in many FIRs of various States, such as Maharashtra, Andhra Pradesh and Karnataka.

(e) The organization truly and practically personified and epitomized the Hindu, Muslim, Christian and Sikh unity.

(f) The organization had been made a scapegoat for the bomb blast that occurred in various States in the year 2000 only because the officer bearers were poor and defenceless.

(g) There was no justification for the 1st, 2nd and 3rd ban of the organization and there was no justification for the present ban for the 4th time.

There must be fresh ground for each ban.

(v) DW13 stated that :

(a) The public witnesses examined at Bangalore had deposed falsely that the organization did not believe in the finality of the prophethood of Mohammad. He gave copies of advertisements and pamphlets to show the finality of Prophet Mohammad.

9. The evidence of the public witnesses, PW1 Mr. T.R. Akbar Khan, PW2 Muneer Ahmed and PW3 Moulana Khalid Baig Nadvi were recorded at Bangalore on 19th December, 2007.

A. PW1 stated that :

(a) The founder of the organization was one Siddique Hussain and he claimed that he was a reincarnation of Basaveswara and declared that he was also a part of prophethood. Therefore the declaration of the founder of the organization was against the principles of Islam.

(b) The organization under the guise of preaching peace is spreading disturbances among the communities.

(c) On 2nd July, 2000, a function was held by the organization and he stated that after the function they protested and informed the police of their illegal activities.

(d) Even today, its members namely Mohsin and Sawood were carrying illegal activities at Tumkur by spreading their literature to various children and he got their pamphlets from the school going children.

B. PW2 stated that :

(a) The organization though claimed to spreading peace but actually they were the real terrorist and in support of this contention he produced a printed book.

(b) Even today, they were not restrained from their illegal acts in spite of the ban on them. He received a letter dated 13th December, 2005 from the Central Jail, Bangalore where it was narrated that the members of the organization belonged to Hizbul Muzahiddin of Pakistan.

(c) The members of this organization namely Zamin and family of Muzibur Rehman who were ex-communicated from Tumkur are now spreading the ideology of the organization at Pillana Garden, Bangalore.

C. PW3 stated that :

(a) The members of the organization had published such type of literature which

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provoked the religious sentiments and created disharmony amongst all communities.

(b) The main plan of the organization was to eliminate the Hindu, Christian and Muslim communities and their religious places. The organization had said in its literature that they will not stop their activities and keep silence until they destroy the temples.

(c) The so-called proclamation of the organization that they aim for promoting unity among Hindu and Muslims was only a guise to propagate militancy.

(d) In spite of the ban on the organization the prominent members of the organization namely Muzibur Rehman, Raihana Kouser, Zammen, Mohsin and Ayaz and others were conducting their activities secretly and trying to enroll the members to the organization.

10. The Central Government Witness, Mrs. B. Bhamathi, Joint Secretary to the Government of India, Ministry of Home Affairs, CGW -1 was examined in Delhi on the 4th and 6th of February, 2008, who deposed to the following effect :

(a) The Deendar Anjuman was linked to Jamaat-e-Hijbul Mujahideen. The organization has not disowned its connection with Zia-ul-Hassan, the Deendar Anjuman Chief based in Pakistan even after the exposure of the module and after the ban.

(b) The agencies are of the opinion that considering the antecedents of Deendar Anjuman and its potential to carry out anti-national activities, the ban should be imposed for a period of two years.

(c) As a consequence of the ban, the activities of Deendar Anjuman have become latent and clandestine and there is every likelihood of these activities witnessing a quantum spurt if the ban against the organization is lifted. The Deendar Anjuman activists who have not dissociated from the organization despite the ban, and are absconding and/or released from jail, will in the absence of the ban indulge in large scale unlawful activities, as in the past which would be prejudicial to the security and integrity of the country.

11. An application was filed by the learned counsel for the Union of India claiming privilege on the reports filed by the Field Officers against the Organization. By its order dated 18th February, 2008 the Tribunal examined the Field Officers at Bombay on 23rd February, 2008 to check the credibility of the reports filed by the Central and State Intelligence Agencies. A perusal of the said reports showed that in public interest the identity of the Field Officers, who had filed the reports, and the contents of the said reports ought not be disclosed. Therefore, the application claiming privilege in respect of the reports filed by the Field Officers against the Organization was allowed. On the question of credibility of the witnesses who had filed the Intelligence Reports, the Tribunal passed the following order on 18th February, 2008 in accordance with the law laid down by the Hon'ble Supreme Court in the case of Jamaat-e-Islami Hind *v.* Union of India, 1995 (1) SCC 428 :

" ... . An earlier application under Section 5(5) of the Unlawful Activities Act, 1967 read with Rule 3(2)(a) of the Unlawful Activities (Prevention) Rules, had been filed by the Central Government on 4th February 2008 for perusing the informations/inputs rendered by the Central Intelligence Agencies and the Field Agencies which would be provided as per the directions of this Tribunal without disclosing the contents of the same to the banned outfit or to any third party, and thus, grant privilege from disclosure with respect to the inputs/informations in view of the confidentiality and protection of non-disclosure in the public interest. Reply to the said application was filed by the Deendar Anjuman Organization on 12th February, 2008 stating therein to see and access the credibility of the material sought to be claimed as privilege by the Central Government and whether confidentiality of such material is warranted and if disclosure will cause any harm to the public interest. It was prayed before this Tribunal to devise a procedure by which it could satisfy itself of the credibility of the material without disclosing the same to the organization if public interest so required.

The following position of law empowering the Tribunal to devise the procedure by which it can satisfy itself of the credibility of the material without disclosing the same to the organization when public interest so requires, has been laid down by the Hon'ble Supreme Court in the case of Jamaat-e-Islami Hind *v.* Union of India, 1995 (1) SCC 428 :

> "20. The scheme under this Act requiring adjudication of the controversy in this manner makes it implicit that the minimum requirement of natural justice must be satisfied, to make the adjudication meaningful. No doubt, the requirement of natural justice in a case of this kind must be tailored to safeguard public interest which must always outweigh every lesser interest. This is also evident from the fact that the proviso to sub-section (2) of Section 3 of the Act itself permits the Central Government to withhold the disclosure of facts which it considers to be against the public interest to disclose. Similarly, Rule 3(2) and the proviso to Rule 5 of the Unlawful Activities (Prevention) Rules, 1968 also permit nondisclosure of confidential documents and information which the Govermnent considers against the public interest to disclose. Thus, subject to the nondisclosure 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.

21. To satisfy the minimum requirements of a proper adjudication, it is necessary that the Tribunal should have the means to ascertain the credibility of conflicting evidence relating to the points in controversy. Unless such a means is available to the Tribunal to determine the credibility of the material before it, it cannot choose between conflicting material and decide which one to prefer and accept. In such a situation, the only option to it would be to accept the opinion of the Central Govermnent, without any means to test the credibility of the material on which it is based. The adjudication made would cease to be an objective determination and be meaningless, equating the process with mere acceptance of the ipse dixit of the Central Govermnent. The requirement of adjudication by the Tribunal contemplated under the Act does not permit abdication of its function by the Tribunal to the Central Govermnent providing merely its stamp of approval to the opinion of the Central Government. The procedure to be followed by the Tribunal must, therefore, be such which enables the Tribunal to itself assess the credibility of conflicting material on any point in controversy and evolve a process by which it can decide whether to accept the version of the Central Government or to reject it in the light of the other view asserted by the association. The difficulty in this sphere is likely to arise in relation to the evidence or material in respect of which the Central Government claims non-disclosure on the ground of public interest.

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 nondisclosure 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 nondisclosure 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 and 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.

26. .....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.

27. It follows that, ordinarily, the material on which the Tribunal can place reliance for deciding the existence on 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."

In accordance with the above position of law the sealed cover of the documents on which privilege had been claimed was opened and perused by me on 14th February 2008 and those documents were ordered to be re-sealed by the Registrar of the Tribunal. It was also ordered that such field officers on whose inputs confidential reports are based be examined in camera on 19th February, 2008. The application for rescheduling of the next date of hearing is allowed and this application is taken up.

In view of the above position of law laid down by the Hon'ble Supreme Court, all the field officers on the basis of whose reports, privilege had been claimed were to be examined in camera by the Tribunal on 19th February, 2008. ..."

12. The learned Senior counsel for the Union of India Shri Sidharth Mridul, submitted as follows :

(a) The Preamble to the The Unlawful Activities (Prevention) Act, 1967, (hereinafter referred to as the "Act") provides for the more effective prevention of certain unlawful activities of individuals and associations and dealing with terrorist activities and for matters connected therewith. The amendments precedes the Act and the main aim is to provide more effective prevention of certain unlawful activities.

(b) The expression 'unlawful association' has been defined in Section 2(p) of the Act which reads as follows:

"unlawful association" means any association—

(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or

(ii) which has for its object any activity which is punishable under section 153-A or section 153-B of the Indian Penal Code (45 of 1860), or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity; Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir."

Section 2(p) is divided into two parts which are disjunctive. The first part is in relation to Section 2(o) which defines 'unlawful activities'. The second part of Section 2(o) relates to disaffection of religious communities. The notification of the Government of India dated 29th August, 2007 clearly demonstrates the main objective of the organization was to spread disaffection between different religious communities. The Central Government is of the opinion that the ban be imposed with immediate effect as the organization is likely to :

(i) Re-organize itself and indulge in sabotage of vital installations;

(ii) Create tension between the Christian and other communities with a view to disrupting the social fabric;

(iii) Create a wedge between different communities by making the blame to appear on the majority community;

(iv) Discredit the government; and

(v) Cause embarrassment by tarnishing the secular credentials of the Indian polity.

The main objective of the organization is to weaken India by engineering communal strife, sabotaging elements of the infrastructure and damaging its vital installations, can be summed up as follows :

(a) Deendar Anjuman Organization has been engaged in distribution of objectionable anti-Christian literature and pamphlets and in espionage activities.

(b) Deendar Anjuman has links at Mardan in Pakistan and has been organizing bands of disgruntled Muslim youths in India to a militant outfit for launching Jehad with the avowed objective of total Islamization of the sub-continent.

(c) Deendar Anjuman planned to create disturbances particularly by promoting hatred and creating suspicion and ill-will among the Christians and Hindus as well as among other communities.

(d) Deendar Anjuman has directed its activities to attack Christian institutions with the objective of embarrassing the government, particularly in the international community and weakening it internally; and

(e) Deendar Anjuman had plans to target major infrastructural installations including railways, telecom network, electricity grids, oil refineries and defence installations.

(c) The counsel submitted that the following witnesses deposed to the effect that the organization is creating disaffection between the various religious communities and is indulging in anti-national activities.

(i) The deposition on behalf of the Central Government witness Smt. B. Bhamati clealrly says that the input received from the Intelligence Agencies indicate that

despite the imposition of ban, Deendar Anjuman has managed to keep its network alive through clandestine activities and meetings. Her deposition also refers to the inputs received from the intelligence agencies and from various States Governments about the activities of the Deendar Anjuman. The witness further deposed that many cases have been registered against the members of Deendar Anjuman.

(ii) KSW-l Shri Shankar deposed that the organization is still conducting its meetings clandestinely and circulating its literature in Hubli and Dharawar. He further deposed that the aim of the organization is to disturb the communal harmony between Hindus and Christians.

(iii) PW 1 deposed to the effect that pamphlets were distributed by the volunteers of the organization which were received by him from some school children which shows a manner of Namaz which is contrary to what is stated in the *"Quran"*

(iv) A number of accused, such as Rishi Haremath, Meera Saheb Kaujalgi and Zakir who had been arrested after the bomb blasts had given confessional statements under Section 164 Cr.P.C. to the effect that the organization was creating disharmony and disaffection between the members of the different religious communities and is indulging in anti-national activities. The Central Industrial Security Force Headquarters reported that on the basis of a report received from the Andhra Pradesh Police, computer floppies containing details regarding the Nuclear Fuel Complex, Electronics Corporation of India (Hyderabad), National Remote Sensing Agency, Balanagar (Hyderabad) and other key installations have been recovered from the suspected Deendar Anjuman activists arrested in connection with the bomb blasts in Church premises, Mosques etc. in Andhra Pradesh and Karnataka during May-June, 2000.

(v) SW 12 M. Ganpathi Rao, who was examined in Hyderabad, had produced a CD (Compact Disk) which had speeches by Zakir on the death of Mr. Ghani. Although the speeches were prior to the time of ban but shows activities of the organization which are anti-national.

(d) The Deendar Anjuman Organization was set up in 1924. The history of creating communal disturbances came into light in 1934 by L.M. Brown, the then District Magistrate, Dharwar, had bound over Moulana Siddique Channa Basaveswara (the founder of Deendar Anjuman Sect) and his followers under section 108 of the Criminal Procedure Code, 1908 for creating communal disharmony. During 1948, the Nizam Government declared Deendar Anjuman as unlawful and had arrested its founder with 241 members who were subsequently interned. Syed Zia-ul-Hassan, the son of Maulana Siddique, the present Chief of Deendar Anjuman, had migrated to Pakistan in 1948 and had settled at Shakir Manzil, Karyan Road, Mardan, Pakistan. He has set up another outfit known as Jamaat-e-Hizbul Mujahideen in Pakistan, which operates from bases in Mardan, Lahore, Karachi, Faisalabad, Rawalpindi, Sargodha etc. He used to visit India every year during the annual Urs in the memory of his late father whose tomb is located at Deendar Anjuman Ashram, Asif Nagar, Hyderabad. During such visits, Zia-ul-Hassan and his sons had engaged themselves in organizing a band of disgruntled Muslim youth of the community into a militant outfit for launching Jehad in India, with the avowed objective of total Islamisation of the sub continent. It was during one such visit in October 1999 that Zia-ul-Hassan had spelt out his plans to create disturbances particularly by promoting hatred between the Christians and the Hindus as well as between other communities. He had specifically directed a group of his followers to attack Christians so that there would be international pressure on the Government of India and the government would be weakened. While resolving to hoist Anjuman flag on the Red Fort in Delhi after intrusion into India on horseback through Kashmir with 9 lakh Pathans in April-May 2000, Zia had exhorted his followers to create a conducive situation for welcoming him, by carrying out sabotage all around in the southern States.

(e) Deendar Anjuman has pockets of influence in the States of Andhra Pradesh, Karnataka, Maharashtra and Goa. Some volunteers of Deendar Anjuman had come to adverse notice for their involvement in communal activities in Hyderabad during December 1990. This Organization had also come to notice for fomenting caste tensions between the Dalits and the non-Dalits in Maharashtra and coastal Andhra by deliberately defiling the statues of Dr. Ambedkar in 1997. In fact, two of their volunteers Zakir and Mohd. Khalid Chaudhary who were killed in the Maruti Van Bomb blasts in Bangalore on 9.7.2000 along with seven other activists of Deendar Anjuman had visited Pakistan during September 1992 for arms training.

(f) Deendar Anjuman organization is a communal organization whose hidden agenda is to spread Islam in India by adopting illegal means "Nifaq" (hatred), "Sariya" (acquiring money by adopting illegal means) and "Jehad" (waging holy war).

(g) Deendar Anjuman has links with Jamat-e-Hijbul Mujahideen. The organization has not disowned its connections with Zia-UI-Hassan, the Deendar Anjuman Chief based in Pakistan and the founder of Deendar Anjuman even after the exposure of the module and after the ban. Zia-ul-Hassan, the Amir of Deendar Anjuman in India and Jamaat-e-Hizbul Mujahiddeen in Pakistan, has been coordinating anti-India activities like sabotage, subversion, espionage etc. directly as well as through his sons, particularly Javed Pasha and Zahid Pasha. His composite plan of subversion, sabotage and espionage is inclusive of :

(i) creation of hatred between communities (Nifaq)

(ii) collection of funds (Sariya)

(iii) training of activists (Tarbiyat)

(iv) targeting of infrastructure

(v) targeting of VIPs

(h) Deendar Anjuman organization has been engaged in distribution of objectionable anti-Christian literature and

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amphlets and in espionage activities. Deendar Anjuman has directed its activists to attack Christian institutions with the objective of embarrassing the Government, particularly in the international community and weakening it internally.

(i) The objective was to weaken India by engineering communal strife, sabotaging elements of the infrastructure, and damaging its vital installations, so that 'Kargil type attack' by Pathans under the leadership of Zia-ul-Hassan against India could be executed. He had offered to equip Deendar Anjuman members with weapons and explosive, which he proposed to clandestinely induct into India through the Indo-Bangladesh border and through some landings with the help of fishermen near Balasore (Orissa) coast for being transported to the southern States inside baskets under fresh betel leaves.

(j) The learned Senior Counsel for the State concluded his arguments by submitting that the organization, inspite of the ban imposed upon them thrice, has not denounced their objective of spreading disaffection amongst different religious communities and indulging in anti-national activities. The organization has not also discontinued their association with Zia-Ul-Hassan, against whom red corner notices have been issued.

13. Mr. Mushtaq Ahmed, the learned counsel for the Deendar Anjuman organization during the arguments submitted as follows:

(a) The ban imposed on the organization has to be based on factual foundation as per the law laid down by the Hon'ble Supreme Court in case of ***Jamaat-e-Islami HIND,*** 1995 (1) SCC 428.

"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 test applicable in the context."

Thus, the justification of the ban in view of the counsel for the organization has to be based on factual foundations and the ipse dixit opinion of the Central Government should not be approved. He then went on to submit that the evidence of the witnesses who deposed against the organization cannot be taken as a sustainable factual foundation for the justification for imposing the ban on the organization.

(b) KSW-l was examined in Bangalore. On being cross examined he has stated that the organization was indulging in clandestine activities and information in this regard was provided by the secret informers. He was trying to evade the source by which he had acquired this information. He further did not show any intelligence report to this effect. He also did not remember the time and date when these clandestine meetings had taken place. KSW - 7 only said that if the ban was lifted the activities of the organization would continue. Thus, all the witnesses in the State of Karnataka had deposed to the same effect and no reason has been assigned as to why the ban on the organization should be imposed.

(c) SW-l to SW-9, who were examined in the State of Maharashtra only deposed in relation to the past activities of the organization and not about any current or recent activities undertaken by the organization. There was no overtact shown and only old cases pending in the trial courts have been mentioned.

(d) SW-12 M. Ganpathi Rao and SW-13 Bhavana Saxena, who deposed in the State of Andhra Pradesh, have stated the grounds of ban in their affidavits which are identical but no evidence with regard to them has been shown. In para 10 of his affidavit, SW-12 has stated that the confidential sources have indicated that clandestine activities are still continuing and the ban on the organization should not be lifted. This is the central foundation for banning the organization which is only based on opinion and belief of the central and State agencies but no factual foundations with regard to it have been demonstrated. In para 10 (i) of his affidavit SW 12 has said that the ban on the organization cannot be lifted in anticipation of the fact that the activists of the organization may again indulge in anti-national activities especially in creating disharmony among various religious communities. But, however, only on the ground of suspicion the justification of the ban on the organization cannot and should not be upheld as this is not in accordance with the factual foundation as laid in the case of ***Jamaat-e-Islami Hind.***

(e) SW-ll who deposed in the State of Goa, only referred to old and pending cases in para 8 of his affidavit and did not produce any sort of legal and factual evidence to justify the ban on the organization.

(f) CGW1 has deposed to the effect that the present President of the organization is Syed Zia-ul-Hasan. This statement is not correct as a list of all the presidents of the organization for the past 15 years has been mentioned in the affidavit of the organization. She has also stated that the organization had purchased a farm which is also not correct as the members of the organization are very poor and no details of the said farm have been given. Para 1 to 23 of the affidavit is only the repetition of the history of the organization and recounts details of all the old and pending cases. The factual foundation of the ban has been given in paragraph 24 and 25. The last part of para 24 mentions that the agencies are of the opinion that considering the antecedents of the Deendar Anjuman Organization and its potential to carry out anti-national activities, the ban has to be imposed. However, as laid down in the case of ***Jamaat-e-Islami Hind,*** there should be a factual matrix on which the ban has been imposed. There is no iota of evidence produced on factual foundations to the effect that ban should be imposed and only on the basis of opinion the ban cannot be justified. In para 26 of her affidavit she has mentioned that the activities have become latent and clandestine and there is all likelihood that if the ban was not imposed the organization will revive itself to carry out

its objectives. In para 28 it has been stated that the organization was likely to reorganize itself. However, likelihood and also the previous bans cannot be the grounds for the imposing further ban. There must some concrete foundation for the ban. The grounds of justification by the Central Government based on the opinion formulated by the Central Agencies that the ban should be imposed are only found on suspicion. There has been no evidence to show that the organization was carrying on its clandestine and ostensible activities. The activists of the organization are poor, charitable and hand-to-mouth people and are actually *'fakirs'*.

(g) It is also pertinent to note here that no one had claimed privilege in their affidavit and it was only after the examination of police witnesses in Hyderabad that the privilege was claimed in respect of the reports filed by the various field officers of Central and State level agencies. In such mitigating circumstances, the ban imposed on the organization cannot be upheld specially when the fundamental rights of the organization guaranteed under Article 19(1)(c) are being violated.

(h) The learned counsel for the organization referred to the fact that the language of all four notifications is almost the same and the whole emphasis is on the old cases and only stale grounds have been mentioned for the justification of the current ban imposed. Since in spite of the order of this Tribunal dated 6th February 2008 the earlier notifications have not been shown to be supplied to the counsel for the organization the Tribunal must proceed on the assumption that the assertion of the counsel for the organization that all the four notifications/affidavits were identical, is correct.

(i) The learned counsel for the organization referred to the provisions of the Act mentioned in the Schedule in which the organization has already been listed as a 'terrorist organization' at S.No.23 and stated that this whole exercise is futile if the organization has already been listed as a 'terrorist organization'.

(j) The learned counsel for the organization then summarized his arguments by stating that the ground to claim privilege on the reports filed is not appropriate as the reports of such Field officers are not beyond the scrutiny of this Tribunal. The ban is not justified as there is no sufficient cause and no factual foundation to impose the present ban. Further, weighing the evidence of Central Government witnesses and the defence witnesses the case of the organization stands on a higher pedestal and therefore, as per the law laid down in *Jamaat-e Islami Hind's* case, the continuation of the ban was not justified. He referred to an Urdu quote to define the social position of the organization "narrow devout Muslim took me as Hindu and Hindu thinks that I am Muslim." Further emphasizing on the non-justification of the ban he said that there was not sufficient cause for the ban, the activists of the organization spread love and amity and practice the principle of brotherhood relentlessly.

14. Shri Sidharth Mridul while rebutting the arguments advanced by the learned counsel for the organization submitted as follows:

(a) DW -11 in his testimony has stated that the organization published the book *Imam-ul-Zihad* and the English translation which makes the objective of the organization very clear and present the true picture of the organization, which is to create disharmony between the various religious communities.

(b) There is not only relevance of the past antecedents and conduct of the organization in imposing the ban on the organization but factual foundation is also present. The objective of the organization is to carry out overt acts by targeting Hindus and Christians and by targeting the Dalits with the ultimate objective of creating disharmony among various religious communities and indulging in anti national activities. The Central Government must take preventive action in order to prevent the organization from carrying out its mala fide intention.

(c) On the question of claim of privilege the learned counsel referred to the provisions of Sections 123, 124 and 125 of the Indian Evidence Act, 1872 which are as follows:

"123. Evidence as to affairs of State.- No one shall be permitted to given 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.

124. Official communications.- No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interest would suffer by the disclosure.

[125. Information as to commission of offences... No Magistrate or police officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

Explanation.—"Revenue officer" in this section means an officer employed in or about the business of any branch of the public revenue.]"

A perusal of the provisions of the above mentioned Act shows that without the permission of the officer at the head of the department concerned no one shall be permitted to give any evidence from unpublished official records relating to any affairs of the State and further no police officer shall be compelled to say how and when he got any information as to the commission of any offence. Consequently, the claim of privilege cannot be denied merely because it was claimed after the intelligence witnesses sought to rely upon and produced the secret reports.

15. A perusal of the testimony of the defence witnesses does establish that the aims and objects of the organization cannot per se be faulted. The witnesses have deposed that the organization promotes peace among

various communities, organizes intra religious conferences and such conferences have involved the participation of religious leaders of various faiths. The organization in defence had given the evidence of Christian and Hindu Religious leaders affirming the peaceful and secular nature of the organization.

The above testimony of the witnesses appearing for the organization peace among various religions cannot be termed illegal or objected to.

The public witnesses particularly those who deposed in Bangalore against the organization namely T.R.Akbar Khan, Muneer Ahmed and Moulana Khalid Baig Nadvi, clearly appeared to be motivated by an apparent bias against the organization. Their testimony appeared to be motivated and did not inspire confidence. Their testimony to the effect that the members of the organization were carrying on objectionable activities without giving any particulars and were not true followers of Islam thus cannot be given credence and accordingly is not being relied upon. The objections of these witnesses that the organization was not following Islam by not portraying Mohammed as the last Nabi could not be sustained as the organization professed and established its full faith in the teachings of Islam.

The CDs produced as evidence by the State Government and by the organization have been seen and perused by me. The CD of the UOI does not give any evidence in relation to the current activities of the organization. The CD of the organization only relates to the apparent activities of the organization like holding of intra religious conferences.

This Tribunal therefore, while not finding any fault with the professed activities of the organization, is thus required to take into account and consider the plea of the Union of India and the statement of the State Witnesses to the effect plea of the Union of India and the statement of the State Witnesses to the effect that it is the clandestine and not the apparent activities of the organization and the organization's continued link with Zia-ul-Hasan who is an absconding accused stationed in Pakistan which furnish sufficient cause for continuing the ban.

16 (i) KSW-1 Shri Shankar, KSW-2 Shri Mehaboob Khan, KSW-3 Shri Ashok, KSW-4 Shri R. Ramanna, KSW-5 Shri Jackson D'Souza and KSW-6 Shri Nisar Ahmed examined at Bangalore deposed to the effect that the members of the Organization were still distributing pamphlets and conducting meetings clandestinely to propagate the principles of the Organization. All these witnesses have deposed that the activities of the organization were continuing and there were clandestine meetings being conducted by the activists of the organization. However, since no particulars of the clandestine meetings such as the date and time have been furnished, the testimony of these witnesses cannot be relied upon for establishing that the clandestine meetings were held. KSW-4 Ramanna also did not specify the time and date as to how and when the clandestine meetings were conducted.

(ii) KSW-7 Mr. Victor D'Souza examined at Bangalore also deposed that the intelligence input report maintained in their office clearly demonstrated that even after the ban on 17th May, 2005, the activities of the organization were still continuing.

(iii) SW-9 Shri Pramod Shripad Khatavkar, examined at Mumbai, deposed that the activities of the organization had been controlled only because of the continuous operation of the ban and lifting of the ban at this juncture would encourage the militant organizations and its members in regrouping themselves in pursuance of their avowed militant activities affecting the internal security, unity and communal harmony. He further stated that Zia-ul-Hasan, who was the chief of the Pakistan Organization and residing at Mardan, Pakistan was still in touch with the absconding accused persons of the organization. Apart from the above witness, none of the witnesses in Maharashtra i.e. SW1-Shri Bhimrao Namdeorao Shingade, SW2-Shri Deepak Dynoba Shinde, SW3- Shri Balasahed Bhanudas Waghmode, SW4- Shri Rafik Yusuf Shaikh, SW5- Shri Bhikanrao Shamrao Bibne, SW6- Shri Ranjit Dadasaheb Dhure, SW7- Shri Mohan Anant Rao Vidhate, SW8- Shri Mahesh Madhukar Joshi and SW10- Shrihari Dagadu Munde, deposed about any current activities of the organization and had deposed only about the past conduct. Therefore, their evidence is not of any relevance in respect of the current ban on the organization dated 29th August, 2007.

(iv) SW -11Om Prakash Kudtarker, who deposed at Goa only spoke of the incidents of 2000, hence his testimony is of no relevance in respect of the current ban on the organization dated 29th August, 2007.

(v) SW-12 Mr. M. Ganpathi Rao and SW-13 Smt. Bhavana Saxena, examined at Hyderabad, also deposed that even after the ban, the organization had not disowned the leadership of the prime accused Zia-ul-Hassan and his sons who were residing at Mardan, Pakistan. The followers of Deendar Anjuman, under the influence of prime accused Zia-ul-Hassan who was also the Chief of militant organization "Jamat-e-Hizbul Mujahiddin" operating from Pakistan may again indulge in subversive activities to achieve their ultimate goal of Islamization of the entire country. Deendar Anjuman organization had links with Jamat-e-Hizbul Mujahiddin. The organization had also not disowned its connection with Zia-ul-Hassan, the Deendar Anjuman Chief, based in Pakistan and the founder of the organization. Sayed Basha, the alleged Ex-General Secretary of the Organization was the father in law of the accused Izhar Beg who had been convicted in CR No. 35 of 2000. They also stated that Zia-ul-Hasan was still in touch with the other accused persons who were absconding and information to that effect was available and he was also reported to be giving financial and logistic support for anti-national and subversive activities to achieve his ultimate goal of Islamization of the entire country.

(vi) The CGW-I B. Bhamathi, Joint Secretary to the Government of India, Ministry of Home Affairs, examined at Delhi deposed to the effect that:

(a) The Deendar Anjuman was linked to Jamaat-e-Hijbul Mujahideen. The organization has not disowned its connection with Zia-ul-Hassan, the Deendar Anjuman Chief based in Pakistan even after the exposure of the module and after the ban.

(b) As a consequence of the ban, the activities of Deendar Anjuman have become latent and clandestine and there is every likelihood of these activities witnessing a quantum spurt if the ban against the organization is lifted.

17. Most of the State witnesses have deposed to the past activities of the organization prior to or during the earlier bans and this Tribunal is, therefore, not considering such testimony. The only testimonies which this Tribunal is taking into account which relates to activities which are in proximity of the ban i.e. 29th August, 2007 or thereafter. The past activities are only relevant to furnish the antecedents of the organization but cannot *ipso-facto* constitute sufficient cause stipulated under Section 4 of the Act.

The summary of the evidence of witnesses thus indicate that ostensibly the activities of the organization cannot be faulted and it is contended that there is material on record which is established by the Secret Intelligence Reports to show that the Union of India was justified in having sufficient cause to impose the impugned ban on the organization. It has been stated that the ban has prevented the organization from carrying on the objectionable though clandestine nature of its activities.

I am henceforth considering the evidence of those witnesses only who, in my view, have given testimony having a specific bearing on the current and not the past activities of the organization, which may establish sufficient cause for continuing the ban.

18. After a perusal of the reports on which the state had claimed privilege and on examination of the field officers and their reports to verify the credibility of the reports filed, I have come to the conclusion that the following inputs in the various intelligence reports filed have a bearing on the current activities of the organization:

(i) Secret Report marked SRI showed that during the subsistence of the ban, the activists of the organization collected funds on 24th 25th & 26th September, 2007.

(ii) Secret Report marked SR2 relating to activity of 1st March, 2007 showed that financial help was being provided to the accused persons connected to the organization and this money was being used to influence the Muslim youth to join the organization and participate in its activities secretly. Another report marked SR3 relating to the activity of 5th October, 2007 was filed to the same effect that the Muslim youths are being asked to join the organization secretly. The report SR3 also disclosed that the activities were being carried out in even after the ban was imposed on 29-8-2007.

(iii) Secret Reports also showed that the umbilical cord with Zia-ul-Hasan has not been severed and is likely to be revived if the ban is lifted. Zia-ul-Hasan and his six sons are all absconding from Indian Courts and have red corner notices issued against them are still active in Pakistan and have maintained contacts with the members of the organization. This fact has been further mentioned in the reports filed by the field officers marked as SR4, SR6 and SR7.

(a) Secret Report marked SR4 showed that in July, 2007, one accused Mehar S/o Jaleel Chaudhary, who was the accused in Deendar Anjuman Case and senior follower of the faith, communicated with Syed Zia-Ul-Hasan, DA Chief in Pakistan. Thereafter, the said Mehar also had telephonic conversations with Zia Ul-Hasan. The said Zia-UI-Hasan is an absconding accused in Deendar Anjuman case in India.

(b) A perusal of the Secret Report SR6 further revealed that two workers' of the Organization after the imposition of the present ban 29th August, 2007 came to Gulbarga from Hyderabad on 24th September, 2007 and collected donations for the organization by visiting shops/ residences in Khaja Bandenawaj Dargah Marg, Muslim Chowk in Gulbarga city and left Gulbarga on 26th September 2007.

(c) Secret report marked SR7 relating to activities of 15th and 16th October, 2007 showed that the activists of the organization were collecting funds to strengthen the organization. They have been establishing contacts with the activists of SIMI, LeT and other organizations and also trying to spread discord between different religious communities.

19(a) The testimony of KSW 7 Victor D'souza that activities of the organization were continuing even after the ban on 17th May 2005, is verified by the above S.R. Nos. 2, 3 and 7. Secret Report marked SR 2 showed that financial help was being provided to the accused persons connected to the organization and this money was being used to influence the Muslim youth to join the organization and participate in its activities on 1-3-2007 secretly. Another report marked SR 3 was filed to the same effect that the Muslim youths are being influenced and instigated. SR 3 related to activity of 5-10-2007 during the period of trial in District Sessions Court and after the imposition of the present ban. Secret report marked as SR 7 showed that the activists of the organization were collecting funds to strengthen the organization. They have been establishing contacts with the activists of SIMI, LeT and other organizations also trying to spread discord between different religious communities.

(b) The assertion of SW 9 Pramod Khatavkar, SW 12 M. Ganpathi Rao and SW 13 Smt. Bhavana Saxena that Zia-ul-Hasan, the Chief of the Pakistan based organization, residing at Mardan in Pakistan, was still in touch with the absconding accused persons is supported by the Secret Report No. 4. Secret Report marked SR 4 showed that in July, 2007, one accused Mehar s/o Jaleel Chaudhary, who

was the accused in Deendar Anjuman Case and senior follower of the faith, communicated *via* SMS with Syed Zia-ul-Hasan, DA Chief in Pakistan. Thereafter, the said Mehar also had telephonic conversations with Zia-ul-Hasan. The said Zia-ul-Hasan is an absconding accused in Deendar Anjuman case in India.

20. The relevant position of law laid down by the Hon'ble Supreme Court in *Jamaat-e-Islami Hind (supra)* in paragraph 20 thereof is as follows :

"20. The scheme under this Act requiring adjudication of the controversy in this manner makes it implicit that the minimum requirement of natural justice must be satisfied, to make the adjudication meaningful. No doubt, the requirement of natural justice in a case of this kind must be tailored to safeguard public interest which must always outweigh every lesser interest. This is also evident from the fact that the proviso to sub-section (2) of Section 3 of the Act itself permits the Central Government to withhold the disclosure of facts which it considers to be against the public interest to disclose. Similarly, Rule 3(2) and the proviso to Rule 5 of the Unlawful Activities (Prevention) Rules, 1968 also permit 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."

In the above quoted passage, the Hon'ble Supreme Court has held that the requirement of natural justice must be tailored to safeguard public interest. It has also been held that the public interest must always outweigh every lesser interest which may naturally include the interest of the organization. This is the impact of Section 3 (2) of the Act permitting the Central Government to withhold the disclosure of facts which it considers to be against the public interest to disclose.

Section 3(2) of the Act reads as follows :

"3. Declaration of an association as unlawful—

(1) xxxxxxxx

(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."

Rule 3(2) and the proviso to Rule 5 of the Unlawful Activities (Prevention) Rules, 1968 also permit non-disclosure of confidential documents and information which the Government considers against the public interest to disclose. Rule 3(2) reads as follows :

"4. **Tribunal and District Judge to follow rules of evidence—**

(1) xxxxxxxxxx

(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 part to the proceedings before it.

Rule 5 reads as follows :

"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 require the Central Government to disclose any fact to the Tribunal which that Government considers against the public interest to disclose."

Since Rule 3(2) and Rule 5 and Section 3(2) of the Act hold the field, the secret intelligence reports particularly S.R. Nos.2, 3, 4 and 7, on the basis of which ban has been upheld could not be disclosed to the organization.

21. In paragraph 22 of the judgment in *Jamaat-e-Islami Hind (supra)* the Hon'ble Supreme Court held as follows :—

"22. .....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 and 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 Govermnent.

In the above extracted passage of the judgment, the Hon'ble Supreme Court has held that the non-disclosure to the organization does not prevent the disclosure to the Tribunal and the Tribunal is required to assess the credibility of such confidential information/inputs so as to satisfy itself that *it* can act safely on the same. The procedure of assessing such information has to be devised by the Tribunal and it has been held that the materials need not be confined only to legal evidence in the strict sense. Consequently, even though the secret reports may not constitute the legal evidence in the strict sense, these reports nevertheless satisfy the requirement of being such material on the basis of which the Tribunal may safely act. The Tribunal held a hearing where all the field officers along with their secret intelligence reports were examined in camera. The said in camera hearing enabled this Tribunal to come to the conclusion that the reports were credible and worthy of reliance. The secret intelligence reports have been put in a sealed cover after examining them and they are accordingly marked for perusal in case the need for the same arises.

22. The Tribunal has sustained the ban on the basis of the above secret report but is constrained to observe that the ban has only been sustained on the basis of secret reports filed by the Central and the State investigating agencies, which reports have been held to be privileged. The decision of the Hon'ble Supreme Court in ***Jamaat-e-Islami Hind*** (supra), has laid down the law that after devising the procedure for examining the veracity of documents claimed to be privileged, the Tribunal may take into account the credibility of such documents. This Tribunal has examined the Field Officers and their reports in camera and after examining such secret intelligence reports which in view of the public interest have been held to be privileged, has found such reports to be credible and thus, the Tribunal has found the existence of sufficient cause to sustain the ban.

23. It may appear unfair that an organization is banned on the basis of inputs constituted by secret intelligence reports which cannot be divulged to it. However, this Tribunal has considered the sensitive nature of such privileged reports filed by the Central and State investigating agencies and has found that in the interest of public security and national interest, such reports ought not to be made public. Thus, the public interest subserved in preserving the confidentiality outweighs the interest of the organization under ban in being privy to such reports. The Tribunal has concluded that such reports verifying the depositions of KSW-7 Shri Victor D'Souza, ACP, North Division, SW-9 Shri Pramod Shripad Khatavkar, Addl. Dy. Commissioner (Security), SID, Maharashtra, SW-12 Shri M. Ganpathi Rao, Police Inspector, CID, Hyderabad, and SW-13 Smt. Bhavana Saxena, Superintendent of Police, Crime Investigation Department (CID), Hyderabad, along with such deposition constituted sufficient material to continue the ban. The Tribunal has also noticed that largely the ban is imposed on antecedents of the organization based on past incidents and the inputs of the secret intelligence reports which suggest current unlawful activities. It would have not been possible to upheld the ban if the deposition of KSW-7 Shri Victor D'Souza, ACP, North Division, SW-9 Shri Pramod Shripad Khatavkar, Addl. 'Dy. Commissioner (Security), SID, Maharashtra, SW-12 Shri M. Ganpathi Rao, Police Inspector, CID, Hyderabad, and SW-13 Smt. Bhavana Saxena, Superintendent of Police, Crime Investigation Department (CID), Hyderabad had not been supported by SRs 2, 3, 4 and 7. There does not appear to be any other fresh material apart from the above 4 depositions of KSW7, SW9, SW 12 and SW13 supported by the said secret intelligence reports being SR Nos. 2, 3, 4 and 7 which may have sustained the ban against the organization. This is a factor which must be kept in mind in considering whether the ban needs to be continued in future.

24. In view of the above, I am satisfied that there is sufficient cause found under Section 4(3) of the Act for confirming the declaration of Deendar Anjuman as a banned association issued under Sub-section (1) of Section 3 of the Act. Accordingly the declaration dated 29th August, 2007, declaring Deendar Anjuman as an unlawful association is confirmed in terms of Section 4 of the Act. The reference is answered accordingly.

February 27, 2008 **(Justice Mukul Mudgal)**

Unlawful Activities (Prevention) Tribunal

[F. No. 14017/7/2008-NI-III]

ARUN KUMAR YADAV, Jt. Secy.

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