रजिस्ट्री सं० डी० एल०-33004/99 REGD. NO. D. L-33004/99

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 1467] नई दिल्ली, सोमवार, मई 22, 2017/ ज्येष्ठ 1, 1939
No. 1467] NEW DELHI, MONDAY, MAY 22, 2017/JYAISTHA 1, 1939

IndiaCode

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 22 मई, 2017

का.आ.1656(अ).—केन्द्रीय सरकार ने, विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत का राजपत्र, असाधारण, भाग-II, खण्ड-3, उप-खण्ड (ii), दिनांक 17 नवम्बर, 2016 में प्रकाशित भारत सरकार के गृह मंत्रालय की अधिसूचना संख्या का.आ. 3460 (अ), तारीख 17 नवम्बर, 2016 (जिसे इसमें इसके पश्चात् उक्त अधिसूचना कहा गया है) द्वारा ईस्लामिक रिसर्च फाउंडेशन (जिसे इसमें इसके पश्चात् आई.आर.एफ. कहा गया है) को विधिविरुद्ध संगम के रूप में घोषित किया था;

और, केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत का राजपत्र, असाधारण, भाग-II, खण्ड-3, उप-खण्ड (ii), तारीख 15 दिसम्बर, 2016 में प्रकाशित भारत सरकार के गृह मंत्रालय की अधिसूचना संख्या का.आ. 4043 (अ), तारीख 15 दिसम्बर, 2016 द्वारा विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण (जिसे इसमें इसके पश्चात् उक्त अधिकरण कहा गया है), जिसमें दिल्ली उच्च न्यायालय के माननीय न्यायाधीश माननीय न्यायमूर्ति श्रीमती संगीता धींगरा सहगल शामिल थीं, का गठन किया था;

और, केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिनिर्णय के प्रयोजन के लिए, कि क्या आई.आर.एफ. को विधिविरुद्ध संगम के रूप में घोषित किए जाने का पर्याप्त कारण है या नहीं, 16 दिसम्बर, 2016 को उक्त अधिसूचना को उक्त अधिकरण को विनिर्दिष्ट किया था;

और, उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उप-धारा (3) के अधीन किए गए 11 मई, 2017 के अपने आदेश द्वारा उक्त अधिसूचना में की गई घोषणा की पुष्टि की है;

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

(निर्णय अंग्रेजी अधिसूचना में छपा है)

[फा. सं. 11034/17/2016-आई.एस.VI]

सुधीर कुमार सक्सेना, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 22nd May, 2017

S.O. 1656(E).—WHEREAS, the Central Government, in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as the said Act), had declared the Islamic Research Foundation (hereinafter referred to as IRF) to be an unlawful association vide notification of the Government of India in the Ministry of Home Affairs number S.O. 3460 (E), dated the 17th November, 2016 (hereinafter referred to as the said notification), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) dated the 17th November, 2016;

And WHEREAS, the Central Government, in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, had constituted the Unlawful Activities (Prevention) Tribunal (hereinafter referred to as the said Tribunal) consisting of Ms. Justice Sangita Dhingra Sehgal, a sitting Judge of the High Court of Delhi, vide notification of the Government of India in the Ministry of Home Affairs number S.O. 4043(E), dated the 15th December, 2016 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) dated the 15th December, 2016;

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 16th December, 2016 for the purpose of adjudicating whether or not there is sufficient cause for declaring the IRF as unlawful association;

AND WHEREAS, the said Tribunal has, by its Order dated 11th May, 2017 made under sub-section (3) of section 4 of the said Act, confirmed the declaration made in the said notification.

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

UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

NEW DELHI

In the matter of : **ISLAMIC RESEARCH FOUNDATION (IRF)**

REPORT

11.05.2017

Presence: Mr. Sanjay Jain, Additional Solicitor General for Central Government with Mr. Gaurang Kanth and Mr. Ravi Prakash, Central Govt. Standing Counsel alongwith Mrs. Biji Rajesh, Ms. Rajul Jain, Ms. Eshita Baruah, Ms. Nikita Choukse, Mr. Vignaraj Pasayat, Mr. Kartik Rai and Mr. Farman Ali, Advocates.

Mr. V.K. Upadhyay, Under Secretary, Ministry of Home Affairs.

Mr. Nishant Katneshwarkar, Chief Standing counsel for the State of Maharashtra with Mr. Arpit Rai, Government Advocate for State of Maharashtra.

Mr. D. C. Mathur, Senior Advocate with Mr. S. Hariharan and Mr. Dhruv Tamta, Advocates for IRF.

Notification dated 17.11.2016

1. The Central Government, in exercise of the powers conferred on it by the proviso to sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as *'UAPA, 1967'*) declared Islamic Research Foundation (hereinafter referred to as *'IRF'*) as an unlawful association by a notification dated 17th November, 2016 published in the Gazette of India (Extraordinary).

IRF banned on information received

2. The Central Government banned the IRF on the information received by it pertaining to the various cases that had been registered against Dr. Zakir Naik and other members of the IRF under the provisions of the Indian Penal Code, Information Technology Act and the UAPA, 1967 for radicalization of the youth to join Islamic State of Iraq and Syria (hereinafter referred to as 'ISIS'), for promoting hatred and ill-will between different religious communities and forcible conversion of the youth to Islam and for making derogatory statements against the Hindu, Hindu Gods and other religions.

Reasons for imposing ban on IRF by the Central Government

3. The Central Government found that the IRF, having its registered office at Masalawada Building, Dongri, Mumbai, and its members, particularly the Founder and President of the said Association Dr.Zakir Naik had been encouraging and aiding its followers to promote or attempt to promote, on the grounds of religion, disharmony or feelings of enmity, hatred or ill-will between different religious communities and groups and that the speeches of Dr. Zakir Naik, were objectionable as he has been extolling known terrorists, proclaiming that every Muslim should be a terrorist and promoting forcible conversion of the youth to Islam, justifying the suicide bombings, posting objectionable comments against Hindu, Hindu's God and other religions which are derogatory to other religions and further inspiring the Muslim youth and terrorists in India and abroad to commit terrorist acts. Furthermore, statements of various arrested terrorists or arrested ISIS sympathisers revealed that they were inspired by the fundamentalist statements of Dr.Zakir Naik, which clearly indicate the subversive nature of his preaching and speeches.

4. The Central Government was of the opinion that the acts of IRF, its President and members were highly inflammatory in nature and prejudicial to the maintenance of harmony between various religious groups and communities and that such a divisive ideology is against India's pluralistic and secular social fabric and it may be viewed as causing disaffection against India. Thus, it was necessary to declare the IRF as an unlawful association with immediate effect, otherwise there was every possibility of the youth being motivated and radicalized to commit terrorist acts thereby promoting enmity among different religious groups. In this background, the IRF was declared an unlawful association under Section 3 of the UAPA, 1967 and this Tribunal was set up to determine whether the declaration be confirmed under Section 4 of the UAPA, 1967.

Tribunal constituted

5. This Tribunal, constituted vide notification published in the Gazette of India (Extraordinary) dated 15th December, 2016, was vested with the power to adjudicate whether there was sufficient cause to declare the IRF an unlawful association and to ban its activities.

Show Cause Notice issued by the Tribunal

6. On a preliminary hearing by the Tribunal on 21.12.2016, a Show Cause Notice was issued to IRF, returnable within 30 days as to why the Foundation be not declared unlawful and the ban be confirmed. The Notices were directed to be served in the following manner:-

(i) Copies of the notice be affixed at some conspicuous part of the offices, if any, of the above Association;

(ii) Notice be also served on the aforesaid Association by publication in daily newspapers, one in English and one in prominent local paper in vernacular language,

which is under circulation in the locality where the organization has its establishments or presence as is known in the State of Maharashtra and outside;

(iii) By proclaiming, by beat of drums or by means of loudspeakers, the contents of the notice in the area in which the activities of the Association are ordinarily carried out;

(iv) Service be also effected on the Office Bearers of the Islamic Research Foundation at its addresses or if under detention through the Superintendent (Jail) concerned and by publication of the notices in National daily newspapers one in English and one in prominent local paper in vernacular language, which is under circulation in the State of Maharasthra;

(v) By publishing on the website of the Ministry of Home Affairs (http://mha.nic.in)

(vi) By making announcement on All India Radio and telecasting on Doordarshan from the Local Broadcasting and Transmission Stations of the State of Maharashtra; and

(vii) Notice should also be served by pasting the same on the Notice Board of the Office of District Magistrate/Tehsildar at the Headquarter of the District or Tehsil, as feasible.

Notices served on IRF

7. The Tribunal ensured that exhaustive steps be taken to serve the Notices upon the IRF. Affidavits of service upon IRF, in terms of the Tribunal's order, were filed on behalf of the Central Government that service had been effected.

Reply to Show Cause Notice by IRF denying all allegations

8. On 25.01.2017, in reply to the Show Cause Notice, IRF took up a stand that it is a registered Charitable Public Trust with pious and virtuous objects and has never indulged in any unlawful activity at any point of time and stated that all allegations made by the Central Government in the notification were either stale or vague and failed to demonstrate the registration of a case against Dr.Zakir Naik or for banning the IRF. The notification does not disclose any activity which may attract the provisions of the UAPA, 1967 or Sections 153-A or 153-B of the Indian Penal Code (hereinafter referred as to *'IPC'*) and Dr. Zakir Naik at no point encouraged or aided any person to undertake any such unlawful activity. Dr. Zakir Naik has not, by any conduct, promoted any activity which could either be called anti-national or of unlawful character or inflammatory in nature which could have hurt the religious sentiments of the citizens of India. Moreso, the Foundation being a registered Charitable Trust, neither has any unlawful objectives nor done anything adversely affecting the integrity or unity of India.

According to defence, the foundation is a separate legal entity

9. All the incidents, statements and speeches which have been referred to by the Central Government in the notification have been made by Dr. Zakir Naik in his individual capacity and not as the President of the IRF, having no nexus with any activity or the object of the Foundation. The Foundation is a separate legal entity distinct and different from Dr. Zakir Naik. All the allegations are against Dr. Zakir Naik and not against the Foundation. The Foundation was never made an accused. It is stated that the IRF since its inception, does not have any concept of 'Membership' altogether and no subscription for membership has ever been initiated since it is registered as a Charitable Public Trust. Therefore, the Foundation cannot be held accountable for the conduct of its employees. Dr. Zakir Naik through a letter to the Executive Editor clarified that the post on his Facebook account which was published in Samna Newspaper on 24.09.2012 was done by a staff member as an inadvertent mistake without his prior knowledge or approval which was ordered to be removed from his account immediately. Moreover, all the speeches or clippings available on YouTube/internet were either fake or doctored, he had ordered immediate removal of the same. It is stated that Dr. Zakir Naik is being quoted out of context on the basis of doctored and edited versions of his speeches. Dr.Zakir Naik has reiterated his respect for all religions and has even apologized if he had hurt the sentiments or feelings of any person. He had no intention to promote terrorism of any kind and to cause communal disharmony amongst religious groups, rather, he is striving to ensure peaceful existence of all faiths. The Supreme Court, by its order dated 05.07.2013 stayed the proceedings in connection with the said FIRs/complaints and therefore, the Central Government could not have proceeded further against Dr. Zakir Naik on the basis of these FIRs/complaints.

All speeches are doctored

Alleged appology of Dr. Zakir Naik

Proceedings stayed by Supreme Court

Documents filed in sealed covers

10. During the course of proceedings, few documents and statements were filed by the Central Government in sealed covers on which the privilege was sought.

Proceedings 'in- camera'

11. The Central Government sought direction that the proceedings be conducted *'in-camera'* keeping in mind the sensitivity and confidentiality involved in the matter and the same was allowed.

12. All the procedural requirements were completed. To justify the issuance of the notification dated 17.11.2016, the following witnesses were examined by the Central Government as well as by the State of Maharashtra :-

Evidence led by the State of Maharashtra

A) <u>Witnesses examined by the State of Maharashtra</u>

i. Mr. Ravindra Anant Shisve, Additional Commissioner, Special Branch, CID, Mumbai Police, Maharashtra as **SW-1**

ii. Mr. S. Jayakumar, Deputy Commissioner of Police, Economic Offences Wing, Mumbai Police, Maharashtra as **SW-2**.

iii. Mr. Tanaji Digamber Sawant, Station House Officer, Laxmipuri Police Station, Kohlapur, Maharashtra as **SW-3**.

iv. Mr. Dayanad Dattaram Gawas, Sub-Divisional Police Officer, Sawantwadi, Maharashtra as **SW-4**.

v. Mr. Mandar Lad, Assistant Inspector of Police, Economic Offence Wing, Mumbai Police, Maharashtra as **SW-7**.

vi. Mr. Dinesh Mohan Ahir, Assistant Commissioner of Police, Anti-Terrorism Squad, Maharashtra as **SW-8**.

vii. Ms. Geeta Kiran Kumar Chavan, Deputy Commissioner of Police, Anti-Terrorism Squad, Mumbai, Maharashtra as **SW-9**.

Evidence led by the Central Government

B) <u>Witnesses examined by the Central Government.</u>

i. Mr. C. Radhakrishnan Pillai, Deputy Superintendent of Police, NIA, Kochi, Kerala as **SW-5**.

ii. Mr. Aseem Srivastava, Superintendent of Police, NIA as **SW-6**.

iii. Mr. Satish Kumar Chikkara, Deputy Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi as **SW-10**.

iv. Ms. Namrata Patil, Additional Superintendent of Police, NIA, Mumbai as **SW-11**.

SW-1 Mr.Ravindra Anant Shisve, Additional Commissioner, Special Branch, CID, Mumbai

13. **Mr. Ravindra Anant Shisve (SW-1)** proved his affidavit as **Ex.SW-1/A**, FIR dated 06.08.2016 as **Ex.SW-1/A-1** and its translation as **Ex.SW-1/A-2,** FIR dated 23.02.2013 as **Ex.SW-1/B-1** and copy of Supreme Court order dated 05.07.2013 as **Ex.SW-1/B-2.** The secret report dated 06.08.2016 was exhibited as **Ex.SW-1/C-1** and **Ex.SW-1/C-2** is the translation in English language. He deposed that he is the Head of Special Branch CID Mumbai Police and the duty of Special Branch is to collect secret information, verify and disseminate the same. He proved his authorisation **Ex.SW-1/A.** During the cross examination, he deposed that Arshi Qureshi is an accused in FIR No.271/2016 dated 06.08.2016, who was an employee of IRF. SW-1 deposed that FIR No. 441/2013 dated 23.02.2013 was registered against Dr.Zakir Naik who is the founder of IRF though IRF is a Trust and FIR contains the details of speech of Dr.Zakir Naik showing that he has been promoting enmity and hatred between different religious communities. He further deposed that his report Ex.SW-1/C-1 dated 06.08.2016 also included the activities of Dr. Zakir Naik. SW1 deposed that Arshi Qureshi was closely associated with Ashfaq, son of the complainant, which is noted in para 3 at page 17 of the FIR No. 271/16. SW-1 further deposed that paras 22 and 23 contain the details of the inducement meted out to Ashfaq. He further deposed that 'Peace TV' is owned by Dr.Zakir Naik, who is the Founder of IRF which is a registered Trust. He further deposed that he examined the Trust Deed of IRF. He further deposed that 'Peace TV' has no down linking permission and cannot be viewed legally. SW-1 denied the suggestion that

Government of India had banned the IRF even though no material was available with the Government.

SW-2
Mr. S. Jayakumar, Dy. Commissioner of Police, EOW, Mumbai Police, Maharashtra

14. **Mr. S. Jayakumar (SW-2)** proved his affidavit as **Ex.SW-2/A** and the order **Ex.SW-2/1** passed by the ACMM in case No.723/Misc./2016 titled as 'Aamir Abdul Mannan Gazdar and Anr. Vs. The State (EOW)'. SW-2 proved that 26 bank accounts pertaining to Dr. Zakir Naik, the shell companies and the persons associated with these shell companies were frozen on the basis of Preliminary Enquiry Report **Ex.SW-2/2.** SW-2 deposed that a preliminary enquiry was initiated against Mrs.Nailah Naushad Noorani, sister of Dr.Zakir Naik and found that Mr. Aamir Abdul Manan Gazdar, is an associate of the companies that were floated with Mrs.Nailah Naushad Noorani as one of the Directors. Dr.Zakir Naik, from his foreign account held with Emirates Islamic Bank, Dubai transferred an amount of Rs.47 Crores approximately to the NRI Indian Bank Account from 2012 to 2016. This money was further transferred to quite a few of his relatives and later transferred to Mrs. Nailah Naushad Noorani, sometimes to Mr.Aamir Abdul Manan Gazdar and later on, found way to the companies connected to Mrs. Nailah Naushad Noorani and Mr.Aamir Abdul Manan Gazdar and further found that there was financial transaction of Dr.Zakir Naik individually and as a Trustee of Islamic Research Foundation and IRF Education Trust and exhibited his report as **Ex.SW-2/2**.

SW-3
Mr. Tanaji Digambar Sawant, Station House Officer, Laxmipuri Police Station, Kohlapur, Maharashtra

15. **Mr. Tanaji Digambar Sawant (SW-3)** proved his affidavit as **Ex.SW-3/A** and FIR No. 131/12 registered under Sections 153-A, 295-A and 298 of the IPC against Dr. Zakir Naik on the basis of the complaint dated 12.11.2012 which is **Ex.SW-3/1** which was investigated by him. The said case was personally investigated by him. The chargesheet is **Ex.SW-3/2**. According to him, proceedings were stayed by the Supreme Court in the year 2013 and the charge sheet was filed in the year 2014. SW-3 deposed that the FIR was registered on the basis of speeches given by Dr. Zakir Naik but due to the skillful handling by the police officials, the incident of rioting could be controlled. In his cross examination, SW-3 admitted that the IRF was not an accused but the FIR had been registered against Dr.Zakir Naik. He also admitted that he was aware that Dr.Zakir Naik had apologized to the then C.P., Mumbai.

SW-4
Mr. Dayanand Dattaram Gawas, Sub Divisional Police Officer, Swantwadi, Maharashtra

16. **Mr. Dayanand Dattaram Gawas (SW-4)** proved his affidavit as Ex.SW-4/A and C.R. No. 73/2012 under Section 117, 153-A, 295-A, 298 read with Section 34 of the IPC against Dr.Zakir Naik as **Ex.SW-4/1**, C.R. No. 51/2012 under Section 153-A, 295-A, 298 of the IPC against Dr. Zakir Naik as **Ex.SW-4/2,** copy of the chargesheet dated 14.7.2014 as **Ex.SW-4/3** and copy of the charge sheet dated 19.5.2014 as **Ex.SW-4/4**. He admitted that the chargesheet was filed in the year 2014 though stay had already been granted by the Supreme Court in the year 2013. He also admitted that IRF is not an accused in CR No. 73/2012 and CR No. 51/2012. He further admitted that Dr.Zakir Naik has tendered a public apology after he had delivered the speeches.

SW-5
Sh. C. Radhakrishan Pillai, Deputy Superintendent of Police, Kochi, Kerala

17. **Mr. C. Radhakrishan Pillai (SW-5)** proved his affidavit as **Ex.SW-5/A** and the complaint (Statement of Abin Jacob) as **Ex.SW-5/A-1,** copy of FIR in C.R. No. 1017/2016 as **Ex.SW-5/A-2,** copy of MHA order dated 19.09.2016 as **Ex.SW-5/A-3,** copy of FIR in RC No.4/2016/NIA/KOC as **Ex.SW-5/A-4,** copy of FIR No. RC/2/2016/NIA/KOC as **Ex.SW-5/A-5,** copy of FIR No. RC/3/2016/NIA/KOC as **Ex.SW-5/A-6,** copy of FIR No. RC/4/2016/NIA/MUM as **Ex.SW-5/A-7,** copy of statement of Nizamudeen recorded under Section 164 of Cr.PC. as **Ex.SW-5/A-8,** conversion documents in respect of Bestin Vincent @ Yahiya, Bexen Vincent @ Isa, Merrin Jacob @ Mariyam and Nimisha @ Fatima as **Ex.SW-5/A-9** (Colly.), four conversion documents at pages No. 95, 103, 109 and 118 and Marriage Certificate of Bestin Vincent with Merin Jacob as **Ex.SW-5/A-10** and documents in sealed cover as **Ex.SW-5/A-11.** He deposed that on the direction of Ministry of Home Affairs, a case was registered by NIA at Kochi Police Station, Kerela. During investigation, he found that Arshi Qureshi was a paid employee of the IRF

and the office of the IRF was being used for preaching Islam, motivating the youth for conversion, imparting knowledge about Islam and radicalising them and for conducting revert sessions. He also deposed that some of the witnesses during the recording of their statements stated that the conversion was involuntary.

SW-6
Mr. Aseem Srivastava, Superintendent of Police, NIA

18. **Sh. Aseem Srivastava (SW-6)** proved copy of the FIR No. RC-5/2016/NIA-MUM as **Ex.SW-6/A**, copy of the transcript of relevant portions of the speech titled "Terrorism and Jehad in Islamic Perspective" delivered by Dr. Zakir Naik as **Ex.SW-6/B**, copy of the transcript of relevant portions of speech titled *"Media and Islam – War or Peace"* delivered by Dr. Zakir Naik as **Ex.SW-6/C**, relevant portion of the interview of Dr. Zakir Naik on Pakistani TV channel "Q TV" as **Ex.SW-6/D**, chargesheet No. 5/2016(A) dated 19.07.2016 in NIA case No. RC-14/2015/NIA/DLI and the bank account statements of Abu Anas as **Ex.SW6/E (Colly).** He filed his report as **Ex.SW-6/F** and claimed privilege on the report submitted by CDR Analysis, Unit of NIA, Head Quarters. He also deposed that 'Peace TV' is a 'Free to Air' channel and any cable operator with equipments can downlink it and broadcast it. However, no company has the license for down linking 'Peace TV'. He further deposed that he examined the funds given as scholarships by the IRF to Abu Anas, a chargesheeted accused for three consecutive years, and the same was used by him for terrorist activities.

SW-7
Mr. Mandar Lad, Assistant Inspector of Police, EOW, Mumbai Police, Maharashtra

19. **Mr. Mandar Lad (SW-7** proved his affidavit as **Ex.SW-7/A.** He deposed that by virtue of the Trust Deed, IRF was allowed to accept and give donations. He also deposed that IRF received an amount of Rs.60.90 Crores by way of donations but the same called for an explanation in view of the fact that the amount donated to the IRF Educational Trust and Rajeev Gandhi Trust was returned to the IRF, either fully or partly and thus is questionable. He further deposed that it has emerged during the enquiry that from a foreign offshore account belonging to Dr.Zakir Naik huge amounts have been transferred to his Indian account and companies incorporated in India namely (i) Majestic Perfumes Pvt. Ltd. (ii) Longlast Const. Pvt. Ltd. (iii) Harmony Media Pvt. Ltd. (iv) Alpha lubricants Pvt. Ltd with which family members or associates of Dr.Zakir Naik are linked with. Based on the enquiry, EOW had frozen 26 bank accounts of Dr. Zakir Naik, the shell companies and the persons associated with the shell companies to trace the source and use of funds.

SW-8
Mr. Dinesh Mohan Ahir, Assistant Commissioner of Police, Anti Terrorism Squad, Maharashtra State, Mumbai

20. **Mr. Dinesh Mohan Ahir (SW-8)** proved his affidavit as **Ex.SW-8/A** and the statement of Munna Dudhwala in Marathi Language as **Ex.SW-8/B** and its English Transcription as **Ex.SW-8/C**. SW-8 deposed that during the investigation of FIR No.31/2011, he recorded the statement of Munna Dudhwala who revealed that he used to work as a volunteer in the office of IRF where programmes were organized every Sunday. He further deposed that Munna Dudhwala has revealed that he was influenced by Dr.Zakir Naik's speeches. He also deposed that the statement of Azrul Islam Mohd. Ibrahim Siddhiqui @ Munna Dudhwala further revealed that he was impressed with the IRF which used to preach Muslim religion and the incidents on Mohamed Paigambar and also the conversations which were arranged on the subject of how Muslims should live.

SW-9
Ms. Geeta Kiran Kumar Chavan, Dy. Comm. of Police, Anti Terrorism Squad, Mumbai, Maharashtra

21. **Ms. Geeta Kiran Kumar Chavan (SW-9** proved her affidavit as **Ex.SW-9/A** and copy of the judgment dated 07.08.2008 passed by Special Court in MCOC in Spl. Case No. 16 of 2006 as **Ex.SW-9/A-1**, translated copy of Confessional Statement of Feroz Deshmukh dated 25.08.2006/26.08.2006 as **Ex.SW-9/A-2,** statement of Munna Dudhwala dated 30.09.2011 as **Ex.SW-9/A-3** and statement of Mirza Himayat Beg dated 16.09.2010, an accused in FIR No. 6/2010 (German Bakery Blast Case, Pune) as **Ex.SW-9/A-4**. She deposed that the statement of Firoz Deshmukh along with other documents and statements recorded in the terror cases are available and analysed by the office of Anti Terrorism Squad, Mumbai. She admitted that Firoz Deshmukh has been acquitted by the Court in the aforesaid MCOC Special case, however, the judgment has been challenged in the High Court.

SW-10
Shri Satish Kumar Chhikara, Deputy Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi

22. **Mr. Satish Kumar Chhikara (SW-10)** proved his affidavit as **Ex.SW-10/A** and the copy of notification dated 17.11.2016 declaring IRF as Unlawful Association as **Ex.SW-10/A-1**, copy of the order dated 15.09.2016 of the Ministry of Home Affairs w.r.t. transfer of the FIR No. 271/16 dated 06.08.2016 registered at PS-Nagpada, Mumbai to NIA as **Ex.SW-10/A-2,** copy of the order dated 19.09.2016 of the Ministry of Home Affairs w.r.t. transfer of FIR No. 1017/2016 dated 16.07.2016 registered at PS-Palarivattom, Kochi City, Kerala to NIA as **Ex.SW-10/A-3,** copies of the true verbatim transcript of the speeches and lectures of Dr.Zakir Naik as **Ex.SW-10/A-4 (Colly.)**, a video CD of the speeches and lectures of Dr. Zakir Naik as **Ex.SW-10/A-5 (Colly.),** copy of the newspaper report dated 11.07.2016 reporting the ban on Dr. Zakir Naik's *'Peace TV Bangla'* as **Ex.SW-10/A-6,** the order of the Royal Court of Justice, London, whereby the British Government's decision to ban Dr.Zakir Naik was upheld as **Ex.SW-10/A-7**, newspaper cuttings wherein Dr. Zakir Naik's participation in the Toronto Conference was banned as**Ex.SW-10/A-8,** newspaper cuttings with regard to barring Dr.Zakir Naik from giving a lecture in Malaysia in April, 2016 as **Ex.SW-10/A-9,** copies of the Show Cause Notice dated 28.10.2016, suspension order dated 11.11.2016 and the cancellation order dated 13.12.2016 issued by Foreigners Division, Ministry of Home Affairs for violation of various provisions of Foreign Contribution (Regulation) Act, 2010 (FCRA) by the IRF as **Ex.SW-10/A-10 (Colly).** SW-10 deposed that the ban on IRF was based on the report received from the intelligence agencies and the material collected from various electronic media reports and social media websites. He further deposed that he filed a Certificate under Section 65-B of the Indian Evidence Act w.r.t. the electronic media reports, YouTube pages and Facebook pages relied upon by him to substantiate the material which was available before the Central Government. SW-10 has made it clear in his evidence that he has gone through the confidential documents furnished in two secret reports received from the Intelligence Agencies Ex.SW-10/11 (Colly.). He admitted that there was no concept of membership in the Trust Deed of IRF and that FIRs have been registered against Dr. Zakir Naik and Arshi Qureshi and not IRF itself. He further deposed that Dr. Zakir Naik was the ideologue behind the 'Peace T.V.'. He further deposed that he had heard all the speeches of Dr. Zakir Naik which are available on YouTube and denied the suggestion that the speeches were doctored. He also denied the suggestion that all the complaints are motivated.

SW-11
Mrs. Namrata Patil, Additional Superintendent of Police, NIA, Mumbai Branch, Maharashtra

23. **Mrs. Namrata Patil (SW-11)** proved her affidavit as **Ex.SW-11/A**, the chargesheet as **Ex.SW-11/B**, statements of six witnesses marked as **G-1 to G-6,** statements of four witnesses whose confidentiality is claimed to be protected in the NIA Court marked as **H-1 to H-4**, statements of eight witnesses, in respect of which investigation under Section 173(8) of Cr.PC is pending and the Central Government is seeking privilege are marked as **I-1 to I-8** and statements of six witnesses whose confidentiality is claimed to be protected in the NIA Court marked as **J-1 to J-6**.

SW-11 deposed that she was entrusted with the investigation of RC No. 04/NIA/2016/MUM by S.P., NIA and further filed the chargesheet against Arshi Qureshi and Abdul Rashid Abdullah but the investigation is still pending. She deposed that Arshi Qureshi was responsible for instigating the complainant's son, Asfaq Majeed to join ISIS and that Arshi Qureshi was misusing his financial position as an employee of the IRF. She deposed that Rizwan Illias Khan is closely connected with IRF, however, no chargesheet has been filed against him and the investigation is still pending. SW-11 further deposed that Dr. Zakir Naik is a Permanent Trustee of IRF and that Arshi Qureshi is the Guest Relationship Manager of IRF. She also deposed that Feroz Deshmukh, Munna Dudhwala, Rahil Sheikh and Rizwan Khan, all accused in RC No. 04/2016/NIA/MUM have themselves claimed to be the volunteers of IRF. She deposed that the activities of spreading thoughts were part of Sunday revert sessions organized at the IRF office and affidavits to this effect has been obtained by her.

24. The Central Government was represented by Shri Sanjay Jain, Additional Solicitor General assisted by Mr. Gaurang Kanth and Mr. Ravi Prakash, Standing Counsel Central Government. The Islamic Research Foundation was represented by Mr.S. Hariharan assisted by Mr.Dhruv Tamta, Advocates.

Submissions on behalf of the Central Government

Dr. Zakir Naik - Face and brain of IRF

IRF is a platform to radicalized the youth and masses to commit terrorist attacks.

25. The first and foremost submission of Mr. Sanjay Jain, ASG is that the IRF, is a Trust incorporated vide a Trust Deed dated 04.10.1990 registered with Charity Commissioner, Mumbai and having its registered office at Dongri, Mumbai; that the foundation is managed by the Trustees and Dr.Zakir Naik is the Founder Trustee and President of IRF; that Dr. Zakir Naik is the face of the IRF and brain behind the activities of the foundation; that Dr. Zakir Naik, whenever in Mumbai, India spends substantial time in the office of IRF; that Dr.Zakir Naik being the Founder Trustee and President of the Trust utilized the services of the employees of the Trust to encourage its followers to promote disharmony or feelings of enmity and hatred amongst different religious communities and groups on the basis of religion through his derogatory speeches and lectures; that IRF is a platform wherein youth and masses are radicalized and encouraged to commit activities which bring about disaffection towards India; that FIRs have been registered against Dr.Zakir Naik under Section 153A, 295A and 298 of the IPC.

IRF is involved in conversion of non-muslims to Islam by illegal means.

Speeches of Dr.Zakir Naik inspiring and motivating terrorists to commit terrorist activities

Arshi Qureshi responsible for motivating and converting many people to Islam and who left India to join ISIS

26. The learned ASG further submits that two FIRs have been registered against Arshi Qureshi, an employee of the Trust, under Section 153A of the IPC read with Section 10, 13 and 18 of UAPA, 1967; that secret information received and collected from various sources revealed that the IRF was engaged in the conversion of non-muslim to Islam in an organized and concerted manner which is sufficient to prove that IRF is an unlawful association involved in unlawful activities; that investigation further revealed that those accused of terrorism had stated that they had been inspired and motivated by the speeches of Dr. Zakir Naik; that Dr. Zakir Naik through *'Peace TV'*, a 'Free to Air' channel influencing the young minds by disseminating his highly disruptive ideology; that Investigation further revealed that Arshi Qureshi, a Guest Relation Manager in the IRF was attending the guests, who used to visit the IRF mostly on Sundays and motivated them to follow Islam and was responsible for conversion of many people to Islam and who left India to join the ISIS.

Dr. Zakir Naik banned by other countries

27. Learned ASG went on to submit that it needs to be kept in mind that Dr. Zakir Naik had been banned from entering United Kingdom for being sympathizer, fundamentalist and having a soft corner towards terrorists; that he had also been banned in Canada for expressing his support for international terrorist group *'Al-Qaeda'*; that he was barred from giving a talk in April, 2016 in Malaysia as there were complaints from non-muslims.

Violation of Foreign Contribution Regulation Act

28. Learned ASG finally submitted that the Central Government having gathered sufficient material that IRF was an unlawful Association involved in unlawful activities, was justified in banning the organization vide its notification dated 17.11.2016; that Dr. Zakir Naik, President of the IRF had failed to participate in any of the proceedings pending against him in India rather had absconded himself and reportedly took refuge in some Gulf country.

Contentions of the defence

IRF, a Charitable Public Trust

29. Per contra, Mr. S. Hariharan, counsel on behalf of the IRF vehemently argued that the IRF was a registered charitable trust whose primary objective is to promote charitable, educational, moral and socio-economic development besides establishing schools, orphanages, research and educational institutions, hospitals etc. and also giving scholarships and educational support to deserving students and the organization has never indulged in any unlawful activity at any point of time.

No case for banning IRF

30. Learned defence counsel further contended that the IRF was neither an unlawful association nor indulging in any unlawful activity and the notification dated 17.11.2016 if taken on its face value will not make out a case for banning IRF under Section 3 of the UAPA, 1967 as the impugned notification does not allege any action against IRF that could be brought within the four corners of the mischief contemplated under the Act and therefore sought setting aside the ban.

No case against the Foundation. Allegations against Dr.Zakir Naik only.

31. Questioning the notification dated 17.11.2016, on which the ban has been imposed on IRF, the defence counsel argued that the grounds for imposition of ban on the IRF are wholly unfounded as the allegations, if any, are against Dr.Zakir Naik and not against IRF, which is a separate legal entity. For issuance of notification dated 17.11.2016, the Central Government relied upon five FIRs and out of these 5 FIRs, two FIRs are (i) CR No. 271/2016 dated 06.08.2016 registered at PS-Nagpada, Mumbai and (ii) CR No. 1017/2016 dated 16.07.2016 registered at PS-Palarivattam, Kerala which were registered against Arshi Qureshi, an employee of IRF and the other three FIRs (iii) CR No. 73/2012 registered at Sawantwadi Police Station of Sindhudurg District (iv) CR. No. 51/2012 dated 25.10.2012 registered at Vengurla Police Station of District Sindhudurg and (v) CR. No. 44/2013 dated 23.02.2013 at Kurla Police Station of Mumbai were registered against Dr.Zakir Naik as an accused and not against IRF and merely because some employees, members or Trustees of the association are found to be involved in illegal or even criminal activities, the entire association cannot be looked upon as a 'suspect'.

No sufficiency of cause for declaring the IRF unlawful

32. Learned defence counsel further argued that the kind of material that would be required for examining the *'sufficiency of cause'* for declaring the IRF unlawful, needs to be examined. The entire procedure for declaration of the ban contemplates an objective determination made on the basis of material placed before the Tribunal by the Central Government. The credence of the material should be capable of objective assessment and there must be strong ***'reasons to believe'*** that the material placed before the Central Government is sufficient enough to impose a ban. 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. In order 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. 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 Government. The requirement of adjudication by the Tribunal contemplated under the Act does not permit abdication of its function by the Tribunal to the Central Government providing merely its stamp of approval to the opinion of the Central Government.

Ban on IRF is on stale and vague material

33. Learned defence counsel further argued that the grounds specified in the Notification banning the organization are not valid and the opinion of the Central Government is based on stale and vague material which relates to the FIRs which were registered as back as in the year 2012 against Dr. Zakir Naik, who is a renowned scholar and possesses an internationally enviable reputation in comparative religion and has been delivering lectures since 1989 having million of followers. The alleged speeches of Dr. Zakir Naik are doctored speeches which have to be read in its entirety and not in portions and the speeches, if read as a whole in its proper perspective, do not create any disaffection against the country nor suggest any activity being anti-national or of unlawful character, nor does the Notification disclose any such act. The speeches cannot be linked with the IRF as there is no evidence to show that the IRF approved or sponsored any of the speeches and relied upon ***(2010) 7 SCC 398*** para-37 (iv), which reads as under:-

"37. Nonetheless the following legal aspects can be kept in mind while examining the validity of such a notification:

Dr. Zakir Naik, a brand name honoured with many awards.

XXXXX

(iv) The State cannot extract stray sentences of portions of the book and come to a finding that the said book as a whole ought to be forfeited;"

34. It is submitted that the Central Government ought to take into account the track record of Dr. Zakir Naik before forming an opinion in banning the IRF. It is added that the Central Government failed to take into account the fact that Dr.Zakir Naik delivered about two thousand lectures in a span of 25 years across 25 countries and remained a brand for the Indian Express in the year 2009-2010, and was awarded the top civilian award by the Malaysian Government, the Faizal Peace Award and was also invited by the Police Academy, Mumbai to deliver a lecture.

'Cession' or 'Secession' as defined under UAPA, 1967 would fall within the ambit of the term Sovereignty and integrity

35. The next issue raised on behalf of the IRF is that the legislation to curtail 'Unlawful Activities' has to be read in reference with the restrictions contemplated under Article 19 (4) of the Constitution of India which is clearly demonstrated from the objects and reasons of UAPA, 1967 which seeks to bring about a legal regime to tackle the disintegrating forces as they existed in the country and this Act has nothing to do with either a situation of war or any other internal mutiny which does not have the flavour of separation of a unit of the Union and further contended that there is no allegation that the actions of the Trust were ever aimed at either cessation or secession as contemplated under the UAPA, 1967.

36. It is, thus, argued that the object of the UAPA, 1967 was to maintain the sovereignty and integrity of India and related the terminology *'sovereignty and integrity'* of India to the provisions of the Constitution relying on Article 19 of the Constitution of India. The defence counsel contended that the right to uninhibited freedom of speech conferred under Article 19(1)(a) is basic and vital for the sustenance of parliamentary democracy, which is a part of the basic structure of the Constitution. The imposition of "*reasonable restrictions*" in Articles 19(2) and 19(4) is to be interpreted as those which are in the "*interests of the sovereignty and integrity of India*" and further stated that it is only the acts of 'cession' or 'secession' as defined under the UAPA, 1967 that would fall within the ambit of the term 'sovereignty and integrity' and not otherwise. The defence counsel relied on the Parliamentary debates in the Rajya Sabha at the time of introduction of the UAPA Act, 1967 and referred to pages - 69 to 83 of the debate on the Bill of Unlawful Activities. The relevant portion of the debate is as under:

Parliamentary Debates

"SHRI DAHYABHAI V. PATEL: xxxxxxx The two objects of the Bill are: preventing any activity aimed at secession and preventing activities aimed at overthrowing the duly established Government by force and influence of foreign powers. Already there is the Constitution 16th Amendment Act which has declared unlawful any activity aimed at seceding from the Indian Union.

... .

SHRI HARISH CHANDRA MATHUR : xxxxxxxxxxx The Government should come forward with a firm, strong hand against anybody who challenges the sovereignty of the country, who wants that any piece of territory of this country should be given out to any other country or declare any territory to be sovereign or independent of this country.

SHRI Y. B. CHAVAN: xxxxxxxxxxxxx 4357 Unlawful Activities [RAJYA SABHA] (Prevention Bill, 1967 4358 [Shri Y. B. Chavan.] have got a malicious strength of dividing this country, forces which have got contrifugal tendencies? If they become organised forces, will they continue to be detrimental to the integrity and sovereignty of this country or not? xxxxxxxxxxx He says, "Strengthen your defence forces." Certainly not for this purpose, the defence forces are to be strengthened for the external

threats and that is being done in this country. And the hon. Member has not realised that for the last four or five years, it is exactly what we are doing. ***xxxxxxxxxxxx*** *Shri Y B Chavan: When we say member , it means the generality of members , it is not one nor two members, because there are organisations which take up one position officially, while their members start acting a different way."*

37. The defence counsel further argued that the word disaffection as contemplated in Section 2 (o) of the UAPA, 1967 has to be read as part and parcel with either cession, secession or sovereignty of the country and an attempt to construe it as an independent clause or word is misconceived. In this context, defence counsel relied upon on the case titled as ***RBI Vs Peerless General Finance and Investment Co. Ltd. and Ors*** reported as ***1987 (1) SCC 371***, the relevant part reads as under:

"No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place."

Once prosecuted U/s 153A of the IPC, cannot be booked under UAPA, 1967.

38. The defence counsel next argued that the Central Government failed to prove that the association/IRF could be termed as an unlawful association as defined under the Act. An association could be termed as unlawful only if it has for its objects any unlawful activity or undertakes such activity or has for its object any activity punishable under Section 153A and 153B of IPC or which encourages any person to undertake such activity and that the mischief of 153A and 153B as contemplated in the Section shall be attracted only if it has the flavour of either cessation or secession or challenge to the sovereignty of the country. It was thus argued that since Dr. Zakir Naik and Arshi Qureshi had already been charged under Section 153A of the Indian Penal Code, they cannot be booked under the UAPA, 1967 and thus, the ban on IRF was wholly unjustified.

Material collected subsequent to the notification cannot be relied upon

39. The defence counsel further argued that the Central Government relied upon the material which was collected subsequent to the issuance of the notification imposing ban on IRF which only comprises of confession and disclosure statements which are not evidence in any sense of the expression, being merely statements made to the police officers under Section 161 of the Code of Criminal Procedure, 1973. Moreso, 3 FIRs registered against Dr. Zakir Naik in the year 2012 were stayed by the Supreme Court in the year 2013.

Right to seek privilege at a belated stage is impermissible

40. It is argued by the defence that the privilege on the documents was not sought at appropriate stage and the documents so filed cannot be relied upon by the Tribunal for adjudicating the present reference and specially when the defence has not even been given an opportunity to verify the authenticity of the documents on which privilege is being sought by the Central Government.

Statutory Provisions of UAPA, 1967

41. At the outset, it would be appropriate to analyse the statement of objects and reasons and statutory provisions of the UAPA, 1967 in the context of the present facts. The UAPA, 1967 is "*An Act to provide for the more effective prevention of certain unlawful activities of individuals and associations and dealing with terrorist activities and for matters connected therewith.*"

42. Section 3 of the UAPA, 1967 states that the Central Government may notify in the Official Gazette, on forming an opinion that any association is or has become an unlawful association, and declare such an association to be unlawful. The relevant portion of Section 3 reads as under:-

"3. Declaration of an Association as unlawful .-

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

(2) Every such notification shall specify the grounds on which it is issued and such

other particulars as the Central Government may consider necessary:

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

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

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

Definition of Unlawful Activities

43. It is also relevant to rummage through Sections 2(o) and 2(p) of the UAPA, 1967. Section 2(o) defines 'Unlawful Activities' as under:-

*"**2(o).** '**Unlawful Activities**', in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representations or otherwise), -*

(i) Which is intended, or supports any claim, to bring about, on any ground whatsoever, the cessation of a part of territory of India or secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cessation or secession; or

(ii) Which disclaims, questions, disrupts or is intended to disrupts the sovereignty or territorial integrity of India, or

(iii) Which causes or is intended to cause disaffection against India."

Definition of Unlawful Association

44. Section 2(p) defines 'Unlawful Association' as under:-

*"**2(p).** '**Unlawful Association**' means any association, -*

(i) Which has for its object any unlawful activity, or which encourages or aids person 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 153A or section 153B of the Indian Penal Code (45 of 1860); or which encourages or aids person to undertake any such activity or of which the members undertake any such activity:

***Provided contained** in sub-clause(ii) shall apply to the State of Jammu & Kashmir."*

IRF is a Registered Trust

45. Returning to the facts of the present case, there is no dispute that the IRF is a Trust registered with the office of the Charity Commissioner vide Registration No. B-1409-Mumbai dated 21.12.1990 and having its registered office at Masala Wala Building, 2nd Floor, 56 Tandal Street (North), Dongri, Mumbai-400009.

IRF and Dr.Zakir Naik are one and same

46. The main allegations against the Trust are that Dr. Zakir Naik, the Founder and President of the Trust, along with Arshi Qureshi and other volunteers under the umbrella of the Foundation, have been encouraging and aiding its followers to promote disharmony or feelings of enmity, hatred or ill-will between different religious communities and groups on the grounds of religion and that the office of the IRF was the common ground for the unlawful activities and extremist thoughts.

Description of Five FIRs basis of imposing ban on IRF

47. Before delving into the merits of the case, it is necessary to go through the following five FIRs relied upon by the Central Government for banning IRF:-

(a) Sawantwadi Police Station of Sindhudurg District registered a case, CR No. 73/12, under Sections 117, 153 A, 295 A, 298 and 34 of the IPC against Dr. Zakir Naik, the President of IRF, for making derogatory statements against

Hindu gods and he has been chargesheeted in 2014;

(b) Vengurla Police Station of District Sindhudurg registered a case CR No. 51/12 dated 25.10.2012 under Sections 153 A, 295 A and 298 of the IPC against Dr. Zakir Naik for making derogatory statements against Hindu gods and he has been chargesheeted in 2014;

(c) Kurla Police Station of Mumbai registered a case CR No. 44/2013 dated 23.02.2013 under sections 153 A, 295 A, 505(2) of the IPC and 66-A of the Information Technology Act, 2002 against Dr. Zakir Naik for making derogatory statements against Hindu Gods;

(d) Nagpada Police Station, Mumbai has registered a case CR No. 271/16, under Sections 10, 13 and 38 of the UAPA against Arshi Qureshi, an employee of IRF and Others on 6th August, 2016 on the basis of a complaint of Abdul Majeed, Father of Ashfaq Majeed, one of the missing youth from Kerala, who has apparently joined ISIS. In the complaint, Abdul Majeed alleged that Arshi Qureshi of IRF was responsible for radicalization of Ashfaq, which led the later to join ISIS;

(e) Palrivattam Police Station in Kerala has registered a case, CR No. 1017/16 dated 16.07.2016, under Sections 153 A, 34 of IPC, and Section 13 of UAPA against Arshi Qureshi, resident of Navi Mumbai, an employee of IRF. The Kerala Police arrested Arshi Qureshi in this case in July, 2016 for his role in promoting hatred and ill-will between different religious communities and forcible conversion of Kerala youth, who went missing and are suspected to have joined the ISIS;

48. Out of the above stated FIRs, it is significant to mention that three FIRs have been registered against Dr. Zakir Naik and two FIRs have been registered against Arshi Qureshi. However, the ban is against the IRF as an association *(combination or body of individuals)*. Therefore, at this stage, it is appropriate to examine the link between the aforesaid persons and the association.

Trust Deed of IRF

49. Perusal of the Trust Deed shows that the same has been executed between Dr. Mohammed Abdul Karim Naik ***'The Settlor'*** and Dr.Mohammed Abdul-Karim Naik, **Dr. Zakir Abdul Karim Naik**, Prof. Muhammad Alim Abdul-Aziz Nakhtare, Prof. Hamza-Husein Roshan Ali Virani, Dr. Abdul-Karim Mohammed Naik and Mr. Zahir Abdul-Kader Mukadam ***'The Trustees'***. As per the Trust Deed, the aims and objectives of the Trust is to promote charitable educational, moral socio-economic development and religious activities of the Islamic Faith, to provide food, meals clothing etc for the needy, to provide relief in the event of natural calamities and to give scholarships, prizes and educational support to the deserving students, to propagate Islamic faith by means of public lectures, seminars etc, to publish, printing, exhibition and distribution of religious literature etc. Under the Trust Deed, the Trustees have been given powers to manage the affairs of the Foundation and take all the financial and administrative decisions. In case of difference of opinion among the Trustees, a system for redressal of disputes has also been carved out in the Trust Deed. It is relevant to mention at this stage that Dr. Zakir Naik is one of the Founder Trustees of the Organization, nominated as its '*Secretary General*', vested with wide powers.

Powers of Trustees

50. In Clause-4 of the Trust Deed, it has been mentioned that:-

"all the business and affairs of the Trust ***shall be managed and controlled by the Trustees, who shall have full powers to carry out the objects of the Trust*** *as hereinbefore provided and who shall hold the Trust Fund upon trust for the application of the income and funds thereof for the promotion of such objects."*

51. Further in sub-clause (j) of Clause-4, the power to engage the services or of appointment and also delegation of powers have been entrusted to the Trustees. It

reads as under:-

"Manage and control the Trust or other institutions established or acquired by the Trust and to engage or procure the services of or appoint, ***and at their discretion remove, or suspend managers, secretaries, clerks, agents, servants and other employees for permanent, temporary or special services as they from time to time think fit,*** *and to delegate to them such powers (including power to sub-delegate) as they may think expedient and to determine their duties, and fix their remuneration and to demand security from such employees as they may think fit."*

52. Clause-5 of the Trust Deed also assumes importance in this regard wherein, the circumstances and procedure of vacation of a Trustee have been dealt with. As per Clause-5 (b), a Trustee has to tender his resignation in writing. It reads as under:-

"If he resigns his office by notice in writing to the other Trustees, such resignation to take effect upon its acceptance by the other Trustees."

Dr. Zakir Naik, a Trustee of IRF.

53. It is clear from the perusal of the record that no document has been produced to establish the fact that Dr. Zakir Naik is not a Trustee or the President of the Foundation. Even in terms of Clause-8 of the Trust Deed, the tenure of the President and Secretary General is fixed for a period of three years. There is nothing on record to show that after his initial appointment as Secretary General, Dr.Zakir Naik resigned from the said post and is not associated with the IRF any longer. This certainly forces the Tribunal to draw an inference that Dr. Zakir Naik is the President of the Foundation even at present and has been acting on or behalf of the IRF. He is an integral part and the main functionary of the Foundation. Furthermore, no documentary evidence has been placed on record to show that the remaining Trustees or committee members have ever condemned the actions of Dr. Zakir Naik acting on behalf of the Foundation, which suggests that the Foundation was truly represented and run by the Dr. Zakir Naik and there was no divergence of opinion between the Trustees at any point of time.

In reply to show cause admission of significant role of Dr.Zakir Naik in Foundation.

54. Imperatively, in reply to Show Cause Notice dated 22.12.2016, the IRF has admitted the significant role played by Dr. Zakir Naik in the Foundation. In Para-27 of the said reply, it has been stated that:-

"A perusal of the aforesaid written complaints/letters addressed by ***Dr. Zakir Naik and his organization*** *Foundation,..."*

In Para-34 of the reply, it has been stated that:-

"....It is submitted that the provisions of the said draconian statute could not have been invoked ***against Dr. Zakir Naik or his organization Foundation*** *as the stringent provisions of the said enactment are not applicable...."*

In Para-36 of the reply, it has been mentioned that:-

"there is not iota of evidence to show that ***either he or his organization Foundation*** *has ever indulged in any unlawful activity in the past.."*

Dr. Zakir Naik association with IRF.

55. From perusal of the reply to the Show Cause Notice, it is clear that the Foundation itself accepts the association of Dr. Zakir Naik with the IRF. The active association of Dr. Zakir Naik with IRF has further emerged from the testimony of SW-1- Shri Ravindra Anant Shisve, SW-2- Shri Tanaji Digambar Sawant, SW-5 Shri C. Radhakrishan Pillai and SW-7- Shri Mandar Lad. In this context, SW-1- Shri Ravindra Anant Shisve, deposed that:-

"*In FIR dated 6.8.2016, Arshi Qureshi, belonging to IRF is an accused. In FIR dated 23.2.2013, Dr.Zakir Naik who is the founder of IRF is an accused.*"

56. The statement of SW-1 was corroborated by the testimony of SW-5, Shri C. Radhakrishan Pillai, who deposed as under:-

"During investigation I have collected documents that Arshi Qureshi is the paid employee of IRF and from the witnesses I came to know that the office of the IRF is being used for preaching Islam and motivating them for conversion. There is also evidence that revert sessions are being conducted at IRF office to the converts to give more knowledge about Islam and conversion and finally radicalizing them."

57. In this context, SW-2 Shri Tanaji Digambar Sawant, deposed that:-

"Dr. Zakir Naik is the subject of my enquiry i.e. the preliminary enquiry conducted by the EOW."

58. The testimony of SW-2 finds support from the testimony of SW-7 Shri Mandar Lad, who deposed on the same lines and stated that:-

"My preliminary inquiry is concerned with financial transaction of Dr. Zakir Naik individually and as a trustee of Islamic Research Foundation and IRF Education Trust.

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The donation made to IRF Educational Trust and Rajeev Gandhi Trust is questionable as the amounts were fully or partly returned to the IRF"

59. At this stage, it is relevant to peruse the statement of Sultan S/o Abdul Rehman Sheikh recorded in RC. No. 04/2016/NIA/MUM. The relevant portion reads as under:-

"Being asked about my association with IRF, I state that I came in contact with IRF as a parent as my son Arfat was studying there. As a parent, I started participating and volunteering in programmes organized by IRF. In 2010, I was temporarily appointed as a trustee of IRF. ***IRF has a total five trustees, out of which three are permanent while other two are rotating members. 03 permanent trustees of IRF are 1. Dr. Zakir Naik 2. Mohammad Naik, brother of Dr. Zakir Naik 3. Nazeer. Other temporary trustee is Tanvir Hussain Sheikh*****..... .. I know Arshi Qureshi as he was working as guest relation manager at IRF. He used to guide and advice people about Islam.*

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... ...I also know Parmbath's 02 sons Dr. Ejaaz and Shihas. They also used to visit our house. Dr Ejaaz has in my contact and he used to visit my colaba house whenever he came to Mumbai. Dr. Ejaaz used to come my Colaba house along with his friend Asfaq..... Asfaq knew that I connected with IRF. He had once told me that he goes to IRF office and meets Arshi Qureshi."

60. Perusal of the statement of Sultan reveals that at one point of time the Trust was run and managed by Dr. Zakir Naik and/or his family members namely, Mohd. Naik (Brother of Dr. Zakir Naik) and Mr. Nazeer (Brother-in-law of Dr. Zakir Naik), from which it is clear that the Trust is wholly managed and controlled by Dr. Zakir Naik.

61. The claim of the Central Government in relation to active association of Dr. Zakir Naik with the IRF is further evident from the documents furnished by the witnesses along with their affidavits. In the affidavit filed by SW-5 Shri C. Radhakrishna Pillai which is **Ex. SW-5/A,** it has been mentioned that Bestin Vincent @ Yahiya Bexen Vincent @ Isa, Merin Jacob @ Mariyam, Nimisha @ Fatima, Ashfaq Majeed, Hafisuddin and Shihas residents of Kasarakod, Kerala who migrated from India to Afghanistan to join ISIS used to visit the office of IRF in Mumbai. Further, during the investigation of RC No. 03/2016/NIA/KOC and RC. No. 04/2016/NIA/KOC, books written by Dr. Zakir Naik and published by IRF were seized from their residence. **Ex.SW-9/A-3** which is the statement of Azarul Islam Mohammed Ibrahim Siddiqui @ Munna Dudhwala, an accused in the case of ATS Maharashtra

FIR No. 31/2011 revealed that he used to attend religious programmes organized by Dr. Zakir Naik at the IRF Office in Mumbai and was influenced by his speeches and started working as a volunteer for the programmes of the IRF. He also disclosed his association with Rahil Shaikh and Firoz Deshmukh (both accused in the FIRs).

62. In this background, there is ample evidence to show that Dr. Zakir Naik is one of the Permanent Trustees of the IRF. It is not necessary that the organization itself should be involved in the day to day activities directly. IRF shall be deemed to be engaging in alleged activities even if their employees or members join such affairs. Thus, the objection taken by the counsel for the defence that Dr. Zakir Naik and Arshi Qureshi, an employee of IRF were acting in their individual capacity and not on behalf of the IRF cannot be accepted.

63. Moreover, the contention of the defence that only the employees and associates of IRF have been named as accused in the abovementioned FIRs, whereas the IRF, being a separate legal entity, has not been made an accused in any of the said FIRs cannot be accepted considering the fact that the definition of unlawful association under the UAPA, explicitly includes and extends to the activities undertaken by the members of such association.

Whether IRF was involved in unlawful activities?

64. Having found that the IRF is working through its Trustees and both are associated, it needs to be examined whether the IRF indulged in the unlawful activities falling within the ambit of the UAPA, 1967.

65. The basis of registration of the following FIRs also assumes importance in this regard. FIR No.44/2013 was registered on 23.02.2013 on the basis of a complaint lodged by Subash Pandurang Nalawade alleging that Dr.Zakir Naik, with an intention to insult the religious sentiments of Hindus and to create enmity and hatred between communities, uploaded objectionable and derogatory material on his Facebook account.

66. On similar allegations, FIR No.73/2012 was registered at Sawantwadi Police Station, Maharashtra on the basis of a complaint lodged by the Govind alias Bhai Ganesh Tilve.

67. FIR No.51/2012 dated 25.10.2012 was registered on the basis of a complaint made by Gopal Raghoba Juvlekar against Dr. Zakir Naik alleging that he felt insulted being a Hindu after watching a clip on Dr.Zakir Naik's Facebook account and YouTube, wherein he insulted the religious beliefs towards Lord Ganesha and created a communal riot between Hindus and Muslims.

68. FIR No.271/2016 was registered against Arshi Qureshi at Nagpada Police Station, Mumbai under Sections 10, 13 and 38 of the UAPA on the basis of the complaint of Abdul Majeed, father of one of the missing youth from Kerala alleging that Arshi Qureshi was responsible for radicalization of his son Ashfaq which led him to join the ISIS.

69. In the complaint of Abdul Majeed, he has stated as under:-

".....The Moulana of that masjid Hanif was preaching the Muslim youths and was giving education of Hadis and exciting against Sunni Community. On this Asfaq also started behaving as per the guidance of Moulana. This thing my wife told me on phone. At that time I told my wife to keep watch on Ajnaas and Asfaq properly. Asfaq was getting radical day by day. When I learned this I became worried. The villagers did not like the thoughts of Moulana and became annoyed and together they compelled him to leave the village.

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.....During this period Asfaq was visiting our village and meet them. He was always making reference of Arshibhai while talking on mobile. I suspected Arshibhai that time and I asked him about Arshibhai but he told me that he is

working in I.R.F. He knows about Islam completely but he did not give full information about Arshibhai. The full form of I.R.F. is Islamic Research Foundation.

Asfaq was very strict about asking us to follow Ahile Hadis community rules. If he find TV on in the house, he was becoming angry and he was shutting it saying to watch TV is Haram (Not according to Religion). He was asking his mother to remain under parda. He was used to visit Ahile Hadis Masjid instead of Sunni Masjid near Nair Hospital.

He was becoming more and more hard liner on Islam and was intermittently going somewhere leaving aside the work of manager. When I was asking him about this, he was replying that he want to telephone Arshidbhai of I.R.F. Then I put a question to him as to why you don't telephone on your own mobile. Then he was avoiding to give any answer.

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In between January-February 2016 Asfaq left Mumbai for village and started to mingle with the group of his old friends without doing any work. All they were keeping long beard and started to wear `Kandura'(long gown). All the Villagers and family members tried to keep them away from what they are doing but they did not. During this also the name of Arshibhai of I.R.F. was coming.

At that time some friends of Asfaq formed a group namely `Mujaheed'. The members of the said group were of the opinion of `Jihaad'. They always talk against the country and to leave the country. There meeting was held at the house of Dr.Ejaz Rehmaan and his friend Abdul Rashid Abdulla and in different masjids of the village. Abdul Rashid Abdulla of the said group was knowing much about Quraan. He was teaching about religion at the `Peace Internal School'. Abdul Rashid Abdulla was radical about Islam.

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...in January, 2016Asfaq, talked about learning Quraan in Srilanka with his wife samshiya and daughter Ayesha (aged 2 years). Then I told him that why are you going there when you can learn Quraan in a better way here in our village only. There is no necessity to go to srilanka to learn Quraan. I told him many a time this but in vain. Everytime he told there is no good atmosphere in village. I can get calm and quiet atmosphere there at Srilanka. And I can learn better Quraan in Srilanka. ***I asked him about the expenses about going to Srilanka then he told that all the expenses will be borne by Arshibhai of I.R.F. and I will be leaving alongwith wife and daughter on 27th February, 2016 to Srilanka.***

...he was not talking with anybody and was always calm and quiet. He was directing us to live and behave as per the norms of Islam from time to time. ***He was always in contact with Arshibhai or I.R.F.***

In May, 2016 Asfaq again talked about going to Srilanka for learning Quraan. ***I again asked him about the expenses he told that the expenses will be borne by Arshibhai of I.R.F.*** *I tried to stop him from going there but he did not....*

Two days before Ramzaan Eid, Dr. Ejaz Rehman and members of the group informed there families to download Telegram Application on mobile and send message that they will go Islamic State and they will not return to India. Asfaq also sent message in Malayali language to his brother Ajnaas that if you ask me where is he, then I am at Darum Islam, It means Khilafat that is I.S.I.S. doesn't he know? He left this world for Allah. Upon this I learn that he went to I.S.I.S. which is a group of terrorists formed in Iraq and Syria and he will not came back in future.

Afterwards I learnt that Arshi Qureshi who resides in New Mumbai and Rizwan Khan from Kalyan (Thane) both lured Bestan Francis and his wife Marini Jacob from missing in the name spreading Islam converted into Islam religion and excited them to recruit in a terrorist group of Iraq and Syria i.e. I.S. I.S. on these allegations there were many complaints against Arshi and Rizwan and the police arrested them.

My son Asfaq was also in contact with Arshi Qureshi and Rizwan of I.R.F. *and I believe that there thoughts might have affected my son also. My son went to terrorist group namely I.S.I.S. after being lured.*

My son Asfaq is with the Mujahid Group and they all are in the I.S.I.S. of Iraq *and Syria and left India. Salafi Moulana Hanif, Abdul Rashid Abdulla working in Peace International School.* ***Arshi Qureshi of I.R.F. and Rizwan Khan residing at Kalyan are the persons who have induced my son Asfaq to joined terrorist group i.e. I.S.I.S.*** *I request to take action as per law against all of them."*

70. Keeping in mind, the gravity of the information so collected, its pan-India and transnational linkages, the Central Government directed the National Investigation Agency (NIA) to investigate the FIR No.271/2016 dated 06.08.2016 vide Ministry of Home Affairs (MHA) Govt. of India, Internal Security-I, Division order F. No.11011/26/2016-IS.IV dated 15.09.2016 and the case was re-registered at the NIA Police Station, Mumbai as RC/04/2016/NIA/MUM and the investigation was assigned to Ms. Namrata Patil, Additional Superintendent of Police, NIA, Maharashtra.

71. FIR No.1017/2016 dated 16.7.2016 was also registered against Arshi Qureshi at Palrivattam Police Station, Kerala under Sections 153A and 34 of the IPC on the basis of a complaint made by Abin Jacob. In his complaint, Abin Jacob stated that Arshi Qureshi and Bestin, with the intention of recruiting his sister Merin Jacob into terrorist organizations and to promote hatred or ill will between different communities and to bring hatred or contempt towards the Union of India, converted his sister into Islam and recruited her to ISIS. Abin Jacob further stated that Bestin attempted to convert him also into Islam and recruit him to terrorist organizations. He reiterated his statement when the same was recorded under Section 164 Cr.P.C. FIR No. 1017/2016 was also directed to be further investigated by NIA and the FIR was re-registered as RC-04/2016/NIA/KOC and the investigation was marked to SW-5, Mr. C. Radhakrishna Pillai. Apart from the documents referred to in the affidavit of SW-5, the statements in the sealed envelope have also been opened and perused.

72. SW-5, Shri C. Radhakrishan Pillai furnished details of two more FIRs i.e. FIR No. 534/2016 dated 10.07.2016 registered at Chandera Police Station, District Kasaragod, Kerala relating to disappearance of 17 persons and FIR No. 699/2016 dated 09.07.2016 which was registered at Palakkad Town South Police Station of Palakkad District, Kerala in relation to disappearance of 5 persons. Both these FIRs were transferred to NIA for further investigation and re-registered as RC-02/2016/NIA/KOC and RC-03/2016/NIA/KOC, respectively. SW-5 in his deposition, stated that RC-02/2016/NIA/KOC and RC-03/2016/NIA/KOC are also relevant to the issue at hand, as Bestin Vincent @ Yahiya, who is an accused in both the said cases, has also been made an accused in RC-04/2016/NIA/MUM and RC-04/2016/NIA/KOC.

73. In RC-02/2016/NIA/KOC and RC-03/2016/NIA/KOC, it was alleged that the missing persons had left their native place for joining ISIS. The statements recorded by the Investigating Officer in these two FIRs have also been perused. Active involvement of Arshi Qureshi in the IRF also stands established from the statement of Aslam Kasim Qureshi, Service Operation Executive at Harmony Media Pvt. Ltd recorded in RC. No. 04/2016/NIA/MUM, **Ex.'G-1'.** The relevant portion of his

statement reads as under:-

*"on being asked I stated that **Arshi Qureshi was working as Public Relation Manager in Islamic Research Foundation (IRF).** He used to sit in IRF office located in Zohra Manzil, SVP Road, Dongri. He used to report to Manzoor Chacha. Whenever I used to visit IRF Office, I have interacted with Arshi Qureshi in library or back to IRF reception. **Arshi also used to visit Harmony Media Office in Masalawala Building to meet our manager Manzoor Chacha. Arshi Qureshi was also signatory on cheques issued by IRF**."*

74. Shoket Hussain, Legal Advisor/Manager whose statement was recorded in RC. No. 04/2016/NIA/MUM, **Ex.'G-2'** also pointed towards the active involvement of Arshi Qureshi in IRF, the relevant portion of which reads as under:-

*"**I know Mr. Asrhi Qureshi who was Guest Relation Manager in IRF** who used to provide replies/clarification on Islamic matters to visitors/guests who used to visit IRF office, Arshi is US returned, with good communication skill and good Islamic knowledge. **Arshi used to sit at IRF office, Zohra Manzil Opp.- Khoja Kabrastan. He was permanent employee of IRF.** I know that Arshi can read Urdu and Arbic languages. I know that Arshi was staying in Sea-Woods, New Mumbai with his family. I came to know about Arshi's arrest from his wife's call may be in July/Aug-2016. **Mr. Rizwan Khan was not an employee of IRF but occasionally used to visit Mr. Arshi Qureshi as they were both on friendly terms**."*

75. Maqbool Barwelkar, Public Relation Manager at IRF also pointed out the close connection of Arshi Qureshi with IRF and deposed as under:-

"....I was working in IRF as a public relation manager from January 2003 to June 2013 and operations manager in Harmony Media Pvt Ltd. from 2006 to June 2013, simultaneously.

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....In the year 2008 or 2009 there was a program arranged by local social body in Bhiwandi on Dr.Zakir Naik's lectures. There I first met Arshi Qureshi through one of the local person...

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*...After that Arshi Qureshi applied for a job in IRF in 2009 and he was appointed as a guest relation manager. **His job profile was to handle appointments, emails of Dr. Zakir Naik and also communicate with the speakers of Peace conference. He used to report directly to Dr. Zakir Naik for 7 to 8 months.** After that, he was transferred to research department as he could not handle multiple instruction of Dr. Zakir Naik...*

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....I have seen Rizwan Khan visiting IRF office/library when I was working there and he also used to attend IRF programmes. I came to know that time he is a Para-volunteer and helps in getting proper matches to prospective brides and grooms..... .. He was preparing Affidavits through Advocates for those who accepted Islam. I know that Arshi Qureshi used to refer people who had accepted Islam (converted) to Rizwan Khan for documentation and marriages.

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....When Arshi was arrested I received a call from one of the volunteer that Arshi was arrested and his wife is alone at Navi Mumbai, Sea Wood area and media people are harassing her. I was requested to go and help by one of the IRF employee or volunteer. Accordingly, I went to his house and helped her with daily supplies. Subsequently, Arshi's wife asked me to shift

her to Bhiwandi to her in-law's place which I did by arranging tempo and loaders. I also requested her landlord/flat owner to return her security deposit."

76. During the cross-examination of SW-5, Shri C. Radhakrishan Pillai, stated as under:-

"*Q: 11- Please See para 6-C of your affidavit. During investigation how did you draw inference of 'Arshi Qureshi acting on behalf of IRF was instrumental of conversion.....'. What you have to say?*

Ans- During investigation I have collected documents that Arshi Qureshi is the paid employee of IRF and from the witnesses I came to know that the office of the IRF is being used for preaching Islam and motivating them for conversion. There is also evidence that revert sessions are being conducted at IRF office to the converts to give more knowledge about Islam and conversion and finally radicalizing them.

Q:12- Is conversion a crime?

Ans- Voluntarily, conversion is no crime but if the same is with unlawful means, it is a crime.

Q:13- During investigation what type of allurement/inducement was given to people for getting them converted?

Ans- The matter is still under investigation and I cannot answer this question with conviction.

Q:14- Please see Page 113 of your affidavit. Is it correct that as per the affidavit of Bexen Vincent @ Yahiya one of the convert he has stated that he accepted Islam out of own free will and without any conversion?

Ans- During the investigation, I came to know that this is the general format which is being got signed from the converts by Arshi Qureshi of the IRF. Vol. I have statements of some witnesses who have stated that conversion was not voluntary."

77. Involvement of Arshi Qureshi, as a member of IRF and Bestin Vincent is further revealed in the statement of Nizamudeen T.K. dated 26.07.2016 recorded under Section 164 Cr. P.C., the relevant portion of which is recapitulated as under:-

"..About two years back there was a change in the habits of the my brother Hafeesudheen, Shihas and Ashfak.

....through Shihas, Ashfak contacted Bestin who belonged to Palakkad and he is presently known as Yahiya. Bestin alongwith Shihas stayed in a hotel owned by Ashfak in Mumbai. During this time Shihas and Ashfak taught Bestin about religious teachings. ***These things were shared to me by Shihas and Ashfak. Shihas, Ashfak and Besting started going to IRF, Mumbai for learning more about Islam religion. They also started inviting me for the classes. They told that in IRF one Arshi Bhai is there whose classes are very good and asked me to join alongwith them, but I could not go with them as I was busy in my job.***

After two or three weeks, a marriage party was arranged in that Shihas, Ashfak, Merrin, Yahiya, Akeef, Meerin's brother Abin, all attended the said party. Merrin assumed the name of Mariam. Yahiya told me that Abin also embraced Islam, but lacks dedication. ***Ashfak, Yahiya and Mariyam used to visit IRF.*** *After one or two months Mariyam and Yahiya left for native place...*

I contancted Ashfak and enquired to which Ashfak told me that Hafeesudheen, Mariyam, Yahiya and Ashfak are at Arshi bhai's house in panvel and they will

come in the night after having food from there.

As such his father lodged a complaint before Police. On 5th or 6th July Ashfak's brother Ajnas has received a voice clip of Ashfak in his mobile through Telegram application. ***He states that 'We left Dar Ul Kufr and Dar Ul Islam i.e., Hijra i.e., Migration to Islamic State.'*** *The voice clip also states that 'first you learn Quran then you can understand why we left our relative and performed Hijra' then its states 'that's why you also learn Quran and come to us here'. I also heard the said voice message.''*

78. In this context, the statement of Azarul Islam Mohamed Ibrahim Siddiqui @ Munna @ Munna Dudhwala also assumes importance since the learned ASG pointed out that Munna Dudhwala, who was an accused in ATS Maharashtra FIR No. 31/2011, voluntarily worked in the office of IRF and also attended the religious programmes. It has also been brought to the notice of the Tribunal that Munna Dudhwala has close connections with Feroz Deshmukh and Rahil Shaikh, members of the banned organization '*SIMI*' and that they used to meet at the IRF office, which evidently shows that IRF was engaged in anti-national activities. The statement of Munna Dudhwala reads as under:-

"*My father is believer of Devbandi faction and my mother and brothers are believer of Hadis faction. I used to visit (1) ''Ahle Hadis Jama Masjid, Madanpura (2) Ahle Hadis Masjid situated near Kalyan Building, Grant Road and (3) Gurba Ahle Hadis masjid situated on Mohamed Ali Road for offering Namaz. Sometimes,* ***I used to attend the Quran and Religious meeting at IRF (Islamic Research Foundation) situated at Chhar Null, Dongri. At the said place Dr. Zakir Naik was arranging religious function on every Sunday****.*

IRF organization used to preach on Muslim religion to Muslims. Here the incidents on Mohamed Paigambar are preached. Conversation is arranged of IRF. Thereafter I started working as volunteer for the programme of IRF*.*

IRF organization used to preach on Muslim religion to Muslims. Here the incidents on Mohammed Paigambar are preached. Conversation is arranged on the subject of how Muslims should live. I was arranged with the programmes of IRF. ***Thereafter I started working as volunteer for the programmes of IRF****"*

Role of Rizwan Iliyas Khan

79. The Central Government also laid great emphasis on the involvement of Rizwan Iliyas Khan, a close associate of IRF to establish that IRF was engaging in anti-national activities. Rizwan Iliyas Khan was made an accused in FIR No. 271/2016 which was later re-registered as RC No. 04/2016/NIA/MUM and also in FIR No. 1017/2016 which was later re-registered as RC No. 04/2016/NIA/KOC.

80. In this regard, SW-11 Ms. Namrata Patil also deposed that during the investigation of RC No. 04/2016/NIA/MUM, a search was conducted at the residence of Rizwan Khan and 78 affidavits relating to conversions were recovered from his possession, which were referred to him by the IRF, which further goes on to prove that IRF was actively involved in conversion of non-Muslims to Islam in an organized manner. Many of the conversion documents relate to the persons who were later found to have migrated to Afghanistan to join the terrorist organization ISIS. She further, in her affidavit (**Ex. SW-11/A**), stated that Rizwan Khan is a close associate of IRF and especially Arshi Qureshi and that he is managing the process of documentation for conversions and marriages which are referred to him by the IRF and other Foundations.

81. Investigation of SW-5, Shri C. Radhakrishan Pillai, also revealed that Rizwan Khan was closely associated with the IRF for the past many years and he was a regular visitor of the main office of the IRF, located at Dongri, Mumbai and that his main job was to process the documentation for conversions and marriages that are referred to him by IRF and other organizations. The conversion documents (**SW-5/A-9**

Colly) in respect of Bestin Vincent @ Yahiya, Bexen Vincent @ Isa, Merrin Jacob @ Marriyam and Nimisha @ Fatima etc. reveal that Rizwan Khan was instrumental in arranging necessary documents for their conversion. The marriage certificates in respect of marriage between Bestin Vincent @ Yahiya with Merrin Jacob @ Marryam and Bexen Vincent @ Isa with Nimisha @ Fatima (**Ex. SW-5/A-10**) shows that Rizwan Khan was the guardian of the bride.

83. From a conjoint reading of the abovementioned FIRs and statements, it is evident that all the FIRs are interlinked with each other and it is apparent that Arshi Qureshi was an employee of IRF and he along with Bestin Vincent @ Yahiya played an instrumental role in converting the above mentioned persons to Islam and that these activities of conversion took place in the office of IRF. It is further revealed from the statement of Munna Dudhwala that Arshi Qureshi is closely associated with IRF and also with Dr. Zakir Naik, who is the President of the Foundation and was further influential in spreading the radical version of Islam, the activities of conversion and then making them follow the path favourable to join the terrorist group ISIS.

84. It has emerged on record that Dr. Zakir Naik and Arshi Qureshi are connected to each other and working under the umbrella of IRF. It has further emerged from the record that Arshi Qureshi, who was an employee of IRF, was under the direct control of Dr.Zakir Naik, the President of the IRF who has a track record of giving speeches which are provocative and motivating enough to promote enmity between different religious groups which disrupts the sovereignty and integrity of the nation and three FIRs have been registered against him in this regard since the year 2012. In the statement of Munna Dudhwala, it has emerged that ***"he used to attend the Quran and Religious meeting at IRF (Islamic Research Foundation) situated at Chhar Null, Dongri which has been arranged by Dr. Zakir Naik every Sunday"***. Even in the statement of Abdul Majeed, father of Ashfak, who was one of the recruits of ISIS, direct linkage of IRF and Arshi Qureshi has been established wherein, he deposed that "***Arshi Qureshi of I.R.F. and Rizwan Khan residing at Kalyan are the persons who have induced my son Asfaq to joined terrorist group i.e. I.S.I.S***". Furthermore, from the statements of Aslam Kasim Qureshi, Service Operation Executive at Harmony Media Pvt. Ltd, Shoket Hussain, Legal Advisor/Manager, SW-5 Shri C. Radhakrishnan Pillai and SW-11 Ms. Namrata Patil, it has manifestly emerged that Arshi Qureshi was a paid employee of IRF and the office of the IRF was being used for preaching Islam and motivating the youth to convert to Islam. There is also material to show that revert sessions were being conducted at the IRF office for the converts to give them more knowledge about radical Islam and finally radicalizing and converting them. It is hard to believe that Arshi Qureshi was using the office of the IRF for the said activities without the knowledge of Dr. Zakir Naik and other office bearers of IRF. Thus, it is clear from the statements and documents referred to above, that the office of IRF was used for radicalisation and conversion of the youth to join ISIS. Dr. Zakir Naik, who is the Founder Trustee and President of the Foundation and Arshi Qureshi, who is an employee of IRF were utilising the office space of the IRF for anti-national activities and it is imperative that there is a clear linkage between Dr. Zakir Naik, Arshi Qureshi and the IRF.

85. Coming to the contention of the Central Government that the statements and speeches made by Dr. Zakir Naik have been promoting enmity and hatred between different religious groups and inspiring the youth to commit terrorist acts, it is necessary to look into the evidence of SW-6 and SW-10 and also the transcripts of all the speeches delivered by Dr. Zakir Naik, which are available on record.

86. According to SW-6, Mr. Aseem Srivastava, during the course of the investigation, he collected and scrutinized the speeches and lectures delivered by Dr. Zakir Naik and found that there was prima facie evidence against Dr. Zakir Naik and his associates at the IRF and that they have been encouraging and aiding its followers to promote or attempt to promote enmity on the grounds of religion, disharmony or feelings of

enmity and ill-will between different religious communities and groups. During cross-examination, SW-6 deposed as under:-

"Q.10 :Who authorized you to become the investigating officer in this case?

Ans.: As per the FIR the investigation has been entrusted to me under the orders and directions of Sh. Vikram Khalate, Superintendent of Police, Mumbai.

Q.11: Can you give the dates of the speeches delivered by Dr. Zakir Naik which are being investigated by you?

Ans.: I do not recall the dates.

Q.12: Please refer to page-2, para -5 of your affidavit wherein you have referred that Dr. Zakir Naik under the banner of IRF every year from 2007 to 2012 at the Somayya Ground, Sion, Mumbai has been giving speeches. Can you state whether any permission was obtained by Dr. Zakir Naik before giving his lectures?

Ans.: I do not know.

Q.13: Have you investigated whether permission was required before giving a public speech. If yes, whether or not permission was obtained?

Ans.: The case is still under investigation and as on date I cannot answer the above question."

87. SW-10, Shri Satish Kumar Chhikara cited speeches and lectures delivered by Dr. Zakir Naik against Hindus, Christians, Jews and their religious books. SW-10 further stated that upon scrutiny of these speeches, the Central Government found that the contents of these speeches are radicalizing the Muslim youth and have serious potential to create disharmony in the society. During the cross-examination, SW-10 deposed as under:-

"Q:40 -I put it to you that you have neither heard nor seen the speeches of Dr.Zakir Naik in its entirety relied upon by you in your affidavit Ex.SW10/A.

Ans. I have heard and seen all the speeches of Dr. Zakir Naik relied upon by me in its and have also filed a CD containing extracts thereof.

Q:41 -I put it to you that the entire speeches of Dr. Zakir Naik relied upon by you have not been produced by you in its entirety?

Ans. It is correct.

Q: 42-Is it correct that the dates of the speeches are not mentioned?

Ans. Yes. Vol. When the speeches are available on internet/YouTube, the dates are irrelevant.

Q: 43-Have you taken any steps to remove the speeches from the internet?

Ans. The process has been initiated by NIA.

Q: 44-Would it be correct to say that the speeches have been downloaded from the YouTube by you?

Ans. Yes.

Q: 45-Did you check the source by whom the speeches were uploaded in YouTube?

Ans. No.

Q: 46-Is there a possibility of these speeches having been doctored?

Ans. I have no reason to believe that the speeches have been doctored.

Q: 47-Are you aware that Dr. Zakir Naik has clarified that the speeches available on YouTube are doctored?

Ans. I am not aware.

Q: 48-I put it to you that it is not possible to download material from the YouTube directly?

Ans. Yes, it is not possible. Vol. Videos can be linked and through a device, it can be downloaded.

Q: 49-I put it to you that since the speeches are quoted and used out of context, hence, they have not been placed on record in its entirety?

Ans- It is incorrect.

Q: 50-Can you assign any reason for placing only the extract of the speeches?

Ans. The speeches made by Dr. Zakir Naik are very long and only the relevant portions have been placed on record to save time.

Q: 51- I put it to you that if the speeches are read as a whole, the entire meaning of the portions relied upon by you, would change?

Ans. No."

88. At this juncture, few details of the speeches of Dr. Zakir Naik referred to by SW-6 and SW-10 need to be discussed. In a speech given in Chennai on 17.01.2009, Dr. Zakir Naik proclaimed to be a proud fundamentalist and hoped for the establishment of Islam in all households. He also stated that the Hindus live in "*darkness*" and further ridiculed the Hindu Gods. The relevant portion of the speech is as under:-

> *"...May be, Amritsar is not a place of sanctuary or cantonment area, while Mecca and Medina are cantonment areas. If you want to go to any other mosque than Mecca and Medina, even I will come with you. I will never take you to any of these two mosques... because they are the cantonment areas and you require a visa to visit. The visa to go to the Mecca and Medina is "La ilahilallahu..." By that you have to say that 'There is no God but Allah and Mohammad is the last Messenger of Allah'.* ***If you do not get visa, you cannot go there. Golden temple may not be as sacred as Mecca and Medina."***

89. In the speech delivered on 16.11.2001, Dr. Zakir Naik made objectionable comments against Lord Ganesha, which is re-produced as under:-

> *"If any of my Hindu friend calls me for a Pooja, it is the common Pooja in Mumbai i.e. Ganesh Chaturthi. Have you heard about Ganesh Chaturthi? Yes. My hindu friend, who knows about Ganpati, would call me and would give me Prasad. At that time, I would ask him who is this Ganpati? On that, my friend would say me that this Ganpati is son of Lord Shiva. Then he would tell me that – 'one day Shiva went out. At that time, his wife Parvati removed dirt from her body and from that she created a son and asked him to stand at the door. I am taking rest and hence do not allow anybody to enter in the house. After some days, Shiva returned back to the home and was entering the house. At that time, son stopped him and said that My mother is taking rest so you cannot enter in the house. Shiva got furious and cut done his head from the body.'* ***Here I would ask one question to my Hindu friend that when your God is not identifying his son then how would identify me when I am in trouble****?..."*

90. Further, justifying the demolition of the Buddha statue, which was deeply connected with the faith of millions of Buddhists and also respected by others across the world, Dr. Zakir Naik stated that :

> *"What I can tell that surely the Talibans, if they have destroyed the statue of Buddhas, what they were doing is actually they were educating the*

Buddhists…. Afghanistan is their government, it is their property, the statue is their property, if they can and do something in any other country then you can object. ***They are doing in their country, it is their property, if they like they keep it, if they want to destroy it, they destroy it. Who are we to object****?"*

91. In another speech delivered about '*Osama Bin Laden*', Dr. Zakir Naik stated as under:-

*"…As I did not meet Osama Bin Laden, so I cannot say whether Osama Bin Laden is within hadis of Koran or not. Allah knows, Allah knows whether it is 'yes' then he would go to heaven and if not then he will not go to heaven…..****If he is fighting against enemies of Islam, I am for him.*** *I don't know what he is doing. I am not in touch with him. I don't know him personally. I read in the newspapers.* ***If he is terrorizing the terrorist, If he is terrorizing America, the terrorist, the biggest terrorist, I am with him. Every muslim should be a terrorist*****…."**

92. In a speech titled '*Terrorism and Jihad in Islamic Prospective*', Dr. Zakir Naik patently recommended all Muslims to be terrorists. The relevant part of the transcript reads as under:-

"As far as a terrorist is concerned, I tell the Muslims that every Muslim should be a terrorist*. …. What is the meaning of the word terrorist? Terrorist by definition means a person who terrorizes. When a robber sees a policeman, he is terrified. So for a robber, a policeman is a terrorist. So in this context, every Muslim should be a terrorist to the robber….. every Muslim should be terrorist to each and every social element.*

It is only a small group of the Indians for the personal gains they try to malign Islam… making Islam in the thin line… and these people they are controlling the media… one book is written against Islam everyday….Today selectively Muslim people are targeted in Media. For example, when a Muslim woman wears a hijab, she is targeted; on the same hand we find nuns, when they wear the similar types of dress… people respects them. Why is the difference? If a Muslim keeps a beard, it is indication of a terrorist, but Sikhs, they keep the beard, then there is no problem. …. Here (in India) we find that the person who keeps the beard….. my colleagues who had beard and wear the cap so there were some police following and questioning. Just because of the beard and the cap. And you analyze all the saintly people in most of the religions they have beard. Jesus Christ… Sadhu-Saints…. All have beard… so this is the hype of the media. It is selectively targeting.

Islam as a general norm is against the violence, but as a last resort force can be used…. Some people do not want peace and they want to disrupt the peace, to control these people. ….. Islam gives permission for the use of force and violence as a last resort*"*

93. Dr. Zakir Naik, while defending Osama Bin Laden, referred to George Bush, the then US President as a terrorist and stated as under:-

"As far Osama Bin Laden is concerned…. I cannot base my answer just on the news reports. But one thing I can say for sure he is called on CNN Prime Suspect. Prime Suspects number one., no proofs…. ***As far as my knowledge, he is not the terrorist at all****…. Some of the people said that George bush himself did it…… Number one terrorist is George Bush."*

94. In a speech delivered on the subject '*Is suicide bombing a Haram under any circumstance in Islam*', Dr. Zakir Naik stated as under:-

"There are scholars like Salman Ahuda who, Mashallah, is one of the great

scholars of his time and he says that under the normal circumstances it is haram. But if the situation demands like in Palestine where every day they are killed and thousands are killed throughout the year, it is justified than they have to fight for self-defense. If they know that in the attacks, the chances of dying is imminent but it would cause damage to them, ***and as a last resort with guidance from a scholar it can be used****. So with guidance of Quran and Sunnah and* ***as a last resort, it can be used****. I will give examples. The examples are from hadits, taken from logical arguments you can analyze those, there was once a fort was being taken by the enemies. And a Sabah said he may be thrown over and then he will go on to the outer world. So chance of dying was there, but he had gone. He didn't die and opened the door. There is exception with the rules so scholars differ. One group of scholars say it is totally haram in any circumstamce, some scholars say* ***it is the last resort and it can be done with the guidance. There are not other alternatives.*** *Because the persons does not want to end his life, but he wants to fight for haq for truth and while doing that, the chance of his dying is very high, and I know one person who argues with me a lot. He told me that under any circumstances it is haram. And if you are present in between a crossfire..... .....*

What I am telling if the trigger pulled by the person himself then it is haram. Here the trigger is pulled by the enemy. Suppose if person who is very good and strong and he is there, he wants to save the Prophet and he comes in between and catch his hand and now the gun is turned to kill him, you have to kill yourself and you pull the trigger, you will die and the person will die. The prophet will be saved. What will you do? Will you pull the trigger or not? Hadis says any person who does not love Allah and the prophet, more than himself, he is not a Muslim. Will you pull the trigger? He said yes. But that is suicide. Imagine this is the situation what happens. ***So I do agree with Shaikh Salman Ahuda, as a last resort suicide is justified, if the loss is less and the gain is more, following the rules of Shariya, following Hadis and Quran it can be resorted to."***

95. In a speech titled '*Media and Islam-War or Peace*', Dr. Zakir Naik again recommended the Muslims to be terrorists and justified suicide bombings. He stated as under:-

"Suicide bombings..... there are Muslims in Palestine or Iraq, have done that. But they say if it is used as a stratergy as a last resort, when many of the Muslims are being killed and they want to see to it that instead they will die alone, they will kill some other people and the main intention is to cause loss..... ..... ***And as I mention in my talk that in Iraq suicide bombing was not there until USA came to Iraq..... some scholars give permission that it can be done****."*

96. From a bare perusal of the above mentioned speeches and lectures delivered by Dr. Zakir Naik, it is evident that he intends to inject the perception in minds of his audience that being members of a particular community, they are being subjected to discrimination in India, by the people of other communities and even by the government machinery. The lectures delivered by Dr. Zakir Naik command supremacy of Islam over other religions and contain derogatory comments about other religions and their Gods, radicalizing the Muslim youth and creating disharmony in the society. Such statements widen the gap between the two major communities in the nation and promote enmity and hatred between the two. By showing open support to the tyrannous Talibans as well as the internationally proclaimed terrorist, Osama Bin Laden and by justifying suicide bombings, he makes the audience believe that committing such terrorist acts, in the prevailing situation against people of other religions, as done by the Talibans or Osama Bin Laden, are fully justified and as an Islamic preacher, he approves it.

97. The defence counsel argued that three FIRs were registered on the basis of a single speech delivered by Dr. Zakir Naik against Lord Ganesha and no other complaint that the preaching and speeches were of subversive nature was ever received against Dr. Zakir Naik. Dr. Zakir Naik also tendered an apology after commenting on Lord Ganesha. The fact that Dr. Zakir Naik tendered an apology has been admitted by two witnesses examined by the Central Government.

98. SW- 3 Mr. Tanaji Digambar Sawant stated as under:-

"*Ques-14 Are you aware that after the delivery of the speech by Dr. Zakir Naik he had apologized to the Commissioner of Police, Mumbai as well as general public?*

Ans-- Yes. I am aware."

99. In this context, SW-4, Shri Dayanand Dattaram Gawas also testified as under:-

"*Ques-11 Are you aware that Dr. Zakir Naik has tendered a public apology after the delivery of the speech?*

Ans I am aware in my personal capacity that Dr. Zakir Naik has tendered a public apology after he delivered the speech."

100. Perusing the record further, it is seen that an application dated 25.03.2017 was moved by IRF before the Tribunal seeking the supply of Trust Deed of the IRF, chargesheet filed in FIR No. 271/2016 and the apology letter sent by Dr. Zakir Naik to the Police Commissioner, Mumbai. The defence contended that they were unable to produce these documents as the office of IRF was raided and all the documents had been carried away by the officials who conducted the raid. The Central Government failed to produce any apology letter and denied that any written apology was seized during the raid. The Trust Deed of the IRF and chargesheet filed in FIR No. 271/2016 were placed before the Tribunal and copies were supplied to the IRF through the Central Government.

101. The apology, whether oral or written, does not come to the rescue of defence as once the speech has come in public domain and poisoned the minds of the people across the world, the apology tendered by Dr. Zakir Naik is of no consequence as he cannot make good the damage already done. Tendering of apology appears to be an afterthought and for this reason the IRF failed to produce the same.

102. The argument of the defence that the speeches relied upon by the Central Government are doctored speeches was to be proved by the defence but they have failed to produce any such material in support thereof. No evidence has been produced by the defence to substantiate this argument, except for verbal assertions. It may be of importance to add that CD's were perused during proceedings/arguments on 25.04.2017 but the defence counsel failed to point out how and which part of speeches are doctored. Rather, the counsel argued that after the speech pertaining to Lord Ganesha, Dr. Zakir Naik had apologised for his comments publically.

Right to Secrecy

103. The contention of the defence on '*Right to Secrecy*' is limited to the extent that if the documents, on which privilege was being sought by the Central Government, are not provided to them, great injustice would be caused and it would not be possible for them to properly defend themselves. Moreso, the authenticity of the documents so filed can only be verified after looking into the documents.

104. No doubt, as a general rule and principle, the documents filed by both the parties in a case are required to be exchanged, but in the present reference, as an exception, the privilege has been claimed on some documents by the Central Government in public interest.

105. It would not be out of place to mention that the defence counsel, during the course of arguments on the application for providing the privileged documents, had given his

no objection and left it to the Tribunal to decide and form its opinion whether the documents were to be treated as privileged. The relevant portion of the order dated 05.04.2017 is as under:-

"...on 01.04.2017 had given his no objection that the Tribunal may open the documents filed in sealed cover by the Central Government and form its own opinion whether the documents need to be kept confidential, in public interest."

106. The Tribunal vide order dated 05.04.2017, on the basis of the facts and circumstances of the present adjudication and the settled law, held that the documents mentioned at serial No.5 of the application, on which privilege was sought, were sensitive in nature and it was not in national interest to place them in public domain and were ordered to be kept in safe custody in sealed cover. Having given his no objection, the defence counsel cannot now wriggle out of the same.

Violation of FCRA by IRF

107. It would now be relevant to peruse the material available on record to analyse the argument of the defence that the bank accounts of IRF, Dr. Zakir Naik, his shell companies and the persons associated with these shell companies were frozen by the Economic Offences Wing on vague allegation that the IRF had violated the provisions of FCRA and the money was used by IRF for funding terrorists and terror organizations. It was argued that the report submitted by EOW dated 16.02.2017 cannot be relied upon by the Tribunal as the Central Government is required to justify the issuance of the Notification banning the IRF on the basis of the material available on or before 17.11.2016.

108. In this regard, SW-2 Mr. S. Jayakumar during his cross-examination deposed as under:-

"*Ques.9 : I put it to you that the subject matter of the present Tribunal is the IRF and not Dr.Zakir Naik as mentioned in your Examination-in-Chief?*

Ans. : Dr. Zakir Naik is the subject of my enquiry i.e. the preliminary enquiry conducted by the EOW.

Ques.10 : In Para-2 of page-1 of your affidavit, you have referred to the donations being received by the IRF. Was or is there any ban to receive donations including foreign donations?

Ans. : No there is no ban on receiving donations.

Ques.11 : Is it a fact that the ban was imposed on IRF by notification dated 17.11.2016 whereas the order of freezing the accounts by ACMM was passed on 03.12.2016?

Ans. Yes. (Vol.) The application by the applicant was filed in October, 2016 and the decision of the Court was announced on 3.12.2016."

109. One more witness was produced by the Central Government in this context, namely SW-7 Mr. Mandar Lad, who deposed as under:-

"It is correct that I have mentioned in para 2 of my affidavit that donation was made to IRF Educational Trust and Rajeev Gandhi Trust. ***These names have been exceptionally mentioned as the money donated to both the trusts was returned either fully or partly to the IRF, so it was questionable.*** *Till date, we have not seen the Trust Deed of Rajeev Gandhi Trust as we have not summoned them. The inquiry is still pending"*

110. Shri Satish Kumar Chhikara, SW-10 in his affidavit,**Ex.SW-10/A**, stated that the illegitimate transactions and unlawful use of the funds received by IRF, are still pending investigation. He relied on the Show Cause Notices bearing No. 11/21022/58(0040)/2013-FCRA(MU dated 28.10.2016 and 11/21022/58(0040) /2013-FCRA(MU) dated 11.11.2016 and the cancellation of Registration order bearing No. 11/21022/58(0040)/2013-FCRA(MU)S-4 dated 13.12.2016. Apart from

other assertions made in the Show Cause Notice dated 11.11.2016, it is mentioned that "***during FY 2012-16, the association had paid Rs.43.75 lakh from the FCRA account to its employee, Arshi Qureshi, who was recently arrested by Kerala Police for his role in conversion of 19 persons, some of whom left to join ISIS in Afghanistan***", and for this reason, the registration of the Foundation was cancelled by the Foreign Contribution Regulatory Authority.

111. The Interim Report of EOW, **Ex.SW-2/2** on the basis of the Preliminary Enquiry No. 108/2016 dated 16.02.2017 filed by SW-7, reads as under:-

"*Further during the period from 2003 to 2016, it has received approx. Rs. 60.90 cr. By way of donations out of which approx. 17.31 Cr. i.e. 28% are received from overseas donors from USA, UK, Saudi Arabia, Baharain, Kuwait etc.., details are at Annexure D. Further as regards utilization thereof it is revealed that the Trust has donated funds to various charitable organizations, details are as under:-*

Sr.	***Name of the Trust/Foundation***	***Amount donated***	***Year of donation***
1.	*IRF Educational Trust*	*2,25,00,000*	*2015*
2.	*Association of Management Studies, Meerut*	*2,00,00,000*	*2013*
3.	*Nimisha Prakash Mhatre Foundation*	*1,00,00,000*	*2013*
4.	*Ch. Devilal Memorial Society*	*1,50,00,000*	*2013*
5.	*Rajiv Gandhi Trust*	*50,00,000*	*2011*
6.	*M H Saboo Siddique Maternity and General Hospital*	*35,00,000*	*2011 & 2012*
7.	*Altab Charitable Society*	*10,00,000*	*2012*
8.	*M.S. Naik Foundation*	*10,00,000*	*2008*
9.	*K.J. Somaiya Trust*	*18,00,000*	*2010 & 2011*
10.	*Bandra Education Trust*	*5,00,000*	*2011*
11.	*The Dean Byl. Nair Charitable Hospital, Mumbai*	*1,54,855*	*2010*

Further, in some instances like IRF Educational Trust and Rajiv Gandhi Trust the money donated to them was later on returned either partially or fully. In order to ascertain genuineness of these transactions Islamic Research Foundation was asked to provide minutes of trustees meetings from inception till date vide this office letter dated 10/09/2016. However they provided the minutes only up to 30/03/2014. ***Hence the object and purpose of such refundable donations could not be ascertained and thus is questionable.***"

112. It is abundantly clear from the record that an enquiry had been initiated against the IRF by the EOW on 19.07.2016. The Court of ACMM, 47th Court, Esplanade, Mumbai ordered the accounts of IRF, Dr. Zakir Naik, his associated persons and his

shell companies to be freezed on 03.12.2016. SW-7 filed a report on 16.02.2017, placing on record the order dated 03.12.2016 of the proceedings which had been initiated much prior to the notification dated 17.11.2016 banning the IRF.

113. In this background, there is no force in the objection taken by the defence counsel that the report dated 16.02.2017 of the EOW cannot be relied upon since the Central Government is required to justify the issuance of the notification on the basis of the material available on or before the 17.11.2016.

Ban on Dr.Zakir Naik by other countries

114. The Central Government argued that Dr. Zakir Naik was banned by various foreign countries and in support, cited the judgment of the Royal Court of Justice Strand, London dated 19.12.2011 wherein the speeches of Dr. Zakir Naik were considered and his appeal was dismissed with the following observations:-

"*On the first question I readily accept her conclusion that some at least of the statements brought Dr. Naik within the policy. It is not necessary to review them all in detail. The stark message to an ordinary listener of statement 1("every Muslim should be a terrorist to every anti-social element") is hardly mitigated by the explanatory reasoning which surrounds it. Equal objection could be taken to statement 2 ("if [Bin Laden] us terrorizing America, the biggest terrorist…. every Muslim should be a terrorist"), even if spoken before 9/11. Other statements, at least taken on their own, seem needlessly provocative and inflammatory: statement 9 (comparing Americans to pigs), and statement 10 (apparently defending the death penalty for apostasy). The language of the former (not in terms repudiated in Dr. Naik's evidence) is gratuitously offensive, and difficult to reconcile with Dr Naik's claim to be a serious religious thinker, let alone a messenger of peace.*"

xxxxx

In many cases proportionality might require a more flexible approach. However, the very prominence of Dr. Naik, as an international figure of great influence, may mean that isolated statements even taken out of context take on a much greater significance. As he himself acknowledges, it is the "curse" of substantial religious leaders that their words may be appropriated by "fanatical extremists". In those circumstances, the Secretary of State is entitled to ask, not just for general assertions, but for specific repudiation. If his evidence is tested by that standard, I find it difficult to disagree with the Judge's assessment."

Perusal of the aforesaid judgment evidently depicts that the Royal Court of Justice Strand, London came to the conclusion that the speeches of Dr. Zakir Naik are inflammatory and Dr. Zakir Naik is not a religious thinker or a messenger of peace.

Terrorist attack in Dhaka, Bangladesh

115. The participation of Dr. Zakir Naik in the Toronto Conference was also banned for his support to the International Terrorist Group : *Al-Qaeda*. Similarly, Dr. Zakir Naik had been barred from addressing a speech at a University in Malaysia because of complaints from non-muslim groups. Singapore Government had also banned Dr. Zakir Naik along with two other Wahhabi Islamic Preachers from speaking in public in view of the growing radicalization in the country caused by interactions with the above said Preachers. Pursuant to the terrorist attack on 'Holy Artisan Bakery' at Dhaka, Bangladesh on 01.07.2016 wherein 25 persons were killed, '*Peace T.V.*' channel run by Dr. Zakir Naik was banned in Bangladesh.

Impact of speeches of Dr.Zakir Naik on suicide bomber

116. Further, the newspaper report dated 11.07.2016 has been placed on record to demonstrate that terrorists have been influenced by the speeches addressed by Dr. Zakir Naik, in as much as, Rohan Imtiaz, a suicide bomber, liked the speech of Dr. Zakir Naik, '*Every Muslim should be a terrorist*' on his Facebook page, who posted the same on his own Facebook account. In this regard, relevant portion of the testimony of SW-10 Shri Satish Kumar Chhikara, is reproduced as under:-

"Q:38- How are you aware that the speech which was liked by Rohan Imtiaz was made by Dr. Zakir Naik?

Ans. The speech of Dr. Zakir Naik referred above ***is the part of the report received from the Intelligence Agencies*** *so I have accepted the same to be true.*

Q:39- Would it be correct to state that you neither heard the speech nor seen the video thereof in its entirety which pertains to Rohan Imtiaz – suicide bomber?

Ans- Yes.

Q:40 -I put it to you that you have neither heard nor seen the speeches of Dr.Zakir Naik in its entirety relied upon by you in your affidavit Ex.SW10/A.

Ans. ***I have heard and seen all the speeches of Dr. Zakir Naik*** *relied upon by me in its and have also filed a CD containing extracts thereof."*

117. The testimony of SW-10 makes it clear that all the speeches made by Dr. Zakir Naik, confidential documents furnished in the two secret reports received from the Intelligence Agencies as Ex.SW-10/11 (Colly) and other documents furnished in sealed cover were examined by him before preparing the report.

118. The conjoint reading of the newspaper report, statements coupled with the testimony of SW-10 and the report of intelligence agencies signifies that the speeches of Dr. Zakir Naik had an impact on the listeners and few were radicalised by such speeches and even indulged in terrorist activities.

'Cession' or 'Secession' in relation to Sovereignty and Integrity of India

119. To answer the argument of the defence counsel that "reasonable restrictions" in Articles 19(2) and 19(4) are only those which are intended to impose restrictions in the "interests of the sovereignty and integrity of India" which in turn only relate to any act done with regard to 'cession' or 'secession' as defined under the UAPA, 1967, it is imperative to set out the relevant provisions of the Constitution of India and the UAPA, 1967 which reads as under:-

"Article 19. Protection of certain rights regarding freedom of speech etc.-

(1) All citizens shall have the right-

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India; and

(g) to practice any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

xxxxx

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the

right conferred by the said sub-clause.

***Section 2(b) and 2(i) of UAPA, 1967** reads as under:-*

***Section 2(b).** "cession of a part of the territory of India" includes admission of the claim of any foreign country to any such part;*

***Section 2(i).** "secession of a part of the territory of India from the Union" includes the assertion of any claim to determine whether such part will remain a part of the territory of India"*

120. The test of reasonable restriction and general principles has been laid down in a catena of judgments by the Supreme Court regarding interpretation of the provisions relating to the fundamental freedoms and the restrictions that could be imposed on them under the Constitution.

121. The Supreme Court considered the test of reasonableness of the restrictions that could be imposed on the freedom under Article 19 in the case titled ***State of Madras vs. V.G. Row*** reported in ***1952 Cri.L.J. 966***. The relevant portion of para 16 reads as under:-

"16 ...It is important in this context to bear in mind that the test of reasonableness, whenever prescribed, should be applied to each individual statute impugned, and no abstract standard, or general pattern of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict. In evaluating such elusive factors and forming their own conception of what is reasonable, in all the circumstances of a given case, it is inevitable that the social philosophy and the scale of values of the Judges participating in the decision should play an important part, and the limit to their interference with legislative judgment in such cases can only be dictated by their sense of responsibility and self restraint and the sobering reflection that the Constitution is meant not only for people of their way of thinking but for all, and that the majority of the elected representatives of the people have, in authorising the imposition of the restrictions, considered them to be reasonable."

122. A Five-Judge Bench judgment in the case of ***Harakchand vs. Union of India***, as reported in ***[1970] 1 SCR 479*** held that reasonableness of the restrictions to be imposed would have to be adjudged upon the magnitude of the evil which it tends to restrict or eliminate. It was held as under:-

"...It is necessary to emphasise that the principle which underlies the structure of the rights guaranteed under Article 19 of the Constitution is the principle of balancing of the need for individual liberty with the need for social control in order that the freedoms guaranteed to the individual subserve the larger public interests. It would follow that the reasonableness of the restrictions imposed under the impugned Act would have to be judged by the magnitude of the evil which it is the purpose of the restraints to curb or eliminate."

123. Keeping in mind the said observations and guidelines of the Apex Court with regard to the reasonableness of the restrictions to be imposed that curtail the freedoms enshrined in Article 19(1) of the Constitution, they need to be examined in the light of the "sovereignty and integrity of India". According to Black's Legal Dictionary, 5th Edn., p. 1252 the legal definition of "sovereignty" is stated as:-

"The supreme, absolute, and uncontrollable power by which any independent state is governed; supreme political authority, paramount

control of the Constitution and frame of government and its administration; the self-sufficient source of political power from which all specific political powers are derived; the international independence of a state, combined with the right and power of regulating its internal affairs without foreign dictation; also a political society, or state, which is sovereign and independent."

124. Therefore, in a federal State with a written Constitution like India, it is the Constitution which is sovereign, enjoys universal supremacy by which the nation is governed. The Constitution is supreme lex, the paramount law of the land and there is no department or branch of Government above or beyond it. Every organ of the Government i.e. the Executive or the Legislature or the Judiciary, derives its authority from the Constitution and has to act within the limits of its authority. The Constitution is the most fundamental and supreme document, whose supremacy is protected by the authority of the Judiciary that acts as the interpreter thereof and to which even the Legislature is amenable and cannot claim immunity.

125. Having said the same, it is impossible to define "sovereignty and integrity of India" in a restrictive sense. The expression "in the interests of the sovereignty and integrity of India" in Article 19(4) of the Constitution makes the ambit of protection of the Constitution very wide. It is abundantly clear that the fundamental rights enshrined in Part III of the Constitution are not absolute and are subject to reasonable restrictions that may be imposed by the Government in public interest so as to bring about a welfare State within the framework of the Constitution.

126. The test of reasonableness has to be applied to each individual case and no abstract standard or general pattern of reasonableness can be laid down as applicable to all cases. As to what are reasonable restrictions would naturally depend on the nature and circumstances of the case, the object of the statute, the evil sought to be remedied as also the nature of restraint or restriction placed on the rights of the citizen.

127. In light of the above, it would be pertinent to discuss here the decision of the Supreme Court in ***Laxmi Khandsari and Ors. Vs. State of U.P. and Ors.*** reported as ***[1981] 3 SCR 92,*** wherein it was held as under:-

*"**16.** It is abundantly clear that fundamental rights enshrined in Part III of the Constitution are neither absolute nor unlimited but are subject to reasonable restrictions which may be imposed by the State in public interest under Clauses 2 to 6 of Article 19. As to what are reasonable restrictions would naturally depend on the nature and circumstances of the case, the character of the statute, the object which it seeks to serve, the existing circumstances, the extent of the evil sought to be remedied as also the nature of restraint or restriction placed on the rights of the citizen. It is difficult to lay down any hard or fast rule of universal application but this Court has consistently held that in imposing such restrictions the State must adopt an objective standard amounting to a social control by restricting the rights of the citizens where the necessities of the situation demand. It is manifest that in adopting the social control one of the primary considerations which should weigh with the Court is that as the directive principles contained in the Constitution aim at the establishment of an egalitarian society so as to bring about a welfare state within the frame-work of the Constitution, these principles also should be kept in mind in judging the question as to whether or not the restrictions are reasonable. If the restrictions imposed appear to be consistent with the directive principles of State policy they would have to be upheld as the same would be in public interest and manifestly reasonable.*

***17.** Further, restrictions may by partial, complete, permanent or temporary but they must bear a close nexus with the object in the interest of which*

they are imposed. Sometimes even a complete prohibition of the fundamental right to trade may be upheld if the commodity in which the trade is carried on is essential to the life of the community and the said restriction has been imposed for a limited period in order to achieve the desired goal.

***18.** Another important consideration is that the restrictions must be in public interest and are imposed by striking a just balance between the deprivation of right and the danger or evil sought to be avoided...."*

128. Applying the above principles set out by the Supreme Court to the present case, "in the interests of the sovereignty and integrity of India" connotes the Government of India to take any measures necessary in public interest to prevent any threat or a likely threat to the sovereignty, unity, integrity or security of India striking terror amongst people in India or in foreign country or to compel the Government of India or the Government of a foreign country or any other person to do or abstain from doing any act. Public interest shall be of paramount importance. The Government on a slightest suspicion on any person or association, being a threat or a likely threat to the sovereignty, unity, integrity or security of India, can impose a ban on such person or association which shall be wholly justified in public interest and security of the State.

129. Keeping in mind the primary objective of the UAPA, 1967 and the Constitution of India, the argument raised by the defence to limit the definition of "sovereignty and integrity of India" to a narrow meaning i.e. only in relation to 'cession' or 'secession' as defined under the UAPA, 1967, is unacceptable.

130. The contention of the defence that the term 'Disaffection' has to be construed in such a way so as to read it with either 'sovereignty and integrity' or 'cession' or 'secession' is unacceptable as the word ***'or'*** between 2(o)(i)(ii) and (iii) clearly signifies the sub sections to be mutually exclusive to each other. In fact, only reading and interpreting the Section 2(o)(i)(ii) and (iii) individually, the context and reason for enactment falls into place.

Once prosecution U/s. 153A of IPC, cannot be booked under UAPA, 1967

131. It would, now, be relevant to scrutinize Section 153A of the IPC and Section 2(p) of the UAPA, 1967 to deal with the argument of the defence that when a person has already been prosecuted under Section 153A of the IPC, he need not be booked under the UAPA, 1967. Section 153A of the IPC reads as under:-

"153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.—

(1) Whoever—

*(a) **by words,** either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different reli-gious, racial, language or regional groups or castes or communi-ties, or*

*(b) **commits any act** which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity,*

*(c) **organizes any exercise, movement,** drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained*

to use criminal force or violence or knowing it to be likely that the partici-pants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,] shall be punished with imprisonment which may extend to three years, or with fine, or with both. Offence committed in place of worship, etc.—(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious wor-ship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine."

Section 2(p) of the UAPA, 1967 reads as follows:-

*"**2(p).** '**Unlawful Association**' means any association, -*

*(i) Which has for its object any unlawful activity, or which encourages or aids person 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 153A or section 153B of the Indian Penal Code (45 of 1860); **or** which encourages or aids person to undertake any such activity or of which the members undertake any such activity:*

Provided contained in sub-clause(ii) shall apply to the State of Jammu & Kashmir."

132. The cases that had been registered under Section 153A of the IPC against Arshi Qureshi and Dr. Zakir Naik are detailed below:-

(i) *FIR No.1017/16* was registered under Section 153A at Palarivattom Police Station, Kochi City in Kerala against the Arshi Qureshi of IRF.

(ii) *FIR No.73/12* was registered at Sawantwadi Police Station of Sindhudurg District (Maharashtra) under Section 153A of the IPC against Dr. Zakir Naik, the President of IRF for making derogatory statements against Hindu Gods.

(iii) *FIR No.51/12* was registered at Vengurla Police Station of District Sindhudurg under Sections 153A of the IPC against Dr. Zakir Naik for making derogatory statements against Hindu Gods and hurting the religious sentiments of Hindus.

(iv) *FIR No. 44/2013* was registered at Kurla Police Station of Mumbai under Sections 153A against Dr. Zakir Naik for making derogatory statements against Hindu Gods.

133. A plain reading of Section 2(p)(ii) of the UAPA, 1967 would show that it includes "*... any activity which is punishable under **Section 153A or Section 153B of the Indian Penal Code**, or which encourages or aids persons to undertake any such activity*" and widens the scope of the UAPA, 1967. Since, it has a wider connotation and meaning, it should be interpreted in the context of the scheme of UAPA, 1967 and not be confined to a narrow meaning that is to include only Section 153A or Section 153B of the IPC, otherwise the object of the UAPA, 1967 would be defeated. The UAPA, 1967 is a preventive legislation and every preventive measure is based on the principle that a person should be prevented from doing something which, if left free and unfettered, it is reasonably probable he would do. The measure is taken by way of precaution to prevent mischief to the community and/or the State. All unlawful activities by unlawful organisations are always done in 'a hush-hush manner', secretively and the activities have a tendency of hoodwinking others including the law men. No secret activities are done openly. It is largely precautionary. The Act aims to curb the 'unlawful activities', targeting those organizations which are posing a threat, or a potential

threat to the country's "sovereignty and integrity", activities pertaining to 'cession' or 'secession' and the activities that can create 'disaffection' against India.

Section 2(o) and 2(p) of UAPA, 1967 reads as under:-

***2(o). 'Unlawful Activities'**, in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representations or otherwise), -*

*(i)Which is intended, or supports any claim, to bring about, on any ground whatsoever, the cessation of a part of territory of India or secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cessation or secession; **or***

*(ii) Which disclaims, questions, disrupts or is intended to disrupts the sovereignty or territorial integrity of India, **or***

(iii)Which causes or is intended to cause disaffection against India."

*"**2(p). 'Unlawful Association'** means any association,-*

*(i) Which has for its object any unlawful activity, or which encourages or aids person 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 153A or section 153B of the Indian Penal Code (45 of 1860); **or** which encourages or aids person to undertake any such activity or of which the members undertake any such activity:*

Provided contained in sub-clause(ii) shall apply to the State of Jammu & Kashmir."

134. It is argued on behalf of the defence that the mischief of Section 153A or 153B as contemplated in the UAPA, 1967 shall be attracted only if there is either 'cession' or 'secession' or challenge to the sovereignty of the country and the contention of the Central Government is devoid of merits as the presence of the word 'or' in Section 2(o) of the UAPA, being mutually exclusive of each other is contrary to the general rule of statutory interpretation. In fact, any other view or interpretation would not only militate against the plain language but also violate relevant statutory provisions laid down by the legislature in its domain and statutory wisdom and prudence.

135. To conclude, it emanates from the material on record that Dr.Zakir Naik is the Founder and President of the Islamic Research Foundation, a non-profitable Public Charitable Trust formed in the year 1990. As per the Trust Deed, Dr. Zakir Naik is one of the permanent Trustee of IRF and is actively involved in the day to day affairs of the Foundation. He often visited the office of IRF and spent considerable time meeting various people there. The Foundation has been availing modern technologies including international satellite T.V. channels, Cable T.V. Network, internet and print media, social networking platforms to broadcast the speeches of Dr. Zakir Naik.

136. Dr. Zakir Naik is stated to be a scholar of comparative religion and has held many debates and lectures all around the World which are colloquial and addressed in English language. He is the Founder and President of IRF. The 'Peace TV' website describes him as a speaker who is *"renowned for his efforts in promoting unity, social justice, harmony and peace using the commonalities and binding strands that exist within all the major religious scriptures such as the Bible, the Hindu Vedas and the Glorious Qur'an.* xxxxxxxxxxxx *Dr.Zakir Naik is popular worldwide for clarifying Islamic viewpoints and clearing misconceptions about Islam, using the Qur'an, authentic Hadith and other religious scriptures as a basis, in conjunction with reason, logic and scientific facts. He*

is popular for his critical analysis and convincing answers to challenging questions posed by audiences after his public talks."

137. Though the Peace T.V. Channel portrays Dr. Zakir Naik for his efforts in promoting unity, social justice, harmony and peace but his activities and propagations reflect differently. On analysing the speeches delivered by Dr. Zakir Naik, it is abundantly clear that the same are provocative and derogatory. Talking of supremacy of Islam and comparing it with other religious communities or faith is not the work of intellectuals and scholars. It has emerged from the material placed before the Tribunal that Dr. Zakir Naik was actually using IRF as a platform to propagate the radical version of Islam. The employees of IRF were specifically assigned work by Dr.Zakir Naik and were also responsible for influencing and indoctrinating impressionable minds of youths to convert to Islam and Dr. Zakir Naik was organizing and arranging the speeches and meetings wherein disparaging statements were made against other religious Gods and Books. An overview of all the speeches depict that the same has the tendency to incite the younger generation to convert to Islam and unify with the terrorist groups.

138. It cannot be ignored that the speeches made by Dr. Zakir Naik in 2012 had an enduring impact even in July, 2016 when the terrorist attack on Holey Artisan Bakery, Bangladesh took place and Rohan Imitiaz (a suicide bomber) posted on the Facebook that he was very influenced by the speech '*Every Muslim should be a Terrorist*' of Dr. Zakir Naik. The post on the Facebook was seen worldwide but neither any trustee nor Ex.trustee of the IRF publically condemned the terrorist attack on Holey Artisan Bakery, Bangladesh nor any clarification, whatsoever was tendered by Dr. Zakir Naik.

139. At the same time, ample evidence has been gathered which goes to show that Arshi Qureshi, the Guest Relation Manager of IRF was closely associated with Dr. Zakir Naik. He was instrumental in radicalizing Ashfak Majeed and others to join the ISIS, spreading the belief among visitors of IRF that the world needed to be Islamized and has been accountable for motivating people to convert to Islam. Being a believer of radical and extreme version of Islam, he did not shy away from openly disparaging the other religions. The NIA collected material to show that 24 youth migrated from Kerala, India to Afghanistan to join the ISIS and were regular visitors to the office of IRF at Dongri, Mumbai and attended meetings which took place between Arshi Qureshi and the youths at the office of IRF.

140. Investigation further revealed that Rizwan Iliyas Khan, a regular visitor to IRF was closely related to the IRF and his main job involved processing the documents of conversion to Islam and 78 affidavits including the conversion of Bexin @ Isa, Bestin @ Yahiya, Nimisha @ Fatima and Merrin @ Maryam were recovered, who later migrated to Afghanistan to join the ISIS. It has been established that several of these conversions were referred to Rizwan Iliyas Khan by IRF and the scale of recoveries imply that IRF was engaged in conversion of non-Muslims to Islam in an organized and concerted manner.

141. During the investigation in RC 14/2015, it was found that one Abu Anas was given scholarship by the IRF from 2013 to 2015 but further investigation revealed that Abu Anas was actually a part of conspiracy of an ISIS affiliated group namely *Junood-ul-Khilafa-fil-hind* and the members thereof held meetings in different parts of the countries to recruit muslim to work for ISIS and to identify places for training and make terrorists attack strikes in public places in India. Investigation is still pending to unearth whether the amount Rs.1,50,000/- was given for further studies or offered to a person involved in terrorism related conspiracy and to further thrive terrorist activities.

142. Dr. Zakir Naik was banned by United Kingdom, Canada, Malaysia and '*Peace T.V.*' operated by Dr. Zakir Naik has been banned in Bangladesh and India.

143. Dr. Zakir Naik failed to participate in the legal proceedings, is absconding and untraceable. No explanation has come forth from Dr. Zakir Naik that his speeches have only been made with a view to bridge the gap between Islam and other religions on vital common teachings and that he never intended his speeches to be inflammatory or that he

was apologetic. Dr. Zakir Naik has failed to give any clarification that the speeches so talked about, had been made in his individual capacity and not on behalf of IRF. None on behalf of the IRF has made any effort to condemn the speeches of Dr.Zakir Naik or make a statement that IRF has alienated itself from Dr. Zakir Naik. Even though, the IRF is not an accused but there is material which shows that Dr. Zakir Naik was the Founder and President of IRF and empowered to assign any work on behalf of the IRF to the others associated with the IRF. There is enough material to show that the services of Arshi Qureshi, an employee of IRF were made use of by Dr. Zakir Naik to fulfil his objectives. We may also note that though the defence counsel filed his vakalatnama on behalf of the IRF but he defended Dr. Zakir Naik throughout the arguments.

144. The only duty cast upon the Tribunal at this stage, is to be satisfied that there is *'Sufficiency of Cause'* for the Central Government to impose the ban on IRF through its Notification dated 17.11.2016.

145. The entire material placed on record goes to show that the IRF is involved in such activities which not only incite and encourage the youth to undertake the unlawful activities with an intent to threaten the sovereignty, unity, integrity and security of India but also cause disaffection against India, which leaves no doubt that the ingredients of Sections 2(o) and 2(p) of UAPA, 1967 are met and there is every reason to conclude that the IRF be declared as an unlawful association.

146. In view of the convincing and persuasive evidence placed on record, this Tribunal is of the view that there is sufficient reason and cause for declaring the Islamic Research Foundation an unlawful association and consequently, this Tribunal confirms the Notification dated 17.11.2016, issued by the Government of India for the imposition of ban for a period of five years with effect from the date of the aforesaid notification i.e. 17.11.2016.

Indiacode

11th MAY, 2017

SANGITA DHINGRA SEHGAL, J.

PRESIDING OFFICER, TRIBUNAL

[F. No.11034/17/2016-IS-VI]

SUDHIR KUMAR SAXENA, Jt. Secy.

Uploaded by Dte. of Printing at Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.

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Date: 2017.05.23 21:58:10 +05'30'