



# भारत का राजपत्र The Gazette of India

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असाधारण  
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित  
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नई दिल्ली, सोमवार, जुलाई 1, 2024/आषाढ 10, 1946

No. 2387]

NEW DELHI, MONDAY, JULY 1, 2024/ASHADHA 10, 1946

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 1 जुलाई, 2024

का.आ. 2516(अ).—केंद्रीय सरकार ने, विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की भारत के राजपत्र, असाधारण, भाग-II, खण्ड -3, उपखंड (ii), तारीख 31 दिसंबर, 2023 में प्रकाशित तारीख 31 दिसंबर, 2023 की अधिसूचना संख्यांक का.आ. 5532(अ) (जिसे इसमें इसके पश्चात उक्त अधिसूचना कहा गया है) के द्वारा तहरीक-ए-हुरियत, जम्मू और कश्मीर (टीईएच) को विधिविरुद्ध संगम के रूप में घोषित किया था;

और, केंद्रीय सरकार ने उक्त अधिनियम की धारा 4 की उपधारा (1) के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की तारीख 16 जनवरी, 2024 की अधिसूचना संख्यांक का.आ. 179(अ) के द्वारा विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण (जिसे इसमें इसके पश्चात उक्त अधिकरण कहा गया है) का गठन किया था, जिसमें दिल्ली उच्च न्यायालय के न्यायाधीश न्यायमूर्ति श्री सचिन दत्ता थे;

और, केंद्रीय सरकार ने उक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस न्यायनिर्णयन के प्रयोजन के लिए कि क्या तहरीक-ए-हुरियत, जम्मू और कश्मीर (टीईएच) को विधिविरुद्ध संगम के रूप में घोषित किए जाने का पर्याप्त कारण था या नहीं, तारीख 24 जनवरी, 2024 को उक्त अधिकरण को उक्त अधिसूचना निर्दिष्ट की थी;

और, उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना में की गई घोषणा की पुष्टि करते हुए तारीख 22 जून, 2024 को एक आदेश पारित किया था;

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

“

---: अधिकरण का आदेश अंग्रेजी भाग में छपा है :---

(न्यायमूर्ति सचिन दत्ता)

विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण”

[फा. सं. 14017/48/2024-एन.आई.-एम.एफ.ओ.]

अभिजीत सिन्हा, संयुक्त सचिव

## MINISTRY OF HOME AFFAIRS

### NOTIFICATION

New Delhi, the 1st July, 2024

**S.O. 2516(E).**— Whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (herein after referred to as said Act), declared the Tehreek-e-Hurriyat, Jammu and Kashmir (TeH) as an unlawful association *vide* notification of the Government of India in the Ministry of Home Affairs number S.O. 5532 (E), dated 31<sup>st</sup> December, 2023 (hereinafter referred to as said notification) published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) dated 31<sup>st</sup> December, 2023;

And, whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 5 read with Sub-section (1) of Section 4 of the said Act constituted the Unlawful Activities (Prevention) Tribunal (hereinafter referred to as the said Tribunal) consisting of Justice Sachin Datta, Judge, High Court of Delhi *vide* notification of the Government of India in the Ministry of Home Affairs number S.O. 179 (E), dated 16<sup>th</sup> January, 2024 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) dated 16<sup>th</sup> January, 2024;

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 24<sup>th</sup> January, 2024 for the purpose of adjudicating whether or not there was sufficient cause for declaring the Tehreek-e-Hurriyat, Jammu and Kashmir (TeH) as an unlawful association;

And, whereas, the said Tribunal in exercise of the powers conferred by sub-section (3) of section 4 of the said Act, passed an order on 22<sup>nd</sup> June, 2024, confirming the declaration made in the said notification;

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

**“UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL,**

**NEW DELHI**

**Date of Decision: June 22, 2024**

#### **IN THE MATTER OF:**

Gazette Notification No. S.O. 5532(E) dated 31<sup>st</sup> December, 2023 declaring the Tehreek-e-Hurriyat, Jammu and Kashmir (TeH) as unlawful association under the Unlawful Activities (Prevention) Act, 1967.

#### **AND IN THE MATTER OF :**

Reference under Section 4(1) of the Unlawful Activities (Prevention) Act, 1967 made to this Tribunal by the Government of India through Ministry of Home Affairs *vide* Gazette Notification No. S.O. 179(E) dated 16<sup>th</sup> January, 2024.

**Present:** Ms. Aishwarya Bhati (ASG) along with Mr. Rajat Nair, Mr. Jay Prakash Singh, Ms. Priyanka Dalal, Mr. Annirudh Sharma, Mr. Dhruv Pande, Mr. Navanjay Mahapatra, Mr. Bhuvan Kapoor, Ms. Poornima Singh, Ms. Manisha Chava, Mr. Rustam Singh Chauhan, Mr. Abhijeet Singh and Mr. O. P. Singh, Advocates for the Union of India.

Mr. Parth Awasthi, Advocate with Ms. Deepika Gupta, Advocate for Union Territory of Jammu & Kashmir.

Mr. Manoj Kumar Singh, Asstt. Director and Mr. Sameer Shukla, Asstt. Section Officer, Ministry of Home Affairs.

Mr. Sanjay Pokhriyal, Registrar, Unlawful Activities (Prevention) Tribunal.

Mr. Sunil Dutt, Deputy Registrar, Unlawful Activities (Prevention) Tribunal.

Mr. Himanshu Goel and Mr. Saksham Sethi, Law Researchers.

**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****ORDER**

1. This order answers reference under Section 4(3) read with Section 3(3) of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the 'Act' or 'UAPA', for short) made to this Tribunal constituted vide Gazette Notification No. S.O. 179(E) dated 16<sup>th</sup> January, 2024 under Section 5(1) of the Act made by the Government of India, Ministry of Home Affairs, for adjudicating whether or not there is sufficient cause for declaring Tehreek-e-Hurriyat, Jammu and Kashmir ('TeH' or 'association' in short) as an "unlawful association".

**I. THE NOTIFICATION**

2. The Central Government published Gazette Notification (extra-ordinary) No. S.O. 5532(E) dated 31<sup>st</sup> December, 2023 in exercise of powers conferred under Section 3(1) of the Act and declared TeH to be an "unlawful association". A copy of the said notification has been sent to this Tribunal, as contemplated under Rule 5(i) of the Unlawful Activities (Prevention) Rules, 1968 ("UAP Rules" in short). The said notification dated 31<sup>st</sup> December, 2023 reads as under :-

*"S.O. 5532(E)-Whereas, the Tehreek-e-Hurriyat, Jammu and Kashmir (hereinafter referred to as the TeH) is known for its involvement in fomenting terrorism and anti-India propaganda for fueling the secessionist activities in the Jammu and Kashmir;*

*And whereas, the objective of TeH is to separate Jammu and Kashmir from India and establish Islamic rule in Jammu and Kashmir;*

*And Whereas, the leaders and members of the TeH have been involved in raising funds through various sources including Pakistan and its proxy organizations for perpetrating unlawful activities, including supporting terrorist activities, sustained stone-pelting on Security Forces in Jammu and Kashmir;*

*And Whereas, the TeH and its members by their activities show sheer disrespect towards the constitutional authority and constitutional set up of the country;*

*And Whereas, the TeH members are paying tributes to terrorists who were killed in encounters with Security Forces and its members have been involved in supporting terrorist activities with an intent to create a reign of terror in the country, thereby endangering the security and public order of the State;*

*And Whereas, the TeH and its leaders and members, have been indulging in unlawful activities, which are prejudicial to the integrity, sovereignty, security and communal harmony of the country;*

*And Whereas, the TeH never believed in a democratic system of governance and TeH leadership gave repeated calls to boycott assembly elections on multiple occasions;*

*And Whereas, the Central Government is of the opinion that if there is no immediate curb or control of unlawful activities of the Tehreek-e-Hurriyat, Jammu and Kashmir, it will use this opportunity to –*

*(i) Continue advocating the secession of the Jammu and Kashmir from the Union of India while disputing its accession to the Union of India; and*

*(ii) Continue with the anti-national activities which are detrimental to the territorial integrity, security and sovereignty of the country; and*

*(iii) Continue propagating false narrative and anti-national sentiments among the people of Jammu and Kashmir with the intention to cause disaffection against India and disrupt public order*

*And Whereas, the Central government for the above-mentioned reasons is firmly of the opinion that having regard to the activities of the Tehreek-e-Hurriyat, Jammu and Kashmir (TeH), it is*

*necessary to declare the Tehreek-e-Hurriyat, Jammu and Kashmir (TeH), as an 'unlawful association' with immediate effect;*

*Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the Tehreek-e-Hurriyat, Jammu and Kashmir (TeH), as an unlawful association;*

*The Central Government, having regard to the above circumstances, is of firm opinion that it is necessary to declare the Tehreek-e-Hurriyat, Jammu and Kashmir (TeH), as an 'unlawful association' with immediate effect, and accordingly, in exercise of the powers conferred by the proviso to sub-section (3) of Section 3 of the said Act, the Central Government hereby directs that this notification shall, subject to any order that may be made under Section 4 of the said Act, have effect for a period of five years from the date of its publication in the Official Gazette."*

3. As can be seen, the notification also enumerates the reasons/ circumstances, as contemplated under proviso to Section 3(3) of the Act, for declaring the association as unlawful, with immediate effect.

## **II. THE BACKGROUND NOTE**

4. Along with the reference to this Tribunal under Section 4 of the UAPA, the Central Government has submitted and filed before this Tribunal a background note, as contemplated under Rule 5(ii) of the UAP Rules, 1968.

5. The background note states that the TeH was formed by the deceased separatist leader Syed Ali Shah Geelani on August 7, 2004. It is a Pak-backed separatist organization with the objective of resolution of 'Kashmir dispute based on self-determination for Kashmiri people'. However, its foremost target is establishing 'Islamic rule' in Kashmir and has involvement in fomenting terrorism and anti-India propaganda for fueling secessionism in Jammu and Kashmir. The history of formation of TeH is attached to All Party Hurriyat Conference (APHC), which was formed on July 31, 1993. The background note further states that SAS Geelani claimed that when he was released from prison, his former party, Jamaat-e-Islami, Jammu and Kashmir (JeI), retired him and he needed to form a party in order to be a part of APHC and this was the reason for formation of TeH. At the behest of Pakistan establishment, TeH successfully attempted to give indigenous tinge to terrorist activities, aided and abetted by Pakistan. Being perennially antithetical to the idea of democracy, TeH consistently subverted the electoral process by giving repeated calls for election boycott.

## **ORGANISATIONAL HISTORY**

6. SAS Geelani remained chairman of the association since its formation from 2004 to till 2018. After his resignation from the chairmanship in July 2018, Ashraf Sehrai became Chairman of TeH in 2018, who declared that TeH was formed on the ideals of Moulana Moudoodi.eAzadi and Ittehad. Azadi meant rule of Islam in Jammu and Kashmir for TeH. After the death of Ashraf Sehrai in May 2021, Amir Hamza Shah became Chairman of TeH who is continuing till date. Ghulam Mohd. Shafi is representing TeH in Pakistan/Pakistan Occupied Kashmir (POK). TeH organized rallies and processions while instigating youth to disrupt public order through long spells or severe stone pelting. Many of its leaders made seamless transition from the organizational posts to terrorists rank by exfiltrating to Pakistan. It treaded the dangerous path of inciting youth to work as hybrid terrorists to carryout target killings and consolidated its hold on social media to touch maximum populace and to glorify terrorist activities so as to feed youth into terrorist ranks. Not only it persistently pursued secessionism, it raised the level of protests into a different orbit wherein violence, rioting, arson and organized stone-pelting became order of the day.

## **SUBVERSION OF DEMOCRACY**

7. As per the background note, TeH never believed in a democratic system of governance. Islamic ways of life were given preeminence over modern civilized system of rule-based governance. Being a staunch critic of democracy, TeH leadership led by Geelani gave umpteen boycott calls in March 2006 and in 2008 for all types of elections in Jammu and Kashmir throughout its history of existence. In year 2007, SAS Geelani, while addressing a seminar "The Future of Islam in today's World" organized by the party, had called upon the people to boycott the forthcoming Assembly elections. In November 2008 TeH published a 15-page booklet in Urdu titled "while election boycott" written by SAS Geelani, which was handed over to its District Presidents all over the Valley for distribution among the people in their respective areas. The booklet described elections as means to legalise Indian occupation of Kashmir and asked people to remain away from elections. In fact, it negated all the developmental work as mere eye wash and called them as strengthening factor in favour of 'Indian occupation of Jammu and Kashmir'.

8. The background note further states that in year 2008, Gulam Mohi-Ud-Din Andrabi (District President, Pulwama) stated that construction of roads and employment avenues were not the solution of Kashmir issue and urged people to boycott the grass-root democracy in the form of Municipal and Panchayat elections. TeH, through a poster (from its office at District Pulwama) warned in August 2011 and asked the people not to participate in coming Panchayati elections for the post of vacant Panch and Sarpanch constituency in the district. Deliberately negating the impressive turnout in Parliamentary election in Ladakh (71.1%) and a high voting (39.6%) in Baramulla, Geelani in

the year 2014 claimed that the people of Kashmir had shown their affiliation with separatist movement. Further, Geelani called for a complete shutdown in District Ganderbal and Bandipore on November 25, the first day of polling. Besides, claiming Kashmir to be a 'disputed' territory (November 17, 2014), he asserted that India had no constitutional, moral or legitimate right to conduct elections in the State and termed election as a 'drama' being staged by India before international community. Continuing its subversive activities against democracy using religious gatherings on Friday, TeH issued a press release (Srinagar, January 5, 2018) wherein it was stated that its leaders namely Bashir Ahmed Qureshi, Mohammed Rafiq Owaisi, Mehrajuddin Rabbani, Mohammed Yusuf Makroo and Hafiz Mudasar Nadvi called for boycotting the coming Panchayat elections and should not support anyone contesting these elections. They said that the lakhs of sacrifices made by Kashmiris were not for voting in elections but to separate Kashmir from Indian occupation, hence, honouring their blood, people should completely boycott the elections. TeH issued a press release (Srinagar, September 26, 2018) stating that Mohammed Ashraf Sahrai (Chairman, TeH) has declared the upcoming Urban Local Body (ULB) and Panchayat elections as Security Forces operation and said that there was no justification of holding of elections in the State. He was quoted saying that people of the State have been demanding self-determination, instead holding of elections. Ashraf Sehrai (Chairman, TeH) directed its cadres (September 7, 2018) to start a sustained campaign in Poonch-Rajouri belt to motivate people for boycotting the forthcoming ULB elections.

### **MINACIOUS NEXUS WITH CROSSBORDER AGENCY/ESTABLISHMENT**

9. As per the background note, on multiple occasions, Geelani and other TeH leaders met Pak constitutional authorities including officials of Pakistan establishment to conspire against Indian state on the so called Kashmir secessionist struggle. Geelani also called a meeting with Khurshid Kasuri, the then Foreign Minister of Pakistan in Pakistan High Commission (PHC), New Delhi. TeH leaders, who inherited the command of the organization after the death of Geelani, continued to maintain 'umbilical cord relations' with Pak establishment. Pakistan/POK based representatives of TeH namely GM Safi, on April 13, 2020 instructed its Valley based leadership to personally ensure participation of its representative in the meetings of Majlis-e-Shoora of APHC-G and that the ISI was unhappy with their absence as they felt that it had led to the feeling that there were only lightweights in APHC-G who were not capable of running the conglomerate in absence of SAS Geelani. Annoyance of ISI were perceived as an instruction to increase the momentum of its activities in co-ordination with APHC-G, revealing a 'master-slave relationship' between the two. G.M. Safi (representative of TeH in Pak/POK) in a meeting in Islamabad on May 10, 2022 called by Farooq Rehmani (Convenor, APHC-G, Pakistan/POK), criticized Delimitation exercise in Jammu and Kashmir alleging its sole aim was to change the demographic profile of Kashmir and asked participants to register their protest outside Indian High Commission, Embassies of Western Countries, and the United Nations (UN) office Islamabad. Pak/POK based representatives GM Safi along with a delegation of APHC/POK had met (last week of February 2023, Islamabad) President of Pakistan Arif-ur-Rehman Alvi whereby requesting the Pak President to help them in reviving the Kashmir issue and give it a fillip by putting pressure on international community to recognize the Kashmir Issue.

### **SEPARATIST ACTIVITIES**

10. The background note states that TeH always had an avowed objective to secede Jammu and Kashmir from Union of India. In this regard an Urdu booklet titled 'Sogwaron Ki Id' written by late SAS Geelani was circulated on October 25 2006 in different mosques in Srinagar on Eid, advocating 'right to self-determination'. In 2006-07, Geelani maintained that the ongoing struggle would continue as long as Kashmir dispute remains unresolved and used provocative speeches. In 2007, Geelani floated a Hartal call for August 15 to observe it as 'Youm-e-Siyah'. Continuing the same approach, TeH acting Chairman Bashir Ahmad Bhat led a protest rally, wherein he termed Kashmir as disputed territory. For allegedly observing strike against Union of India in August 2009, Bashir Ahmad hailed the member of TeH. Abdul Hamid Magray stated in his religious sermons at Jamia Masjid, Kupwara that aim of the TeH was to implement Islamic law and they would continue their 'separatist struggle' till its 'logical conclusion'. One year later, Geelani appealed people to observe national Republic Day as black day. The separatist activities continued in an Ijtmah organized by TeH wherein pledge was taken to continue to the 'separatist struggle'.

11. In year 2010, TeH leadership systematically peddled the narrative of demographic change in Jammu and Kashmir and tried to create disaffection against the Government. Adding an international dimension, TeH leader Bashir Ahmad claimed that peace in Indian subcontinent was not possible without the resolution of 'Kashmir issue'. Mohammad Ashraf Sehrai, General Secretary, TeH, chairing the monthly meeting of District Presidents, on January 5, 2008 stated that TeH stood for propagation of Islam, unity among the Muslims and 'Azadi' for the people of Kashmir. Further, a trend was noticed wherein TeH leaders used to attend funerals of killed youth during stone pelting and tried to incite the masses. During the burial of a killed youth in June 2010, TeH activists raised slogans 'Go-India Go-Back'. Mohammad Yusuf Falahi, General Secretary, TeH stated that freedom struggle will continue till the last soldier was withdrawn from the state. Similar views were echoed by party activist Gulam Mohammad Tantray in another burial. Falahi further stated that aim of the ongoing movement is to implement the Islamic rule in the State which can be achieved by ending 'illegal occupation' of India. He reasserted that Kashmir was a disputed territory and had not acceded to the Union of India. Ghulam Ahmad Ganai, Spokesperson, TeH claimed on November 2010 that separatist struggle will not be suppressed by keeping its leaders behind the bar. After the arrest of Mohd. Yousuf Falahi, TeH claimed that those arrests would not deter its activists and separatist struggle would continue till its 'logical

conclusion'. Pertinently, the term 'logical conclusion' was repeatedly mentioned by various leaders to sustain their adverse activities incessantly. Amplifying the adverse activities, TeH organized a Secret Conference in Pulwama wherein it exhorted its activists towards separatism. Exploiting the religious sentiments, Yousuf Falahi alleged in June 2012 in a Friday congregation at Handwara that Muslims were being killed on religious lines and the modesty of their women being outraged. These fake statements were deliberately given to incite community at large against the government of India. At one Ijtemah in Sopore in August 2012, TeH activists raised pro-separatism and anti-India slogans.

12. The background note further states that in July 2012 TeH activists distributed two-page pamphlets in English captioned "Welcome to Kashmir" among the tourists and pilgrims at Pahalgam, District Anantnag. The pamphlet contained the message of Geelani that the 'Separatist Struggle' spearheaded by various organizations in Jammu and Kashmir was against the illegal occupation of India. It mentioned that Jammu and Kashmir was not an integral part of India. In one seminar in June 2014, at Srinagar, Geelani announced to confer award to a writer who had authored a book on '2010 killings', and the conferment of an award was not an isolated event, rather it was part of a well-orchestrated campaign to encourage people towards secessionist activities. Briefly put, it was part of the separatist eco-system to propagate adverse narrative. Separatist activities of TeH continued through frequent religious gatherings, seminars, Iftaar parties wherein its leaders repeatedly exhorted party activists to take the so-called separatist movement forward till its 'logical conclusion'. In July, 2016 some posters were found pasted on the walls of local mosques at Baramulla wherein threat calls were issued against those individuals who were working closely with the government. In year 2016, multiple protests were organized by TeH leaders in different districts across Jammu and Kashmir. Pro-freedom slogans, waiving of Pakistan flag and repeated calls for adverse activities remained prominent features of these protests.

### **FUNDING COLLECTION**

13. As per the background note, during the month of Ramzan, TeH delivered pamphlets in July 2012 in Urdu, captioned "Passionate Appeal from TeH" on behalf of SAS Geelani, Chairman, TeH, to all District Units of the party for collecting donations from businessmen, traders etc. in their respective areas. Activists of TeH as well as SAS Geelani were anxious over the arrest of G.M. Bhat, who was a close confidant of Geelani, subsequent to the recovery at Udhampur on November 3, 2007 of Rs. 49.9 lakhs from him. The amount received through Hawala transaction from Saudi Arabia-Dubai was meant for Geelani and TeH. Abdul Rehman, r/o Zakoora, Malabagh, Hazratbal, Srinagar who was arrested on January 22, 2011 at Srinagar revealed that he was very active in liaising with the Kashmiri Secessionist leaders. He handled delivery of money to the then APHC leaders viz. Abdul Gani Lone (PC leader/since killed), Mirwaiz Umar Farooq and SAS Geelani from 1999 to 2002.

### **TERRORIST LINKAGES**

14. The background note further states that since its inception, TeH acted for growth of proscribed organization Jammat-e-Islami, Jammu and Kashmir. Once, SAS Geelani was even hailed as Amir-e-Jihad (head of Jihad) of Jammu and Kashmir. Both Jamaat-e-Islami, Jammu and Kashmir (JeI) and TeH maintained their 'fetus-womb' relation with internationally proscribed terrorist organization Hizbul Mujahideen/HM. Mohammad Ramzan Bhat, a hardcore TeH activist r/o Baramulla and ex-Tehsil Commander, HM militant presided over a meeting (15, Baramulla, December 31, 2012) of surrendered militants and urged upon the participants to be vigilant in the changing scenario in the Valley and asked them to keep a watch on the anti-Islamic activities. He also asked them to resist all forms of alleged suppression by the Government and the SFs. He also exhorted them to keep the movement alive and appealed to them to motivate the masses in support of their organization. Senior HM functionaries based in Pakistan on July 19, 2020 tasked an associate in the Valley to meet Ashraf Sehrai (Chairman, TeH) in jail to convince him to nominate one of his close confidants to handle TeH affairs during his detention. The associate was also directed to seek Sehrai's opinion on revamping of TeH in Pakistan/POK by undertaking a massive recruitment drive for rukuniyat (membership) and training of suitable cadres for armed struggle. TeH, in a press statement while paying tributes to five terrorists who were killed (January 15, Kellar, Shopian) in an encounter with SFs, (Srinagar, January 16, 2015) stated that Jammu and Kashmir was a disputed region, which was illegally occupied by India on the might of security forces. India had been crushing the peaceful struggle through the might of its armed forces due to which the youth of an unarmed race were forced to launch armed struggle. The Indian leaders, while following the diplomacy of 'Chanakya' did not fulfill the promises made with the people of Jammu and Kashmir. Due to stubborn attitude of India, entire world and Indian sub-continent was on the verge of war.

15. TeH leaders/speakers namely Bashir Ahmad Qureshi (Joint Secretary, Tabligh), Sheikh Mohd Ramzan, President TeH Srinagar, Moulvi Latif Nadvi, Bashir Ahmad Sofi and Mudasir Nadvi addressed Friday congregations at Jamia Masjid Amarbug Shopian, Jamia Masjid Lal Chowk, Pantha Chowk, Jamia Masjid Ganderbal and Sandna Ganderbal respectively. On October 30, 2015 they paid tributes to Abu Qasim (slain militant) stating that the pious blood of Martyrs would be defended at any cost and the struggle to get rid of the forceful slavery of India will continue till last breath. Amir Hamza Shah (General Secretary, TeH) during his visits to Pulwama (Sept 27, 2018) and Kupwara (Sept 29) conveyed the instructions of Sehrai to the Rukuns that people should be made aware of the policies and programs of TeH and youths in particular should be targeted to become part of TeH. A delegation of TeH led by

Secretary District Pulwama Gh. Mohd. Hurra visited (December 24, 2018) the residence of the Dadsara Tral (where terrorists of 'Ansar Ghazwatul Hind' namely Rasik Mir, Rouf Mir, Umer Ramzan, Nadeem Sofi were neutralized by the SFs) to express sympathy and solidarity with their families on behalf of Chairman Ashraf Sehrai and paid tributes to the martyrs. Later on, while addressing the condolence meeting, they added that tyranny and oppression by India would not deter people from continuing to pursue their struggle for right of self-determination. A delegation of TeH led by Amir Hamza Shah (General Secretary, TeH) visited (February 5, 2019) the houses of 3 slain local LeT terrorists of Baramulla town and offered condolences to the families. Hamza conveyed to the family members that the 'sacrifices' offered by youths for the 'separatist struggle' would not go waste.

#### **ADVERSE ACTIVITIES AGAINST STATE/CENTRAL GOVERNMENT ADMINISTRATION**

16. As per the background note, on October 27, 2022, Javaid Ahmad Dobi (Rukun, TeH) criticized addition of seven lakh (approx) new voters in the revised electoral roll in Jammu and Kashmir and termed it deliberate attempt of ruling dispensation to change the Muslim majority status of Kashmir.

#### **CASES AGAINST TeH LEADERS AND CADRES**

17. Leaders of TeH have been involved in various serious cases, including, among others, unlawful activities, large-scale protests, criminal conspiracy and sedition. Members of the association have remained involved in supporting terrorist activities and have provided logistic support to terrorists in Jammu and Kashmir. The activists of TeH have been glorifying terrorists and have often spoken against governments (both Jammu and Kashmir and Central Government) and Security Forces. For anti-national activities, a number of criminal cases have been filed under various sections of Law, including Unlawful Activities (Prevention) Act 1967. Brief facts about the cases registered by the National Investigation Agency (NIA), the Directorate of Enforcement (ED) and the Jammu and Kashmir Police against TeH have been enclosed as **ANNEXURE-I**.

#### **ANNEXURE-I**

#### **CASES REGISTERED AGAINST TEHREEK-E-HURRIYAT, JAMMU AND KASHMIR (TeH) AND ITS LEADERS/MEMBERS:**

<b>Sl. No</b>	<b>Police Station and District</b>	<b>FIR No. with section of law</b>	<b>Brief of the case</b>	<b>Name of the accused (s)</b>	<b>Present status of the case</b>
1.	NIA / DLI	RC-10/2017 sections 120B, 121 & 121A of IPC and sections 13, 16, 17, 18, 20, 38, 39 and 40 of the UAPA	Altaf Ahmad Shah @ Fantoosh (now deceased; then Public Relation Officer, TeH), Raja Mehrajuddin Kalwal (District President, Srinagar, TeH) and Bashir Ahmad Bhat @ Peer Saifullah (Secretary, TeH) were involved in the conspiracy of insurgency and funding for unrest in J&K and also inciting people to hold protests and hartals, besides giving calls for complete shut-downs. They started an initiative 'Kashmir-chod-do-Tehreek', issued a calendar and publicised it on TV to instigate Kashmiris for secession. They were also involved in pro-Pak sloganeering, participated in protests, which lead to killing of SFs and civilians and destruction of public property etc. Based on the evidences against him, the three TeH leaders mentioned above have been charge-sheeted by NIA in this case. Altaf Ahmad Shah has been charge sheeted u/s 120B IPC, 121 IPC, 121A IPC, 13 UAPA r/w 120B IPC, 15 UAPA r/w 120B IPC, sections 17, 18 & 20 of	Altaf Ahmad Shah @ Fantoosh (now deceased; then Public Relation Officer, TeH), Raja MehrajuddinKalwal (District President, Srinagar, TeH) and Bashir Ahmad Bhat @ Peer Saifullah (Secretary, TeH)	Charge sheeted

			UAPA. Raja Mehrajuddin Kalwal has been charge sheeted u/s 120B IPC, 121 IPC, 121A IPC, 13 UAPA r/w 120B IPC, 15 UAPA r/w 120B IPC, 17 UAPA r/w 120B IPC, sections 18, 20 & 39 of UAPA. Bashir Ahmad Bhat has been charge sheeted u/s 120B IPC, 121 IPC, 121A IPC, 13 UAPA r/w 120B IPC, 15 UAPA r/w 120B IPC sections 17, 18 & 20 of UAPA.		
2.	PS CIK Srinagar	15/1991 u/s ¾ TADA (P) Act, 13 UAPA, 153A, 120B-RPC	On 31-10-1991, PS CIK received reliable information that Hurriyat leaders SAS Geelani and others while interacting with media appreciated the role of terrorists and separatists. They appealed people of J&K to fight against Indian forces etc.	SAS Geelani and others	Under investigation
3.	PS Bandipore District Bandipore	220/2009 U/S 13 UAPA	Posters of Hurriyat (G) were found displayed at electric poles and walls at Bazaar Bandipora in which the photograph of Syed Ali Shah Geelani Hurriyat (G) chairman was published about illegal land occupation etc. Masrat Alam Bhat was found involved during investigation. The general people were instigated against Nation and Indian Army etc.	Syed Ali Shah Geelani and others	Charge sheeted
4.	PS Banidpore District Bandipore	245/2009 U/S 19 UAPA	On 14-12-2009, SAS Geelani Bashir Ahmad Bhat @ Peer Saifullah along with other associates addressed the public gathering and instigated them against country etc.	SAS Geelani, Bashir Ahmad Bhat @ Peer Saifullah and others	Under Trial
5.	PS Sopore District Baramulla	460/1989 U/S 13 UAPA	On 27-12-1989, delivered objectionable speech at Main Chowk Sopore.	SAS Geelani	Under Trial
6.	PS Sopore District Baramulla	110/1990 U/S 13 UAPA	On 27-12-1989, delivered objectionable speech at College Ground Sopore	SAS Geelani	Under Trial
7.	PS Shopian District Pulwama	174/2010 u/s 153B-RPC, 13 UAPA	SAS Geelani delivered anti national speech at Goal Shopian on 27-04-2010.	SAS Geelani	Under Trial
8.	PS Shopian District Shopian	244/2010 u/s 153-RPC, 13 UAPA	After Friday prayers, SAS Geelani and Asiya Andrabi delivered anti national speech against the country.	SAS Geelani, Asiya Andrabi and others	Charge sheeted
9.	PS Handwara District Kupwara	30/1985 U/S 153-A, 2/13 UAPA	On 27.02.1985, Syed Ali shah Geelani and others delivered anti national speech at iqbal market handwara	Syed Ali shah Geelani and others	Charge sheeted
10.	PS Handwara District Kupwara	140/1999 U/S 188 - RPC, 13 UAPA	On 08.09.1999, Syed Ali Shah Geelani and Masrat Alam along with their associates provoked the general public to bycot elections etc.	SAS Geelani, Masrat Alam and others	Under investigation



11.	PS Handwara District Kupwara	141/2000 U/S 188-RPC, 13 UAPA	On 01.11.2000, hurriyat leader Syed Ali shah Geelani violated the curfew, provoked the general public called slogans and delivered speech against the sovereignty of the country	SAS Geelani	Under Trial
12.	PS Chadoora District Budgam	207/2009 u/s 13 UAPA	On 20/11/2009, PS Chadoora received a docket from Asi Noor Mohammad to the effect that today Chairman Hurriyat (G) Syed Ali Shah Geelani give a Hartal call, entered in local Jamia Masjid Chadoora, and delivered speech against the Govt of J&K / India after Friday prayers.	SAS Geelani	Under Trial
13.	PS Chadoora District Budgam	80/2010 u/s 13 UAPA	On 21/05/2010, PS Chadoora received a docket from ASI Gh. Rasool I/C Bazar Duty to the effect that Syed Ali Shah Geelani accompanied with other Hurriyat activists delivered an anti-national speech at Main Bazar Chadoora and raised the Pakistani Slogans.	SAS Geelani and others	Under Trial
14.	PS Chrar-e-Sharief District Budgam	82/10 U/S 147,34 RPC 13 UAPA	On 21-05-2010, a procession led by accused Syed Ali Shah Geelani and co-accused at Chari-Sharief raised anti national slogans against the integrity and sovereignty of India	SAS Geelani	Under Trial
15.	PS Budgam District Budgam	78/2006 u/s 121 RPC, 18 UAPA	On 11.04.2006, hurriyat chairman Syed Ali Shah Geelani during press release has delivered the speech against some police officers namely Muneer Ahmad Khan, Ashiq Bukhari and Ashkoor Wani to harm them. They were shouting anti-India slogans and tried to proceed towards Airport Road.	SAS Geelani	Under Trial
16.	PS Budgam District Budgam	241/2012 u/s 124-A, 153-A RPC, 13 UAPA	On 18.08.2012, Syed Ali Shah Geelani has printed a booklet (Eid-ul Fitr) in which he wrote against the Govt. of India as well as Govt. of Jammu and Kashmir.	SAS Geelani	Charge sheeted
17.	PS Budgam District Budgam	350/2013 U/S 13 UAPA	PP Humhama received an information through reliable source that Syed Ali Shah Geelani of Hurriyat (G) has given a call to instigate general Public for proceeding UNO office Srinagar against India to create hate which has caused panic among the masses etc.	SAS Geelani	Under Trial
18.	PS Budgam District Budgam	419/2013 U/S 13 UAPA	During press release Syed Ali Shah Geelani stated that militancy is right path for separation of Kashmir from India.	SAS Geelani	Under Trial
19.	PS Budgam District Budgam	70/2014 U/S 13 UAPA	The said case has come into registration on 18-04-2014 on a reliable information received by PP Humhama to the effect that Syed Ali Shah Geelani Chairman	SAS Geelani	Under Trial

			Hurriyat (G) Has stressed the people during a press conference stay away from the parliamentary elections, such an action on his part can create law & order problem.		
20.	PS Budgam District Budgam	110/2014 U/S 147, 341, RPC 13 UAPA	On 11/06/2014, Syed Ali Shah Geelani & other Hurriyat activist violated D.M Srinagar order and assembled/ gathered at Hyderpora chowk also raised slogans against integrity of India and restrained police nafri to performing those legal duties	SAS Geelani and others	Under investigation
21.	PS Budgam District Budgam	92/2015 U/S 147, 341, 336,427, 120 B, 121 124A RPC 13 UAPA	On 15/04/15, PP Humhama received an information through reliable sources that on return Syed Ali Shah Gellani from Delhi & other Hurriyat activists gathered at Hyderpora and raised slogans against India.	SAS Geelani and others	Under Investigation
22.	PS Budgam District Budgam	274/2016 u/s 147,120-B, 341 RPC , 13 UAPA	The case pertains to anti national speech delivered by Hurriyat (G) chairman Syed Ali Shah Geelani, Farooq Ahmad Rather S/O Ali Mohammad Rather R/O Gutpora and chairman Hurriyat (M) Molvi Umar Farooq, Nayeem Ahmad Khan and JKLF chairman Mohammad Yaseen Malik at Narbal on 20/04/2015 while visited the residence of deceased namely Suhail Ahmad Sofi S/O Abdul Ahad Sofi R/O Narbal for condolence purposes.	SAS Geelani, Farooq Ahmad Rather, Umar Farooq, Nayeem Khan and Yasin Malik and others	Under Trial
23.	PS Magam District Budgam	36/2015 u/s 147,148, 336,341 RPC, 13 UAPA	The case pertains to anti national speech delivered by Hurriyat leaders namely Shabir Ahmad Shah president of J&K Peoples Democratic freedom party (2) ZafferAkber Bhat of Salvation Mass Movement (3) Nayeem Ahmad Khan of JKLF (4) Asiya Andrabi Chairperson Dukhtaran Millat at Narbal on 21/04/2015 while visited the residence of deceased namely Suhail Ahmad Sofi S/O Abdul Ahad Sofi R/O Narbal for condolence purposes.	Shabir Shah, ZafferAkber Bhat, Nayeem Ahmad Khan and Asiya Andrabi	Under Trial
24.	PS Beerwah District Budgam	230/89 u/s 153-A RPC, 2/13 UAPA , 4 (11) TADA	Chairman Hurriyat (G) speeches in a public realy at Eidgah Beerwah against the India that the people of J&K suffering from last 40 years. As per map of UNO J&K state (UT) is disputed.	SAS Geelani	Under Trial
25.	PS Beerwah District Budgam	32/90 u/s 2/13 UAPA , 4 (11) TADA, 10 Cr Amdt, Act of 1983	Syed Ali shah Geelani speeches in a public realy at Ohangam Beerwah against the India that the people of J&K suffering from last 40 years. As per map of UNO J&K state (UT) is disputed.	SAS Geelani	Under Trial
26.	PS	16/1999 U/S 13(2)	On 15-01-1999, Syed Ali Shah	SAS Geelani	Under Trial

	Baramulla District Baramula	,10 UAPA	Geelani Delivered an objectionable speech at Masjid Bait-ul-Mukarram Baramulla.		
27.	PS Baramulla District Baramula	166/2011 U/S 307,148,149,336, 332,188,153-A RPC	Syed Ali Shah Geelani, after attending Friday prayers at Masjid Bait-ul-Mukarram Baramulla carried out a procession towards Bus Stand and delivered a provocative speech and also instigated the youth against India, as a result the miscreants who were the part of the said procession attacked/pelted stones upon the Police party who were performing duties on the spot.	SAS Geelani	Under Trial
28.	PS Uri District Baramula	69/1999 U/S 13 UAPA	The case stands registered against Syed Ali Shah Geelani and other activists of Hurriyat for delivering anti national speech at Bus stand Uri.	SAS Geelan and others	Under Trial
29.	PS Pattan District Baramula	88/2013 U/S 148,149, 336,307,332,427,153-B RPC	On 19-04-2013, Syed Ali Shah Geelani telephonically delivered a speech during the funeral ceremony of killed Let militant Shabir Ahmad @ Shaka S/O Ab Rehman R/O Palhalan, and also raised anti national slogans to a huge gathering	SAS Geelani	Under investigation
30.	PS Awantipora District Pulwama	39/2010 U/S 121,124 RPC, 13 UAPA	The instant case is related to visit of Syed Ali Shah Geelani to village DadsooraTral on 14-03-2010 to mourn the killing of four terrorists in an encounter. On this occasion, he delivered rhetoric speech and exerted the youth to join militancy, besides raised pro PAK slogans, etc.	SAS Geelani	Under Trial
31.	PS Bijbehara District Anantnag	158/2011 U/S 13(2) UAPA	On 10-07-2011, Police Station Bijbeahra through reliable source that Chairman of Separatist Hurriyat G group Syed Ali Shah Geelani alongiwth Mohammad Yousuf Makroo of Arwani assembled people of Arwani area and provoked them to disturb the sovereignty and integrity of the country/tried to motivate the general people for joining separatist groups etc.	SAS Geelani and others	Under Trial
32.	PS Dooru District Anantnag	66/2011 U/S 13(2) UAPA, 152,307,332, 147,148,336 RPC	On 20-07-2011, Syed Ali Shah Geelani delivered lecture in a loud speaker fitted load carrier bearing Regd. No: JK03B-9356 and provoked the gathering against the sovereignty and integrity of union of India. The furious mob was tried to pacify but they remained relevant and started pelting upon the police party with intention to kill them with the result some Police personnel got injured etc..	SAS Geelani	Under Trial

33.	PS Anantnag District Anantnag	276/1988 U/S 13(2) UAPA	Director Prosecution PHQ J&K Srinagar has examine of vibration recorded of Speech of Syed Ali Shah Geelani delivered a public meeting at Seer Kaleegund on 15.04.88. The speech has criticized USA for helping and giving military aid to Israel& India	SAS Geelani	Under investigation for sanction
34.	PS Anantnag District Anantnag	53/88 U/S, 13 UAPA	On 07th November 1987, MLA Sopore Syed Ali Shah Geelani delivered a speech at Sheerbagh Chowk against State/India	SAS Geelani	Under trial
35.	PS Anantnag District Anantnag	05/11 U/S13[1] UAPA	Tehrik Hurriyat leader Syed Ali Shah Geelani Published calendars / dairies 2011. The Published Calendars have asked people for separation of Kashmir from India. The Colanders/ Diaries were distrusted among people by two close associates of Syed Ali Shah Geelani namely Gh. Mohi-din Sheikh @ Mohi-din Master S/o Gh Rasool Sheikh R/o Naibasti K.P Road 2. Mohd Yousuf Makroo S/o Mohd Shaban R/o Arwani Bijbehara.	SAS Geelani and others	Under Trial
36.	PS Anantnag District Anantnag	344/12 U/S, 13 UAPA , 505 RPC	TeH leader namely Saifullah Mir S/o Gh. Mohd Mir R/o Akingam has Hurriyat Office at K.P Road near Noor Masjid and the office published Banners /Pumphlets against Indian and distributed among people.	Saifullah Mir	Under Trial
37.	PS Kulgam District Kulgam	223/2007 U/S 121, 188, 153 B RPC, 18 UAPA	Case pertains to deliverance of hateful/ antinational speech with major focus on election boycott by Syed Ali Shah Gellani at Eidgah Kulgam on 6.09.2007 besides raising anti-India slogans.	SAS Geelani	Under investigation
38.	PS Kulgam District Kulgam	07/2018 U/S 13 UAPA	Case pertains to deliverance of antinational speech by by Syeed Ali Shah Geelani through mobile Phone at Wanigund Qaimoh on 10.01.2018 during funeral of killed terrorist Farhan Ahmad Wani.	SAS Geelani	Under investigation
39.	PS Ganderbal District Ganderbal	18/1985 U/S 13 UAPA	The case stands registered against Syed Ali Shah Geelani regarding provocative speech delivered by him on 07-02-1985 at Tawheed Chowk Ganderbal	SAS Geelani	Under Trial
40.	PS Nigeen District Srinagar	117/2009 US 447 A, 341 RPC 13 UAPA	On 12.11.2009, Chairman Hurriyat Conference (G) group Syed Ali Shah Geelani forcebily entered into the premises of KU and addressed to the students of KU resulted in disturbance of academic Schedule within the campus. Also raised slogans against the integrity and Sovereignty of the country. He is	SAS Geelani	Under Trial

			also distributed some objectionable booklets among the students.		
41.	PS Soura District Srinagar	275/1989 US 153-B RPC 13 UAPA	Syed Ali Shah Geelani has delivered anti national speech among general people at Soura	SAS Geelani	Under investigation
42.	PS Soura District Srinagar	78/2010 US 13 UAPA	On 04.08.2010, admitted in SKIMS Soura SAS Geelani has addressed a press conference through telephone in which he has said that curfew has been imposed by the government for fear in general public and struggle for freedom will continue etc till its logical conclusion.	SAS Geelani	Under Trial
43.	PS Sherghari District Srinagar	123/1987, U/S 4(2) TADA (P) Act.	On 04/07/1987, at Iqbal Park Syed Ali Shah Geelani, Professor Ab. Gani, MolviAbass Ansari and others addressed a gathering and introduced MUF candidates and provoked creating difference between communities and challenged Indian Union requested voters to vote for independence Kashmir etc.	SAS Geelan and others	Under Trial
44.	PS Sherghari District Srinagar	192/1996, U/S 307, 341, 148, 336, 337, 332 RPC, 7/27 IA Act. 13 UAPA	A large mob led by Hurriyat leader Syed Ali Shah Geelani , Shabir Shah ,Javid Mir ,Yaqoob Wakil and others were marching towards Jahangir Chowk Holding a dead body of militant Hilal Ahmad Beigh of Allochibagh who was killed in an encounter with SF's at Parimpora ,shouting anti India slogans, and were stopped at Naaz crossing by police party ,the mob started stone pelting and some unknown militants fired upon police party and after Arial firing by police party mob was disbursed and Syed Ali Shah Geelani and Ab.Gani Lone apprehend and who were released later on etc.	SAS Geelan and others	Under investigation
45.	PS Sherghari District Srinagar	54/2010, U/S 153 B RPC, 13 UAPA	On 18/06/2010, Chairman of Hurriyat "G" Group was addressing people in Iqra Masjid Magarmalbagh after the conclusion of Friday Prayers resulted in disruption of traffic movement and also asked to people to boycott Panchayat election, raised slogans against sovereignty of India etc.	SAS Geelani	Under investigation
46.	PS Batmaloo District Srinagar	44/2011 U/S 147, 148, 307, 336, RPC, 13 UAPA	On 06/05/2011, after offering Friday prayers Syed Ali Shah Geelani (Chairman Hurriyat G) at ZiyaratBatmaloo made an instigating /provocative speech against the sovereignty of the Union of India and made pro Pakistan slogans. This speech	SAS Geelani	Under investigation

			made by him instigated the people present in the gathering who got violent and started pelting stones on police Party on duty etc. The violent mob was headed by 1. Shoaib Majeed S/o Abdul Majeed R/o Firdous Abad Batmaloo (2) Shahid Yaqoob Lawdari S/o Mohammad Yaqoob Lawdari R/o Dhobi Mohalla Batmaloo (3) Amir RazaqGojri S/o Abdul RazaqGojri R/o New colony Batmaloo (4) Altaf Ahmad Reshi S/o Ghulam Mohammad Reshi R/o BunporaBatmaloo (5) Basit Ahmad Gilla S/o Nazir Ahmad Gilla R/o DanderkahBatmaloo and others etc.		
47.	PS Sader District Srinagar	348/1986 U/S 4(2) TADA (P) Act	Brief facts of the case are that on 22.11.1986 Syed Ali Shah Geelani Started provocative speech against the sovereignty of the state and provoked the mob besides raising anti-national slogans.	SAS Geelani	Under Trial
48.	PS Sader District Srinagar	78/2006 U/S 13 UAPA	On 11.04.2006, an anti-National/Anti Govt Statement was delivered by the accused person at Hyderpora, which created disturbance among the general public.	SAS Geelani	Under Trial
49.	PS Nowhatta District Srinagar	21/01 U/S 148, 148 149 341, ,427,336 RPC 13 UAPA, 7/25 A Act	On 29/02/2001, police station received a written docket to the effect that while performing duties at Nowhatta Chowk SAS Geelani and his associates raised anti national slogans and instigated the youth against police and pelted stones upon the police etc. He asked people to take pledge to continue struggle till the permanent solution of the Kashmir problem.	SAS Geelani and others	Under Trial
50.	PS Khanyar District Srinagar	50/02 U/S 3(6),22 POTO, 120-B RPC	On 24-05-2002, the case was registered on the basis of the reliable information, from a source, received by SHO PS Khanyar that a person Imtiyaz Ahmad Bazaz S/o Ab Hamid Bazaz r/o FirdousabadBatmaloo has a close association with various terrorists outfits particularly Hizbul-mujahideen. It was learnt that the person as per well conceived conspiracy with some individuals living abroad and also within the state has been serving the subversive goals of the terrorist organizations by way of receiving remittances (through his bank account) and thereafter	Imtiyaz Ahmad Bazaz	Under investigation

			disbursing the same to the leaders of terrorist and separatist organizations.		
51.	PS Safakadal District Srinagar	134/04 U/S 13 UAPA	On 09-09-2004, case stands registered against the separatist leaders who published objectionable material in local dailies, Al safa, Kashmir News, Aftab especially by Syed Ali Shah Geelani.	SAS Geelani and others	Under Trial
52.	PS MR Gunj District Srinagar	106/2009 U/S 307,148,149,427,188/ RPC	On 11-12-2009, some activists of Hurriyat -G took out a protest rally at KhankahMoula when section 144 CrPC was in force in the area. Proved against 13 accused including Geelani, Firdous Shah R/O Abi Guzar, Peer Saifullah R/O Zadoora, Nisar Ali Rather R/O Munawarabad Srinagar, MohdShafi Lone R/O Bishamber Nagar, Peer IshaqShah R/O Bagiyas, Bilal Qadir Bhat R/O Kreeri, Asif Mohammad Ganie R/O Ushkoora, Arshad Majeed Sofi R/O Hawal, IrshadRasool Bhat R/O Ranger Masjid Naidkadal, AbidShowket Mir R/O Zaindar Mohalla, Mudasir Nazir Teli R/O Guzar Masjid Urdu Bazar, JavaidMunawarWani R/O Tulail.	SAS Geelani, Firdous Shah, Peer Saifullah, Nisar Ali Rather, Mohd. Shafi Lone, Peer Ishaq Shah, Bilal Qadir Bhat, Asif Mohammad Ganie, Arshad Majeed Sofi, Irshad Rasool Bhat, Abid Showket Mir, Mudasir Nazir Teli and, JavaidMunawar Wani	Charge sheeted
53.	PS Zainapora District Srinagar	32/2008 U/S 13 UAPA , 121 A. RPC	On 31-05-2008, this police station came to know that Hurriyat activists namely 01. Mohammed YousfGanie S/O Ghulam Mohammed Ganie R/O Chitragam 02. Shakeel Ahmad Itoo S/O Ghulam Nabi Itoo R/O Manihal etc. Headed by Hurriyat Chair Person Syed Ali shah Gelani addressed a rally at village Manihal and urged the people not to participate in the forth coming elections and asked the people that we have no relation with India and were slogging Anti-National slogans (Ham Kya Chahtay – Azaadi). Accordingly, case registered and investigation taken up. During the investigation the said Hurriyat persons found involved.	SAS Geelani, Mohammed YousfGanie and Shakeel Ahmad Itoo	Under Trial
54.	PS Shopian District Shopian	175/2010 U/S 153-B RPC,13 UAPA	On 27.04.2010, APHC Chairman Syed Ali Shah geelani addressed an anti national speech to a public gathering at Village Chowan.	SAS Geelani	Under Trial
55.	PS Zainapora District Shopian	46/2011 U/S 13 UAPA , 121 RPC, 132 APR ACT	On 20-04-2011, this Police Station received a written letter No. CS / A-6/11/2349 Dated 20-04-2011 from DPO Shopian there in states that district special	SAS Geelani	Under Trial

			branch Shopian DSB/ SPL-Report/11/623 Dated 15-04-2011 .The superintendent of police district Shopian.Sir on 12-04-2011 some posters of Hurriyat G were pasted on the elected pools in village MelhuraWadina and Wachi in which the Hurriyat chairman Syed Ali Shah Gelani urged the people not to participate in the forth coming parliament elections. On receipt of this letter case stands registered and investigation taken up.		
56.	PS Zainapora District Shopian	50/2011 U/S 13 UAPA , 132 B PR ACT	On 13-05-2001, this Police Station reliably came to know that a vehicle Tata Sumo bearing registration No. JK01E -8188 in which Hurriyat activists namely 01. Bashir Ahmad Dar S/O Ghulam Rasool Dar R/O Berva Badgam 02. Azaad Ahmad Mir S/O Md. Anwar Mir R/O UrporaNagbal 03. Jameel Ahmad Dar S/O Abdul Rasheed Dar R/O UrporaNagbal 04. Parvaiz Ahmad Malla S/O Abdul GaniMalla R/O Phelipora were traveling and the said vehicle was driven by Parvaiz Ahmad Malla.The said persons pasted posters of Hurriyat G Syed Ali Shah Gelani in which Syed Ali Shah Gelanis photo was also pasted urged the people not to participate in forth coming panchayat elections and were slogging Anti-National slogans (Ham Kya Chahtay – Azaadi). Accordingly, case registered and investigation taken up. During the investigation the said Hurriyat persons found involved	Bashir Ahmad Dar, Azaad Ahmad Mir, Jameel Ahmad Dar and Parvaiz Ahmad Malla	Under Trial
57.	PS Zainapora District Shopian	94/2011 U/S 13 UAPA, 132-B, PR ACT, 121 RPC	On 26-09-2011, during naka duty the Nafri of Police Station Zainapora stopped a motor cyclist on which Shakeel Ahmad Thoker S/O Ghulam Qadir Thoker R/O Meemandar was riding motor cycle. During checking, 16 posters of Hurriyat group were recovered from his possession. The photograph of Geelani was also pasted on the said posters in which Syed Ali Shah Geelani urged the people not to participate in forth coming panchayat elections. Accordingly, case registered and investigation taken up. During the investigation the said Hurriyat persons found involved.	Shakeel Ahmad Thoker	Under Trial
58.	PS Shopian	80/08 U/S 13 UAPA	On a reliable Information at	SAS Geelani	Under Trial



	District Shopian		Shirmal Syed Ali Shah Geelani Sehrai, Tang and Yousuf Ganie Hurriyat, raised antinational slogans activities, election boycott, join Hurriyat, threat to national integrity,	Sehrai, Tang, Yousuf Ganie and others	
59.	PS Shopian District Shopian	328/09 U/S13 UAPA	On 21-10-2009, PS Shopian Received Information Through Reliable Sources to The Effect That Some Activists of APHC (G) Have Pasted Posters on Electric Poles, Walls of Shops in Town Shopian on Behalf of Sas Geelani. Through These Posters He Has Directed General Public of Shopian to Carried Out Anti National Protests Against Integrity and Unity of Union/ State Govt. Etc.	SAS Geelani and others	Under investigation
60.	PS Pulwama District Pulwama	71/2004 U/S 13 UAPA , 132 –B, RPC	On 03.03.2004, Syed Ali Shah Geelani delivered lecture at Litter and appealed the people to boycott in the elections etc.	SAS Geelani	Under Trial
61.	PS Pulwama District Pulwama	109/2008 U/S 13 UAPA	On 13.04.2008, Syed Ali Shah Geelani attended funeral prayer of a militant and delivered lecture against India and appealed people to boycott elections.	SAS Geelani	Under Trial
62.	PS Pulwama District Pulwama	320/2009 U/S 13 UAPA . 153-A, RPC	On 19.11.2009, distribution of posters regarding the Pulwama Chalo Call Given by Geelani and its associates etc	SAS Geelani and others	Under Trial
63.	PS Pulwama District Pulwama	181/2010 U/S 147, 341 RPC, 13 UAPA	On 27-04-2010, Syed Ali Shah Geelani gave anti-national speech at main market Kakaporaetc	SAS Geelani	Under Trial
64.	PS Pulwama District Pulwama	194/2010 U/S 147,447-A RPC 13 UAPA	On 09-05-2010, Syed Ali Shah Geelani gave anti-national speech at main market Kakaporaetc	SAS Geelani	Charge sheeted
65.	PS Baderwah District Doda	169/1989 U/S 2/13 UAPA	Case pertains to Syed Ali Shah Geelani speech wherein he stated that J&K is a disputed territory and the people of J&K are not happy with Sheikh Indra accord. Our people are fighting for their birth right like Bhagat Singh fought for India.	SAS Geelani	Under Trial
66.	PS Kishtwar District Kishtwar	169/1989 U/S 2/13 UAPA	Pertains to provocative speech delivered by SAS Geelani at Seeri Bazar Baderwah.	SAS Geelani	Under Trial
67.	PS Budgam District Budgam	74/2007 U/S 341 RPC 13 UAPA	On 23/02/2007, an unruly mob gathered at Humhama after Friday prayers led by Mohammad Ashraf Khan and blocked IG Road Humhama and were chanting Azaadi Slogans.	Mohammad Ashraf Khan	Charge sheeted
68.	PS Safakadal District Srinagar	91/2001 U/S 13 UAPA, 7/25 I.A Act	On 21,5,2001, the police station received a reliable information through Head Constable Noor Mohd no,821/s to the effect that	Mohd. Ashraf Sehrai	Under Trial

			during the indiscriminate firing between security forces and militants one militant namely MohdIshaqkuloo of HM outfit organization had been killed and entombing in grave yard Eidgah Srinagar and some u/n militants wearing mask opened fire during the entombing the dead body of the said militant and also Hurriyat leader namely Mohd Ashraf sarie gave a speech on the occasion and provoked people for anti-India slogans and also raised slogans in favour of Pakistan.		
69.	PS Safakadal District Srinagar	70/07 U/S 13, 18 UAPA	On 22-04-2007, PS Safakadal received a written docket from IC PP Noorbhagh stating therein that during patrolling at Eidgah alongwith other constabulary it was found that member of Hurriyat (G) addressed a gathering at Eidgah which was headed by Syed Ali shah Geelani, Gh Nabi Sumji, Mohmmad Ashraf Khan and during their address they said that accession of State with India is temporary and by these addressee anti Govt. sentiments got provoked and in the rally MasratAlam, Firdous Ahmad Shah, Mushtaq Ahmad Sofi and other invited people there to raise slogans against India. Further praised the terrorist outfits and also raised slogans in favour of Pakistan, these accused persons caused a threat to the integrity and security of State and Country.	SAS Geelani, Mohammad Ashraf Khan, and others	Under investigation
70.	PS Mattan District Anantnag	92/2015 u/s 13 UAPA	Under the banner of APHC-G, a procession led by Hafizullah Mir of Akingam (District President Hurriyat-G) chanted anti-national slogans and provoking the general masses against the Govt. policies.	Hafizullah Mir and others	Under Trial
71.	PS Pulwama District Pulwama	321/09 U/S 148,149,153-A,121-A,336,332-RPC, 13 UAPA	On 20.11.2009, hurriyat-G activists raised slogans in favour of freedom and instigated the people against lawful establishments and pelted stones upon security forces. etc	Bashir Ahmed Bhat @Peer Saifullah S/o Ali Mohd. R/o Zadoora, Srinagar	Under Trial
72.	PS Pulwama District Pulwama	69/10 U/S 13 UAPA	On 19.02.2010, at Ratniporaa Hurriyat Activists namely Bashir Ahmad Bhat @ Saif-ullah S/O Ali Mohd. R/O Zadoora 2. Tariq Ahmad R/O Begumbagh delivered provocative speech against the Indian Union and in favor of freedom of Kashmir at the funeral procession of a killed	Bashir Ahmad Bhat @ Saif-ullah and Tariq Ahmad	Under Trial

			militant namely Javid Ahmad Hajam		
73.	PS Parimpore District Srinagar	161/2010 u/s 147, 148,149,336, 427, 353,332-307,345,435/511, 120B- RPC	A violent mob in shape of a procession attacked the police party while on patrolling in the area under a conspiracy to kill the police personnel who were on board a vehicle. Heavy stones were pelted on the vehicle and the nafri of police station with an intent to harm them.	Bashir Ahmed Bhat @Peer Saifullah S/o Ali Mohd. R/o Zadoora, Srinagar	Under Trial
74.	PS Mattan District Anantnag	66/2016 u/s 13 UAPA	Under the banner of APHC-G workers a procession was taken out who were raising anti-national slogans "GO INDIA GO BACK",	Bashir Ahmed Bhat @Peer Saifullah S/o Ali Mohd. R/o Zadoora, Srinagar	Under Trial
75.	PS Mattan District Anantnag	68/2016 u/s 13 UAPA	Under the banner of Hurriyat -G a procession comprising of about 1000 persons chanted anti national slogans like Go India Go Back, We want freedom etc. the speakers provoked the general public.	Bashir Ahmed Bhat @Peer Saifullah S/o Ali Mohd. R/o Zadoora, Srinagar	Charge sheeted on 6-6-2023
76.	PS Zainapora District Shopian	38/2016 U/S 147,336, RPC,13 UAPA	On 23-06-2016, hurriyat activist along with his associates organized aiftar party at chitragam. While addressing the gathering the subject delivered hatred and provocative speech and also shouted pro-freedom/pro-pakistan slogans. After culmination of the party, they pelted stones on the police party deployed for naka duty at awneera. To this effect the instant case was registered and investigation taken up.	Bashir Ahmed Bhat @Peer Saifullah S/o Ali Mohd. R/o Zadoora, Srinagar	Under Trial
77.	PS Zainapora District Shopian	51/2016 U/S 13 UAPA	On 08/08/16, hurriyat activists get the people assembeled in Eid gaghNagbal and chanted anti national slogans.	Bashir Ahmed Bhat @Peer Saifullah S/o Ali Mohd. R/o Zadoora, Srinagar	Under Trial
78.	PS Zainapora District Shopian	53/2016 U/S 13 UAPA	On 11/08/2016, hurriyat conference had organised a rally at masjid Shareefastan-e-Allyahizrat Amir -e -Kabeer Mir Syed Ali Hamdani ® situated at wachi in which large number of people had assembled. The rally was addressed by 01. Mohd. YousfGanie @ Falahie s/o Ghulam Mohammed Ganie r/o Molochitragan 02. Sarjaan Ahmad Wagay s/o late Abdul Razaqwagay r/o Reban 03. Molvisajadetc who provoked people especially youths to raise against to the government. In their addresses these Hurriyat leaders instigated youths to join armed struggle against police and security forces and people came out of the rally raising slogans against India and in favour of	Mohd. YousfGanie @ Falahie, Sarjaan Ahmad Wagay and Molvi Sajad	Under Trial

			Pakistan. The subject along with other associates was leading these processions raising slogans etc.		
79.	PS Zainapora District Shopian	57/2016 UAPA U/S 13	On 24/08/2016, separatists had called for Turkawangamchalo march where large number of people had assembled. The separatist's namely 01. Mohammed YousfGanie @ Falahi s/o Ghulam Mohammed r/o Chitragam 02. Sarjaan Ahmad Wagay s/o late Abdul Razakwagay r/o Reban 03. Shahnawaz Ahmad Gazali 04. Husain Wagay r/o Urporanagbal etc. Each addressed the gathering, instigating and abetting people against the government. These separatists in their addresses instigated youth to raise against the police and security forces. The subject was an active member who played important role in gathering large number of youth at Turkawangam village and was also one of the main persons, who used to instigate youth by raising antinational and provocative slogans. In this regard case fir no 57/2016 u/s 13 UAPA stands registered in police station Zainapora.	Mohammed YousfGanie @ Falahi, Sarjaan Ahmad Wagay, Shahnawaz Ahmad Gazali and. Husain Wagay	Under Trial
80.	PS Zainapora District Shopian	58/2016 UAPA U/S 13	On 25/08/2016, separatists had called for Kadgamchalo march where large number of people had assembled. The separatist's namely 01. Mohammed YousfGanie @ Falahi s/o Ghulam Mohammed r/o Chitragam 02. Sarjaan Ahmad Wagay s/o late Abdul Razakwagay r/o Reban 03. Husain Wagay r/o Urporanagbal etc. Each addressed the gathering, instigating and abetting people against the government. These separatists' in their addresses instigated youth to raise against the police and security forces. The subject was an active member who played important role in gathering large number of youth at Kadga village and was also one of the main persons, who used to instigate youth by raising antinational and provocative slogans. In this regard case fir no 58/2016 u/s: - 13 UAPA stands registered in police station Zainapora.	Mohammed YousfGanie @ Falahi, Sarjaan Ahmad Wagay and Husain Wagay	Under Trial
81.	PS Tral District Pulwama	101/1996 U/S 152, 148, 147, 336, 109, 332 RPC, 25/27	On 12-09-1996, PS Tral received a docket from SHO PS Tral camp TraliBala to the effect that	SAS Geelani and Yasin Malik	Under Trial

			Hurriyat leaders namely Syed Ali Shah Geelani, M. Yaseen Malik, etc intended to carry out a procession from Ziyarat Amir-E-Kabeer (RA) were a huge mob assembled and have instigated/instructed the mob to boycott elections. After prayers a procession was carried out from the said Ziyarat under the leadership of these hurriyat leaders.		
82.	PS ShaeedGunj District Srinagar	157/09 U/S 120B, 120, 121, 153 A RPC 13 UAPA	On the eve of death anniversary of Late Ali Mohd Jinnah various Hurriyat/Peoples league leaders including Feroz Ahmad Khan, Asia Andrabi, Mian Qayoom and SAS Geelani delivered anti-National speech in Hotel Jehangir. He said that since 1947 India has been involved in killing of Kashmiri.	SAS Geelani and others	Under investigation
83.	PS Zainapora District Shopian	17/04 U/S 13 UAPA , 132 B PR ACT, 153-A RPC	On 06-03-2004, this Police Station reliably came to know that group of Hurriyat conference headed by Syed Ali Shah Gelani etc. participated in a funderal procession of one killed militant namely Irfan Ahmad Sheikh s/o Ghulam Rasool Sheikh R/O Zainapora who got killed in an encounter at village Kawni Pulwama on 05/03/2004. The said Hurriyat chairman addressed a rally participated in funeral procession of the said killed militant. During his speech he gave slogans against India and addressed the people not to participate in forth coming parliament elections. On receipt of his information case stands registered. During the course of investigation sections 121 RPC and 153-A RPC were added in the instant case.	SAS Geelani and others	Under Trial
84.	PS Rajpora District Pulwama	80/2016 U/S 147, 148, 332, 307, 427, 511, 392, 336, 149, 447A RPC	Case pertains to anit-national speech by SAS Geelani besides provoking people.	SAS Geelani	Charge sheeted
85.	PS Nigeen District Srinagar	68/2008 U/S 147, 332, 336, 427 RPC	On 04.07.2008, PS Nigeen received a docket from SHO to the effect that during Friday Prayer an unruly mob headed by Shabir Ahmad Shah, Mohammad Ashraf Sehraie, Hakeem Ab Rasheed pelted stones on deployed forces at Tel Bal Adda with intention to damage Govt/Public Property and raised anti national slogans against	Shabir Ahmad Shah, Mohammad Ashraf Sehrai and Hakeem Ab Rasheed	Under investigation

			Sovereignty of India.		
86.	PS Bandipora District Bandipore	41/2015 U/S UAPA	After Friday prayers Ameer Hamza Shah delivered anti-national speech at Jamia Masjid Bandipora.	Ameer Hamza Shah	Charge sheeted.
87.	PS Shopian District Shopian	394/2010 U/S 148, 149, 332, 336, 427 RPC	Stone Pelting by Mohd Yousuf Falaai and his Associates PS Shopian	Mohd Yousuf Falaai and others	Under Trial
88.	PS Shopian District Shopian	210/10/U/S 506 RPC, 18 UAPA	Anti National slogans by Mohd Yousuf Ganie @ Falaate R/O Molo Chitragm and his Associates at Gol Chakri Shopian	Mohd Yousuf Falaai and others	Under Trial
89.	PS Anantnag District Anantnag	189/2015 U/S 147,148, 149, 336, 307 RPC ¾ PPPD Act	After Friday prayers Hurriyat activist Hafizullah of Akingam along with some miscreants chanted anti-India slogans and pelted stones on CRPF/Police.	Hafizullah and others	Under Trial
90.	PS Anantnag District Anantnag	302/2008 U/S 147,148,427,307,188 RPC	Pertains to stone pelting on Police Sfs and damaging the Govt. property by some mischievous elements headed by APHC activist Qamar Zaman Qazi against the transfer of land to Shrin board.	Qamar Zaman Qazi	Charge sheeted

### III. STATUTORY PROVISIONS

18. Section 2 (o) and (p) of the UAPA, read as follows:-

“2. **Definitions.** – (1) In this Act, unless the context otherwise requires,-

(o) “unlawful activity”, 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 representation or otherwise),-

(i) Which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or, the 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 cession or secession; or

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

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

(p) “unlawful association” means any association,-

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

(ii) which has for its object any activity which is punishable under Section 153-A or Section 153-B of the Indian Penal Code (45 of 1860), or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

Provided that nothing contained in sub-clause (ii), shall apply to the State of Jammu and Kashmir”.

19. Section 2(o) of the Act defines ‘unlawful activity’. It means “any action taken” by an association or an individual of the kind mentioned in clauses (i), (ii) and (iii) of the said sub-section. Any action taken has reference to and must be of the kind stipulated in and covered by clauses (i), (ii) or (iii). Action can be either written or spoken, by sign or by visible representation or even otherwise. Clause(i) refers to “action taken” with the intent or which supports any claim for secession or cession of any part of India or incites any individual or group of individuals to bring about secession or cession. Clause (ii) refers to “action taken” which has the effect of disclaiming, questioning, disrupting or intending to disrupt the sovereignty and territorial integrity of India. Clause (iii) refers to “action taken” which causes or is intended to cause disaffection against India.

20. Unlawful association has been defined in Section 2(p) of the Act and consists of two parts; (i) and (ii) Part (i)

refers to unlawful activity defined in Section 2(o) and encompasses associations which have the object that encourage or even aide persons to undertake the said activity. The last part of Part (i) widens the definition of the term "unlawful association" to include an association of which members undertake unlawful activity. In a way, therefore, the association is vicariously liable and can be regarded as an unlawful association if members of an association undertake unlawful activity.

#### IV. NATURE AND SCOPE OF PROCEEDINGS BEFORE THE PRESENT TRIBUNAL

21. The nature of the proceedings before this Tribunal and the scope of inquiry in the present proceedings have been laid down by the Supreme Court in *Jamaat-e-Islami Hind vs. Union of India* (1995) 1 SCC 428 in the specific context of the provisions of the UAPA, 1967. The proceedings before this Tribunal are governed in by the Code of Civil Procedure as set out in Section 9 of UAPA, 1967. The standard of proof is the standard prescribed by the Supreme Court in *Jamaat-e-Islami Hind* (supra). This *lis* has to be decided by objectively examining which version is more acceptable and credible. In this regard, reference may be made to following observations in *Jamaat-e-Islami Hind* (supra):

*"30. The allegations made by the Central Government against the Association - Jamaat-E-Islami Hind - were totally denied. It was, therefore, necessary that the Tribunal should have adjudicated the controversy in the manner indicated. Shri Soli J. Sorabjee, learned counsel for the Association, Jamaat-E-Islami Hind, contended that apart from the allegations made being not proved, in law such acts even if proved, do not constitute "unlawful activity" within the meaning of that expression defined in the Act. In the present case, the alternative submission of Shri Sorabjee does not arise for consideration on the view we are taking on his first submission. The only material produced by the Central Government to support the notification issued by it under Section 3(1) of the Act, apart from a resume based on certain intelligence reports, are the statements of Shri T.N. Srivastava, Joint Secretary, Ministry of Home Affairs and Shri N.C. Padhi, Joint Director, IB. Neither Shri Srivastava nor Shri Padhi has deposed to any fact on the basis of personal knowledge. Their entire version is based on official record. The resume is based on intelligence reports submitted by persons whose names have not been disclosed on the ground of confidentiality. In other words, no person has deposed from personal knowledge whose veracity could be tested by cross-examination. Assuming that it was not in public interest to disclose the identity of those persons or to produce them for cross-examination by the other side, some method should have been adopted by the Tribunal to test the credibility of their version. The Tribunal did not require production of those persons before it, even in camera, to question them and test the credibility of their version. On the other hand, the persons to whom the alleged unlawful acts of the Association are attributed filed their affidavits denying the allegations and also deposed as witnesses to rebut these allegations. In such a situation, the Tribunal had no means by which it could decide objectively, which of the two conflicting versions to accept as credible. There was thus no objective determination of the factual basis for the notification to amount to adjudication by the Tribunal, contemplated by the statute. The Tribunal has merely proceeded to accept the version of the Central Government without taking care to know even itself the source from which it came or to assess credibility of the version sufficient to inspire confidence justifying its acceptance in preference to the sworn denial of the witnesses examined by the other side. Obviously, the Tribunal did not properly appreciate and fully comprehend its role in the scheme of the statute and the nature of adjudication required to be made by it. The order of the Tribunal cannot, therefore, be sustained."*

22. The present Tribunal, constituted under the UAPA, has been vested with certain powers and the procedure to be adopted by it under Section 5 read with Section 9 of the said Act, which are reproduced as under:

*"5. Tribunal. (1) The Central Government may, by notification in the Official Gazette, constitute, as and when necessary, a tribunal to be known as the "Unlawful Activities (Prevention) Tribunal" consisting of one person, to be appointed by the Central Government: Provided that no person shall be so appointed unless he is a Judge of a High Court.*

*(2) If, for any reason, a vacancy (other than a temporary absence) occurs in the office of the presiding officer of the Tribunal, then, the Central Government shall appoint another person in accordance with the provisions of this section to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.*

*(3) The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.*

*(4) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India.*

(5) Subject to the provisions of section 9, the Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it will hold its sittings.

(6) The Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:-

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object producible as evidence;
- (c) the reception of evidence on affidavits;
- (d) the requisitioning of any public record from any court or office ;
- (e) the issuing of any commission for the examination of witnesses.

(7) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1898 (5 of 1898).”

**“9. Procedure to be followed in the disposal of applications under this Act.**—Subject to any rules that may be made under this Act, the procedure to be followed by the Tribunal in holding any inquiry under sub-section (3) of section 4 or by a Court of the District Judge in disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8 shall, so far as may be, be the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), for the investigation of claims and the decision of the Tribunal or the Court of the District Judge, as the case may be, shall be final.”

23. Further, under Section 4(1) of Act, the Central Government refers the notification (issued under Section 3(1) of the Act) to the Tribunal for “adjudicating” whether or not there is “sufficient cause” for declaring the association unlawful. Section 4(2) requires issuance of notice on the association affected to show cause why the association should not be declared as unlawful. Section 4(3) mandates an inquiry in the manner specified in Section 9 after calling for such information as may be necessary from Central Government or from office bearers or members of the association. The Tribunal under Section 4(3) is required to adjudicate and make an order, as it may deem fit, either confirming the declaration made in the notification or cancelling the same. After interpreting the said provisions of the UAPA in **Jamaat-e-Islami Hind** (supra), it was held by the Supreme Court as under:-

*“11.... The entire procedure contemplates an objective determination made on the basis of material placed before the Tribunal by the two sides; and the inquiry is in the nature of adjudication of a lis between two parties, the outcome of which depends on the weight of the material produced by them. Credibility of the material should, ordinarily, be capable of objective assessment. The decision to be made by the Tribunal is “whether or not there is sufficient cause for declaring the Association unlawful”. Such a determination requires the Tribunal to reach the conclusion that the material to support the declaration outweighs the material against it and the additional weight to support the declaration is sufficient to sustain it. The test of greater probability appears to be the pragmatic test applicable in the context.”*

24. On the question of confidential information that is sought to be withheld, the Supreme Court emphasized that the Tribunal can look into the same for the purpose of assessing credibility of the information and the Tribunal should satisfy itself whether it can safely rely upon it. This was necessary as in certain situations, source of information or disclosure of full particulars may be against public interest. Such a modified procedure while ensuring confidentiality of information and its source in public interest, enables the Tribunal to test the credibility of confidential information for objectively deciding the reference. It was emphasized that the unlawful activities of an association may quite often be clandestine in nature and, therefore, material or information for various reasons may require confidentiality. Disclosure, it was held, can jeopardize criminal cases pending investigation and trial.

25. On the question of nature and type of evidence, which can be relied upon by the Tribunal, the Supreme Court referred to Rule 3 of UAP Rules, 1968. Rule 3(1) stipulates that the Tribunal subject to sub-rule (2) shall follow, “as far as practicable”, the rules of evidence laid down in Indian Evidence Act. In this regard, reference can be made to the following observations in **Jamaat-e-Islami Hind** (supra):-

*“22. ...The materials need not be confined only to legal evidence in the strict sense. Such a procedure would ensure that the decision of the Tribunal is an adjudication made on the points*



*in controversy after assessing the credibility of the material it has chosen to accept, without abdicating its function by merely acting on the ipse dixit of the Central Government. Such a course would satisfy the minimum requirement of natural justice tailored to suit the circumstances of each case, while protecting the rights of the association and its members, without jeopardizing the public interest. This would also ensure that the process of adjudication is not denuded of its content and the decision ultimately rendered by the Tribunal is reached by it on all points in controversy after adjudication and not by mere acceptance of the opinion already formed by the Central Government.*

23. *In John J. Morrissey and G. Donald Booher v. Lou B. Brewer [408 US 471: 33 L Ed 2d 484 (1972)] the United States Supreme Court, in a case of parole revocation, indicated the minimum requirements to be followed, as under: (L Ed pp. 498-99)*

*“Our task is limited to deciding the minimum requirements of due process. They include (a) written notice of the claimed violations of parole; (b) disclosure to the parolee of evidence against him; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a ‘neutral and detached’ hearing body such as a traditional parole board, members of which need not be judicial officers or lawyers; and (f) a written statement by the factfinders as to the evidence relied on and reasons for revoking parole. We emphasise there is no thought to equate this second stage of parole revocation to a criminal prosecution in any sense. It is a narrow inquiry; the process should be flexible enough to consider evidence including letters, affidavits, and other material that would not be admissible in an adversary criminal trial.”*

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26. *.....The provision for adjudication by judicial scrutiny, after a show-cause notice, of existence of sufficient cause to justify the declaration must necessarily imply and import into the inquiry, the minimum requirement of natural justice to ensure that the decision of the Tribunal is its own opinion, formed on the entire available material, and not a mere imprimatur of the Tribunal affixed to the opinion of the Central Government. Judicial scrutiny implies a fair procedure to prevent the vitiating element of arbitrariness. What is the fair procedure in a given case, would depend on the materials constituting the factual foundation of the notification and the manner in which the Tribunal can assess its true worth. This has to be determined by the Tribunal keeping in view the nature of its scrutiny, the minimum requirement of natural justice, the fact that the materials in such matters are not confined to legal evidence in the strict sense, and that the scrutiny is not a criminal trial. The Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the association, if the public interest so requires.”*

26. Before assessing the credibility of material and analyzing evidence adduced, it is apposite to take note of Sections 25, 26 and 27 of the Indian Evidence Act, as well as Sections 161 and 162 of the Code of Criminal Procedure, 1973. The same are reproduced hereunder:

#### **Indian Evidence Act, 1872**

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

**26. Confession by accused while in custody of police not to be proved against him.**—No confession made by any person whilst he is in the custody of a police-officer, unless it be made in the immediate presence of a Magistrate<sup>4</sup>, shall be proved as against such person.

*Explanation.*—In this section “Magistrate” does not include the head of a village discharging magisterial functions in the Presidency of Fort St. George<sup>6</sup> \*\*\* or elsewhere, unless such headman is a Magistrate exercising the powers of a Magistrate under the Code of Criminal Procedure, 18827 (10 of 1882).

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

#### **Code of Criminal Procedure, 1973**

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

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

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

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

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

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

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872 (1 of 1872); and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

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

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

27. As per Sections 25 and 26 of the Evidence Act, confessions made to a police officer or while in custody shall not be proved against a person accused of any offense during the trial of that offense. As per Section 162 of the Cr.P.C., no statement made by any person to a police officer in the course of an investigation under Chapter XII (which includes Section 161 Cr.P.C.) can be used, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made. However, these sections do not prohibit the use of such statements in proceedings where the accused is not being tried for the specific offense in question, or in civil proceedings or ancillary proceedings.

28. The Supreme Court in ***Mahesh Kumar v. State of Rajasthan***, 1990 Supp SCC 541 (2), noted the possible use of statement made to the police by the accused persons for being used as evidence against the accused in an “enquiry” although inadmissible as evidence against them at the trial for the offence with which they were charged. Relevant extract of the said judgment is as under:

“3. In *Queen Empress v. Tribhovan Manekchand* a Division Bench of the Bombay High Court laid down that the statement made to the police by the accused persons as to the ownership of property which was the subject matter of the proceedings against them although inadmissible as evidence against them at the trial for the offence with which they were charged, were admissible as evidence with regard to the ownership of the property in an enquiry held by the Criminal Procedure Code. The same view was reiterated in *Pohlu v. Emperor* where it was pointed out that though there is a bar in Section 25 of the Evidence Act, or in Section 162 CrPC for being made use of as evidence against the accused, this statement could be made use of in

*an enquiry under Section 517 CrPC when determining the question of return of property. These two decisions have been followed by the Rajasthan High Court in Dhanraj Baldeokishan v. State and the Mysore High Court in Veerabhadrapa v. Govinda. In the present case, the amount in question was seized from the accused in pursuance of statements made by them under Section 27 of the Evidence Act. The High Court as well as the courts below have found the property to be the subject of theft and the acquittal of the accused is upon benefit."*

29. The Supreme Court in *Khatri (IV) v. State of Bihar*, (1981) 2 SCC 493 with reference to the bar under Section 162 of the Cr.P.C viz. against use in evidence of statement made before a police officer in the course of investigation, held, the same would not apply where court calls for such statement in a civil proceeding provided the statement is otherwise relevant under the Evidence Act, 1872. Relevant extract of the said judgment is as under:

*"3. Before we refer to the provisions of Sections 162 and 172 of the Criminal Procedure Code, it would be convenient to set out briefly a few relevant provisions of that Code. Section 2 is the definition section and clause (g) of that section defines "inquiry" to mean "every inquiry, other than a trial conducted under this Code by a Magistrate or court". Clause (a) of Section 2 gives the definition of "investigation" and it says that investigation includes "all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf". Section 4 provides:*

*"4. (1) All offences under the Penal Code, 1860 shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.*

*(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences."*

*It is apparent from this section that the provisions of the Criminal Procedure Code are applicable where an offence under the Penal Code, 1860 or under any other law is being investigated, inquired into, tried or otherwise dealt with. Then we come straight to Section 162 which occurs in Chapter XII dealing with the powers of the police to investigate into offences. That section, so far as material, reads as under:*

*"162. (1) No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:*

*Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the court, by the prosecution, to contradict such witness in the manner provided by Section 145 of the Indian Evidence Act, 1872; and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.*

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

*It bars the use of any statement made before a police officer in the course of an investigation under Chapter XII, whether recorded in a police diary or otherwise, but, by the express terms of the section, this bar is applicable only where such statement is sought to be used "at any inquiry or trial in respect of any offence under investigation at the time when such statement was made". If the statement made before a police officer in the course of an investigation under Chapter XII is sought to be used in any proceeding other than an inquiry or trial or even at an inquiry or trial but in respect of an offence other than that which was under investigation at the time when such statement was made, the bar of Section 162 would not be attracted. This section has been enacted for the benefit of the accused, as pointed out by this Court in *Tahsildar Singh v. State of U.P.* it is intended "to protect the accused against the user of statements of witnesses made before the police during investigation, at the trial presumably on the assumption that the said statements were not made under circumstances inspiring confidence". This Court, in *Tahsildar Singh* case approved the following observations of Braund, J. in *Emperor v. Aftab Mohd. Khan*:*

*“As it seems to us it is to protect accused persons from being prejudiced by statements made to police officers who by reason of the fact that an investigation is known to be on foot at the time the statement is made, may be in a position to influence the maker of it, and, on the other hand, to protect accused persons from the prejudice at the hands of persons who in the knowledge that an investigation has already started, are prepared to tell untruths”*

and expressed its agreement with the view taken by the Division Bench of the Nagpur High Court in *Baliram Tikaram Marathe v. Emperorthat* “the object of the section is to protect the accused both against overzealous police officers and untruthful witnesses”. Protection against the use of statement made before the police during investigation is, therefore, granted to the accused by providing that such statement shall not be allowed to be used except for the limited purpose set out in the proviso to the section, at any inquiry or trial in respect of the offence which was under investigation at the time when such statement was made. But, this protection is unnecessary in any proceeding other than an inquiry or trial in respect of the offence under investigation and hence the bar created by the section is a limited bar. It has no application, for example in a civil proceeding or in a proceeding under Article 32 or 226 of the Constitution and a statement made before a police officer in the course of investigation can be used as evidence in such proceeding, provided it is otherwise relevant under the Indian Evidence Act. There are a number of decisions of various High Courts which have taken this view and amongst them may be mentioned the decision of *Jaganmohan Reddy, J. in Malakala Surya Rao v. G. Janakamma*. The present proceeding before us is a writ petition under Article 32 of the Constitution filed by the petitioners for enforcing their Fundamental Rights under Article 21 and it is neither an “inquiry” nor a “trial” in respect of any offence and hence it is difficult to see how Section 162 can be invoked by the State in the present case. The procedure to be followed in a writ petition under Article 32 of the Constitution is prescribed in Order XXXV of the Supreme Court Rules, 1966, and sub-rule (9) of Rule 10 lays down that at the hearing of the rule nisi, if the court is of the opinion that an opportunity be given to the parties to establish their respective cases by leading further evidence, the court may take such evidence or cause such evidence to be taken in such manner as it may deem fit and proper and obviously the reception of such evidence will be governed by the provisions of the Indian Evidence Act. It is obvious, therefore, that even a statement made before, a police officer during investigation can be produced and used in evidence in a writ petition under Article 32 provided it is relevant under the Indian Evidence Act and Section 162 cannot be urged as a bar against its production or use. The reports submitted by *Shri L.V. Singh* setting forth the result of his investigation cannot, in the circumstances, be shut out from being produced and considered in evidence under Section 162, even if they refer to any statements made before him and his associates during investigation, provided they are otherwise relevant under some provision of the Indian Evidence Act.”

30. With reference to police diaries and Section 172 of the Cr.P.C., the Supreme Court in *Khatri* (supra) held as under:

*“...These reports are clearly relevant under Section 35 of the Indian Evidence Act which reads as follows:*

*“35. An entry in any public or other official book, register or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record is kept, is itself a relevant fact.”*

*These reports are part of official record and they relate to the fact in issue as to how, and by whom the twenty-four under-trial prisoners were blinded and they are admittedly made by Sh L.V. Singh, a public servant, in the discharge of his official duty and hence they are plainly and indubitably covered by Section 35. The language of Section 35 is so clear that it is not necessary to refer to any decided cases on the interpretation of that section, but we may cite two decisions to illustrate the applicability of this section in the present case. The first is the decision of this Court in *Kanwar Lal Gupta v. Amar Nath Chawla*. There the question was whether reports made by officers of the CID (Special Branch) relating to public meetings covered by them at the time of the election were relevant under Section 35 and this Court held that they were, on the ground that they were (SCC p. 667) “made by public servants in discharge of their official duty and they were relevant under the first part of Section 35 of the Evidence Act, since they contained statements showing what were the public meetings held by the first respondent”. This Court in fact followed an earlier decision of the Court in *P.C.P. Reddiar v. S. Perumal*. So also in *Jagdat v. Sheopal, Wazirhasan, J.* held that the result of an inquiry by a Kanungo under Section 202 of the Code of Criminal Procedure, 1898 embodied in*

*the report is an entry in a public record stating a fact in issue and made by a public servant in the discharge of his official duties and the report is therefore admissible in evidence under Section 35. We find that a similar view was taken by a Division Bench of the Nagpur High Court in Chandulal v. Pushkar Rajwhere the learned Judges held that reports made by Revenue Officers, though not regarded as having judicial authority, where they express opinions on the private rights of the parties are relevant under Section 35 as reports made by public officers in the discharge of their official duties, insofar as they supply information of official proceedings and historical facts. The Calcutta High Court also held in Lionell Edwards Limited v. State of W.B. that official correspondence from the Forest Officer to his superior, the Conservator of Forests, carried on by the Forest Officer in the discharge of his official duty would be admissible in evidence under Section 35. There is therefore no doubt in our mind that the reports made by Sh L.V. Singh setting forth the result of the investigation carried on by him and his associates are clearly relevant under Section 35 since they relate to a fact in issue and are made by a public servant in the discharge of his official duty. It is indeed difficult to see how in a writ petition against the State Government where the complaint is that the police officials of the State Government blinded the petitioners at the time of arrest or whilst in police custody, the State Government can resist production of a report in regard to the truth or otherwise of the complaint, made by a highly placed officer pursuant to the direction issued by the State Government. We are clearly of the view that the reports made by Shri L.V. Singh as a result of the investigation carried out by him and his associates are relevant under Section 35 and they are liable to be produced by the State Government and used in evidence in the present writ petition. Of course, what evidentiary value must attach to the statements contained in these reports is a matter which would have to be decided by the court after considering these reports. It may ultimately be found that these reports have not much evidentiary value and even if they contain any statements adverse to the State Government, it may be possible for the State Government to dispute their correctness or to explain them away, but it cannot be said that these reports are not relevant. These reports must therefore be produced by the State and taken on record of the present writ petition. We may point out that though in our order dated February 16, 1981 we have referred to these reports as having been made by Shri L.V. Singh and his associates between January 10 and January 20, 1981 it seems that there has been some error on our part in mentioning the outer date as January 20, 1981 for we find that some of these reports were submitted by Shri L.V. Singh even after January 20, 1981 and the last of them was submitted on January 27, 1981. All these reports including the report submitted on December 9, 1980 must therefore be filed by the State and taken as forming part of the record to be considered by the court in deciding the question at issue between the parties.”*

31. The Supreme Court in **Vinay D. Nagar v. State of Rajasthan**, (2008) 5 SCC 597, again held that bar of Section 162 of the Cr.P.C. is with regard to the admissibility of the statement recorded of a person by the police officer under Section 161 Cr.P.C. and by virtue of Section 162 Cr.P.C. would be applicable only where such statement is sought to be used at any inquiry or trial in respect of any offence under investigation at the time when such statement was made. The relevant extract of the said decision is as under:

*“14. On account of Section 162 CrPC, a statement made by any person to a police officer in the course of investigation under Chapter XII, if reduced into writing, will not be signed by the person making it, nor such statement recorded or any part thereof be used for any purpose at any inquiry or trial in respect of any offence under investigation at the time when such statement was made. Such statement may be used by an accused and with the permission of the court by the prosecution to contradict the witness whose statement was recorded by the police in the manner provided under Section 145 of the Evidence Act and can also be used for re-examination of such witness for the purpose only of explaining any matter referred to in his cross-examination. Bar of Section 162 CrPC of proving the statement recorded by the police officer of any person during investigation however shall not apply to any statement falling within the provision of Clause (1) of Section 32 of the Evidence Act, nor shall it affect Section 27 of the Evidence Act. Bar of Section 162 CrPC is in regard to the admissibility of the statement recorded of a person by the police officer under Section 161 CrPC and by virtue of Section 162 CrPC would be applicable only where such statement is sought to be used at any inquiry or trial in respect of any offence under investigation at the time when such statement was made.*

*15. In Khatri (IV) v. State of Bihar this Court has held that Section 162 CrPC bars the use of any statement made before the police officer in the course of an investigation under Chapter XII, whether recorded in the police diary or otherwise. However, by the express terms of Section 162, this bar is applicable only where such statement is sought to be used “at any inquiry or trial” in respect of any offence under investigation at the time when such statement*

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

32. It is in the light of the aforesaid principles that this Tribunal is to examine whether there is sufficient cause for declaring TeH as an unlawful association. It needs to be borne in mind that the inquiry before this Tribunal does not entail adjudicating the guilt of the accused but rather assessing the adequacy of material before the Central Government to designate TeH as an unlawful association.

#### **V. PROCEDURE FOLLOWED BY THIS TRIBUNAL**

33. Consequently, upon due consideration of the aforesaid Notification No. S.O. 5532(E) dated 31.12.2023 and Notification No.S.O. 179(E) dated 16.01.2024, this Tribunal held a preliminary hearing on 02.02.2024, whereupon on a consideration of the material placed on record by the Central Government, notice under Section 4(2) of the Act was issued to the TeH to show cause, within a period of 30 days, as to why they ought not to be declared as unlawful association. The notices issued were given due publicity as required under Section 3(4) of the Act.

34. The Gazettee Notification dated 31.12.2023 was also published in two National Newspapers (all India Edition), out of which one was in English while the other was in Hindi. The said notification was also published in two local newspapers in vernacular language having wide circulation in the States where the activities of the TeH were or are believed to be ordinarily carried out. The method of affixation and proclamation by beating of drums, as well as loudspeakers, was also adopted. Proclamation was made at the last known address of the TeH along with all their leaders, members, factions, wings and front organization as well as that of their principal office bearers.

35. The notice issued by the Tribunal along with the Gazette Notification dated 31.12.2023 was displayed on the notice board of the Deputy Commissioner/District Magistrate/Tehsildar in all the district headquarters of the States where the activities of the association were or are believed to be ordinarily carried on. Help of All-India Radio and electronic media of the State edition were also taken. Announcements were made through radio/electronic media at prime time.

36. Apart from above, notices were also issued to the Union Territory of Jammu and Kashmir through its Chief Secretary.

37. The Registrar attached to the Tribunal was directed to ensure the compliance of the service of notice issued to TeH in the manner indicated. The Registrar was directed to file an independent report in that behalf before the next date of hearing, i.e. 05.03.2024.

38. Accordingly, both the Union of India as well as the Union Territory of Jammu and Kashmir filed affidavits of service, affirming that service had been effected as directed by the Tribunal. The Registrar, vide his report dated 26.02.2024, also confirmed service of notice issued by the Tribunal.

39. This Tribunal having satisfied itself that service had been effected on TeH as per the directions contained in the order dated 02.02.2024; coupled with the fact that no appearance was entered by and on behalf of TeH, was constrained to proceed further with the inquiry even without the participation of the concerned association.

40. However, in order to afford an opportunity to both the Central Government and the Union Territory of Jammu and Kashmir to lead evidence in support of their respective averments, allegations and/or grounds set out in the Notification dated 31.12.2023, as also to give another opportunity to TeH to rebut the material placed on record by the Central and the Union Territory of Jammu and Kashmir, by the same order, i.e., order dated 05.03.2024, the proceedings were fixed for recording of evidence on 18.03.2024 in Court No.32, Delhi High Court, New Delhi.

41. However since UOI did not file any affidavit by way of evidence, by order dated 18.03.2024 the proceedings were fixed for 19.03.2024 for the UOI to take instructions as to the time-frame for filing of the requisite affidavit/s by it and for the schedule for fixing the date/s for recording of evidence of the concerned witnesses.

42. On 19.03.2024, the learned counsel for the UOI submitted that five (05) affidavits of evidence of the witnesses, who would be deposing on behalf of the Central Government in support of the notification, were ready and would be filed by 22.03.2023. Accordingly, the proceedings were fixed for recording of evidence of at least three (03) witnesses from the UT of Jammu & Kashmir at Srinagar for 30.03.2024 with due consent of the counsels appearing for the UOI and the Union Territory of Jammu and Kashmir. Accordingly, a public notice was issued for the hearing at Srinagar.

43. On 30.03.2024 statement of the following three (03) witnesses of the Union of India were recorded at **Srinagar:-**

<i>S. No.</i>	<i>Name of Witness</i>	<i>Details of Affidavit along with date</i>	<i>Affidavits kept in volumes and at pages</i>
1.	<i>Mr. Junaid Wali, Sub – Divisional Police</i>	<i>Ex. PW-1/A dated 20.03.2024</i>	<i>Part-IV B, Vol-I</i>

	<i>Officer, M.R. Gunj, Kashmir</i>		<i>Page Nos. 1 to 70</i>
2.	<i>Mr. Majad Mehboob, Sub – Divisional Police Officer, West, Sringar, Kashmir</i>	<i>Ex. PW-2/A dated 20.03.2024</i>	<i>Part-IV B, Vol-I Page Nos. 71 to 104</i>
3.	<i>Mr. Ashaq Hussain, Sub-Divisional Police Officer, Zakura, Srinagar, Kashmir</i>	<i>Ex. PW-3/A dated 20.03.2024</i>	<i>Part-IV B, Vol-I Page Nos. 105 to 139</i>

44. On the same date i.e. 30.03.2024, learned counsel for the Union of India submitted that an additional affidavit of PW1/Mr. Junaid Wali, SDPO, M.R. Gunj, Kashmir will be filed in respect of FIR No.91/2001. He further submitted that five (5) more affidavits of various officers from the UT of Jammu and Kashmir would be filed on or before 05.04.2024. Further, a Security Officer i.e. Mohd. Afzal, ASI J&K Police, Security (ID-871619/Sec), Kashmir was specifically deputed to facilitate/receive any persons/affidavits that may be submitted pursuant to the said publications.

45. On 10.04.2024, three (3) more affidavits were filed on behalf of UT of J&K and the matter was fixed for recording of evidence of five (05) witnesses on 27.04.2024 at Srinagar. Public notice to that effect was also directed to be issued.

46. On 27.04.2024, statements of the following five (05) witnesses were recorded at **Srinagar**:-

<i>S. No.</i>	<i>Name of Witness</i>	<i>Details of Affidavit along with date</i>	<i>Affidavits kept in volumes and at pages</i>
1.	<i>Mr. Sarfaraz Bashir, SDPO, Sopore, Kashmir</i>	<i>Ex. PW-4/A dated 20.03.2024</i>	<i>Part-IV B, Vol-I Page Nos. 140 to 177</i>
2.	<i>Mr. Mohammad Aftab Awan, SDPO, Magam, Kashmir</i>	<i>Ex. PW-5/A dated 20.03.2024</i>	<i>Part-IV B, Vol-I Page Nos. 178 to 238</i>
3.	<i>Mr. Shafat Mohammad Najar, JKPS, SDPO, Bandipora, Kashmir</i>	<i>Ex. PW-6/A dated 08.04.2024</i>	<i>Part-IV B, Vol-II Page Nos. 239 to 292</i>
4.	<i>Mr. Gazanfur Syed, DSP, Kulgam, Kashmir, Kashmir</i>	<i>Ex. PW-7/A dated 08.04.2024</i>	<i>Part-IV B, Vol-II Page Nos. 293 to 325</i>
5.	<i>Mr. Owais Ahmad Wani, SDPO, Charar-i-Sharif, Budgam, Kashmir</i>	<i>Ex. PW-8/A dated 08.04.2024</i>	<i>Part-IV B, Vol-II Page Nos. 326 to 386</i>

47. Vide the same order i.e. 27.04.2024, a schedule was fixed for recording of evidence of the witnesses from NIA, MHA and 22 witnesses from J & K Police and the matter was fixed for 06.05.2024 at New Delhi for recording of evidence of the witnesses from NIA & MHA. A security officer i.e. H.C. Bashir Ahmad, No. 101, 11<sup>th</sup> Security, was specifically deputed from SSP Security, Kashmir (Mob.No.7006852070) to facilitate / receive any persons / affidavits that may be submitted pursuant to the said publications.

48. On 06.05.2024, statement of Shri B.B. Pathak, Deputy Superintendent of Police, NIA, New Delhi (PW-9) was recorded and kept in [Part-IVB, Vol-III & IV at Page Nos.387 to 1002]. Further, at the request of learned counsel for the UOI, matter was fixed for 08.05.2024 at New Delhi for recording of evidence of five (05) witnesses i.e. PW-10, PW-11, PW-12, PW-13 and PW-14. With the consent of the parties, the matter was thereafter directed to be listed for 10.05.2024 and 13.5.2024 for recording of statement of PW-15, PW-16, PW-17, PW-18 & PW-19 and PW-20 & 21, respectively. Vide the same order, with the consent of the parties, the matter was also directed to be listed for recording of the statement of rest of the six (06) witnesses i.e. PW-22, PW-23, PW-24, PW-25 & PW-26 from J&K Police and MHA i.e. PW-27 at Jammu on 18.5.2024. Public notice was also directed to be issued accordingly.

49. On 08.05.2024 statement of following five (05) witnesses/officers i.e. PW-10, 11, 12, 13 & 14 of the UT of Jammu & Kashmir was recorded at New Delhi:-

<i>S. No.</i>	<i>Name of Witness</i>	<i>Details of Affidavit along with date</i>	<i>Affidavits kept in volumes and at pages</i>
1.	<i>Mr. Owaise Rashid, SDPO, Bijbehra, Kashmir</i>	<i>Ex. PW-10/A dated 05.05.2024</i>	<i>Part-IV B, Vol-V Page Nos. 1003 to 1026</i>
2.	<i>Mr. Ajaz Ahmad, DSP, Dooru Anantnag, Kashmir</i>	<i>Ex. PW-11/A dated 05.05.2024</i>	<i>Part-IV B, Vol-V Page Nos. 1027 to 1053</i>
3.	<i>Mohd. Nawah Khandey, DSP Hqrs, Pulwama</i>	<i>Ex. PW-12/A dated 05.05.2024</i>	<i>Part-IV B, Vol-V Page Nos. 1054 to 1102</i>
4.	<i>Mr. Shabir Ahmad, SHO, PS Pulwama</i>	<i>Ex. PW-13/A dated 05.05.2024</i>	<i>Part-IV B, Vol-V Page Nos. 1103 to 1121</i>
5.	<i>Mr. Javeed Ahmad, DSP Hqrs, Shopian, Kashmir</i>	<i>Ex. PW-14/A dated 04.05.2024</i>	<i>Part-IV B, Vol-V Page Nos. 1122 to 1157</i>

50. On 10.05.2024 the statement of the following five (05) witnesses/officers of the Jammu & Kashmir, i.e. PW-15, PW-16, PW-17, PW-18 & PW-19 was recorded and the matter was listed for 13.5.2024 for recording of statement of witnesses/officers of the UT of Jammu & Kashmir, i.e. PW-20 & 21.

S. No.	Name of Witness	Details of Affidavit along with date	Affidavits kept in volumes and at pages
1.	Mr. Parvaiz Ahmad Bhat, SHO, PS Mattan, Anantnag	Ex. PW-15/A dated 07.05.2024	Part-IV B, Vol-VI Page Nos. 1161 to 1200
2.	Mr. Ajab Khan, IO, PS Shopian	Ex. PW-16/A dated 06.05.2024	Part-IV B, Vol-VI Page Nos. 1201 to 1240
3.	Mr. Satish Kumar, SDPO Handwara	Ex. PW-17/A dated 06.05.2024	Part-IV B, Vol-VI Page Nos. 1243 to 1287
4.	Mr. Aijaz Ahmad, SHO, Zainapura	Ex. PW-18/A dated 06.05.2024	Part-IV B, Vol-VI Page Nos. 1291 to 1338
5.	Mr. Kuldeep Raj, DSP Hqrs, Anantnag	Ex. PW-19/A dated 07.05.2024	Part-IV B, Vol-VI Page Nos. 1341 to 1361

51. On 13.05.2024 the statement of the following two (02) witnesses i.e. PW-20 & 21 from the UT of Jammu & Kashmir was recorded and the matter was posted for 18.5.2024 at Jammu to record statement of six (06) witnesses.

S. No.	Name of Witness	Details of Affidavit along with date	Affidavits kept in volumes and at pages
1.	Mr. Adil Rashid, SHO, PS Anantnag	Ex. PW-21/A dated 07.05.2024	Part-IV B, Vol-VI Page Nos. 1362 to 1399
2.	Mr. Syed Yasir Qadri, ASP, Baramulla, Kashmir	Ex. PW-20/A dated 08.05.2024	Part-IV B, Vol-VI Page Nos. 1400 to 1475

52. On 18.05.2024 the statement of the following five (05) witnesses, i.e. PW-22, PW-23, PW-24, PW-25 & PW-26 was recorded at Jammu.

S. No.	Name of Witness	Details of Affidavit along with date	Affidavits kept in volumes and at pages
1.	Mr. Sunil Kumar, SDPO, Zainpora, Kashmir	Ex. PW-22/A dated 06.05.2024	Part-IV B, Vol-VII Page Nos. 1476 to 1524
2.	Mr. Vikram Nag, SDPO, Sheedgunj, Srinagar, Kashmir	Ex. PW-23/A dated 09.05.2024	Part-IV B, Vol-VII Page Nos. 1525 to 1574
3.	Mr. Saquib Gani, SDPO, Budgam, Kashmir	Ex. PW-24/A dated 14.05.2024	Part-IV B, Vol-VII Page Nos. 1575 to 1654
4.	Mr. Imtiyaz Ahmad Mir, SHO, PS Budgam	Ex. PW-25/A dated 14.05.2024	Part-IV B, Vol-VII Page Nos. 1655 to 1712
5.	Mr. Shukat Rafiq Wani, ASP, Shopian, Kashmir	Ex. PW-26/A dated 07.05.2024	Part-IV B, Vol-VII Page Nos. 1713 to 1758

53. At the request of learned counsel for the UOI, examination of PW-27 (Mr. Brijesh Kumar Sharma, Under Secretary, Ministry of Home Affairs) was deferred till 22.5.2024. One security officer i.e. Mr. Rameshwar Dutt Sharma, Dy. S.P. Sec. High Court, J&K and Ladakh UT (Mob. No.788978618) was specifically deputed to facilitate/receive any persons/affidavits that may be submitted pursuant to the said publication. Certified copy of the judgment dated 19.10.2018 passed by the Judge Small Cause Court/JMIC at Srinagar in Challan No.10012/2013 in the case title *State Vs. Mohammad Ashraf Khan @ Seharai* (as directed vide order dated 30.03.2024) was also tendered by the learned counsel for the UOI, which was taken on record.

54. On 22.5.2024, an Application No. TeH 01/2024 was filed on behalf of the UOI with prayers for (i) withdrawal of the affidavit dated 08.05.2024 filed earlier by PW-27 i.e. Shri Brijesh Kumar Sharma, Under Secretary, Ministry of Home Affairs and (ii) to file a fresh affidavit in lieu of the said affidavit of Shri Rajesh Kumar Gupta, Director (Counter Terrorism), Ministry of Home Affairs dated 22.5.2024.

55. On consideration of the averments made in the application and the submission of learned Additional Solicitor General, the application was allowed and the affidavit filed by Shri Rajesh Kumar Gupta, Director (Counter Terrorism), Ministry of Home Affairs (PW-28) dated 22.5.2024 was taken on record. Thereafter, statement of PW-28, Shri Rajesh Kumar Gupta, was recorded separately which is kept on record in [Part-IV B, Vol. VII at Pages 1759 to 1813]. Learned Additional Solicitor General was heard in part and for remaining arguments, the matter was posted for 24.5.2024.

56. On 24.5.2024 the matter was renotified for 28.5.2024.



57. On 28.05.2024 the learned counsel for the UOI was heard at some length. The arguments stood concluded and the order was reserved.

**VI. NON-APPEARANCE / NO REPLY ON BEHALF OF THE ASSOCIATION IN THESE PROCEEDINGS**

58. Despite service of notice upon TeH, the concerned association, has not entered appearance to contest the notification under Section 3(1) of the UAPA. Despite opportunities afforded, no reply has been filed on behalf of the concerned association, as contemplated under Section 4(2) of the Act. This Tribunal has also not received any intimation from any interested party seeking to depose before this Tribunal.

59. Ample opportunity has been afforded by this Tribunal to the concerned association/ its office bearers to appear before this Tribunal and give their written version/ adduce evidence, in opposition to the factual version of the Central Government as regards the activities of the concerned association. Apart from effecting service on the association and its office bearers in the manner aforesaid, this Tribunal even held public hearing/s in Jammu and Srinagar to enable members of the concerned association and/ or member of the public, to participate in the proceedings of the Tribunal. However, the said opportunity was not availed of by the association or any of its office bearers.

60. This Tribunal is conscious that despite non-appearance of the concerned organization, this Tribunal is required to make an “objective determination” as mandated in the judgment of the Supreme Court in *Jamaat-e-Islami Hind* (supra). The credibility of the material/evidence placed on record by the Central Government is required to be tested; the Supreme Court has cautioned that the procedure to be adopted must achieve this purpose and must not be reduced to mere acceptance of the “ipse dixit of the Central Government”.

61. Thus, notwithstanding the non-appearance on behalf of the concerned association, this Tribunal is required to independently assess the credibility of the material / evidence placed on record by the Central Government, and on that basis, come to a conclusion as to whether or not there is sufficient cause for declaring the association unlawful.

**VII. EVIDENCE ADDUCED BEFORE THE TRIBUNAL**

62. **Juned Wali (PW-1)** tendered his affidavit as Ex.PW-1/A and deposed that he is posted as a Sub-Divisional Police Officer, M.R. Gunj, Srinagar and is the Supervisory officer of the FIR Nos. 91/2001, 134/2004, 70/2007 and 106/2009. He deposed that FIR No.91/2001 was registered U/s 13 of UAPA and Section 7/25 of Arms Act at PS Safakadal on 21.05.2001, when, on the pretext of the encounter of the members of Hizbul Mujahideen, i.e., Mohammad Ishaq Kuloo and Nisar Ahmad Shah, a large mob including some terrorists, carrying illegally acquired weapons assembled at the Shaheed Mazar Eidgah. He deposed that in the mob, Nazir Ahmad Cobra, Tariq Ahmad and two other masked terrorists were also present. He further deposed that prominent leaders of Hurriyat Conference, namely Bashir Ahmad Bhat @ Bashir Ahmad Tota and Mohammad Ashraf Khan @ Sehrai were also present and delivered hate speeches and raised slogans in favour of Pakistan and against India; as also addressed the public gathering and raised anti national slogans. These acts were done to disturb the peace in the region of Jammu and Kashmir and these acts were overtly against the sovereignty of the country. He deposed that statement of the witnesses was recorded U/s 161 Cr.P.C. and the Charge Sheet in the case was duly filed in the jurisdictional court and the concerned trial court acquitted the accused, judgement of which was filed vide an additional affidavit on 18.05.2024. He deposed that the trial in the matter was adversely affected on account of the fact that the concerned witnesses did not appear for deposing before the concerned court despite various attempts in this regard.

63. He deposed that FIR no.134/2004 was registered on 28.09.2004 at PS Safakadal U/s 13 of UAPA when Azam Inquilabi led by Syed Ali Shah Geelani welcomed Sheikh Abdul Aziz (veteran separatist leader) for joining APHC(G) claiming Chairman of APHC(G) would become stronger by his participation and also claimed that the time had come where everyone who wishes to resolve the long standing dispute of Kashmir should come together to emerge out as a single voice of Kashmiri People and to pressurise the Government in New Delhi and the State Government of J&K to release the detainees who are in jail for years. These instigating and provocative statements against the sovereignty of India are further found in another press clipping containing a statement issued by APHC(G) stating that Syed Ali Shah Geelani paid tribute to slain Javed Ahmad Sheikh of Kani Mazar Safakadal who was killed illegally by the troops. He deposed that statement of witnesses was recorded U/s 161 Cr.P.C. and a chargesheet was also filed in the concerned jurisdictional court, but ultimately the concerned charge-sheet stood abated on account of the demise of accused Syed Ali Shah Geelani.

64. He deposed that FIR No.70/2007 was registered on 22.04.2007 U/s 13/18 of UAPA at PS Safakadal when leaders and members of the Hurriyat Conference including Mohammad Ashraf Khan @ Sehrai and Gh. Nabi Sumji welcomed Hurriyat (G) Chairman Syed Ali Shah Geelani and addressed a huge unlawful public gathering and delivered hate speech and raised anti-India slogans, targeting the sovereignty and integrity of the nation and they further provoked the mob to raise slogans against the Constitution of India. The other Hurriyat leaders, namely, Masarat Alam Bhat, Firdous Ahmad Shah, Mohammad Shafi Lone, Mehraj-u-Din, Yaseen Athie, Showkat Ahmad Hakeem, Aijaz Ahmad Kala, Mehraj-u-din Bangroo and Mohammad Shafi Reshi, who were also present there, led the unlawful procession and asserted that “the accession with India is temporary and the occupation is forceful and that

they will fight for liberty from the clutches of India”. Further, they provoked the mob to participate in terrorists activities and raised slogans in favour of Pakistan and against India., i.e, “JIO JIO PAKISTAN”, “PAKISTAN SAY RISHTA KYA LA-ILLA HA ILLAILLA, etc”. He deposed that statement of various eye witnesses were recorded U/s 161 & 164/164-A Cr.P.C. and the charge-sheet in the matter is in the process of being filed in the concerned Court.

65. He deposed that FIR No.106/2009 was registered on 11.12.2009 U/s 307/148/149/427/188 of RPC at PS MR Gunj when pursuance to the strike call given by Chairman Hurriyat Conference (G), Section 144, Cr.P.C. was put in place by the District Magistrate, Srinagar and in the presence of the DM and In-charge of PP Urdu Bazar and State Police/CRPF personnel, a group of Hurriyat Conference affiliated with Hurriyat (G) headed by Syed Ali Shah Geelani, Firdous Ahmad Shah, Peer Saifullah, Nisar Ahmad Rather, Mohd. Shafi Lone, etc. gathered and started chanting slogans for freedom of Kashmir and pelted stones at the Police and CRPF personnel present there which caused bodily injuries to the said Police/CRPF personnel and damaged the private and Government vehicles. A few of the accused persons were arrested on the spot, namely Peer Mohd Ishaq, Hilal Ahmad Bhat, Asif Ganie, Arshid Majeed Sofi Abid Showkat Mir, Irshad Hussain Bhat and Mudasir Tali. He deposed that statement of witnesses were recorded U/s 161 Cr.P.C. and seizure memo of few articles namely stones, bricks and glasses was prepared.

66. He has relied upon the certified true copies of FIR Nos. 91/2001, 134/2004, 70/2007 and 106/2009 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as EX. PW1/1A to PW1/17A in the present proceedings.

67. He deposed that sufficient material has been brought on record which manifests that Tehreek and leaders and members of the said organization who also had support from the cross border have been actively and continuously supporting the separatist and banned organizations, and have been openly advocating and inciting the people to bring about secession of Jammu and Kahmir from the Union of India. Further, the activities of Tehreek is aimed at causing disaffection, disloyalty and dis-honestly and disharmony by promoting feelings of enmity and hatred against the lawful government and the members of Tehreek are indulging and acting in a manner which is prejudicial to the territorial integrity and sovereignty of the Union of India and it is necessary to ban the said organization.

68. Opportunity for cross-examination was given, but not availed of in view of non-appearance on the part of the association.

#### **PW-2**

69. **Majad Mehboob (PW-2)** tendered his affidavit as **Ex.PW-2/A** and deposed that he is working as a Sub-Divisional Police Officer, West Srinagar and is the Supervisory officer of the FIR No. 161/2010, which was registered at PS Parimpora U/s 147/148/149/336/427/353/332/307/395/ 435/511/120B of RPC on 30.06.2010 when during patrolling by police party different groups of miscreants headed by Bashir Ahmad Sheikh accompanied by other leaders/members, namely, Javaid Ahmad Wagay, Hilal Ahmed, Bitta Bhat, Shabir Ahmed Dar, Zahid Ahmed Sheikh alias (Gunda), Sajad Ahmed Bhat, Zuber Sheikh, Abdul Majeed Dar, Showkat Ahmed Lone, Zaheen Lone, Parvaiz Ahmed Dar, Mohd Ramzan, Noor Mohd Sheikh surrounded the in-charge and the police party with the criminal intention to murder them and started pelting stones and beating them with sticks and dragged them out from the departmental vehicle. Their uniforms were torn and the vehicle was damaged. He deposed that the police tried to fire the tear gas shells, but the unlawful crowd snatched the tear gas gun and further proceeded to break the diesel tank of the departmental vehicle and tried to set it ablaze. He deposed that Bashir Ahmad Sheikh is a prominent member of the proscribed organization, i.e., Tahreek-e-Hurriyat (TeH). He deposed that statement of eye witnesses and victims/injured witnesses were recorded U/s 161 Cr.P.C.; Charge-sheet was filed; disclosure memo and seizure memo were prepared. He further deposed that the trial in the matter stands concluded and the judgment is pending and he will place on record the judgment before this Tribunal as and when the judgment is pronounced by the concerned trial court.

70. He has relied upon the certified true copy of FIR No.161/2009 along with its English version of the translated copy as also the statements recorded in the aforesaid case which have been exhibited as EX. PW-2/1A to PW-2/8A in the present proceedings.

71. He deposed that he is in police service since the year 2013 and during this period he was posted in various parts of the Kashmir Valley where Tehreek, its founder Syed Ali Shah Geelani and other leaders including the current chariman had dominance for more than three decades. He deposed that during his service, he has come across incidents, reports, FIRs and cases including the above stated cases, facts of which show that Tehreek and leaders of the said organization were indulged in anti-national activities and were working for secession of the State of Jammu and Kashmir from the Union of India and cession of the Consitution of India and that the ban imposed upon the said organization by the Central Government is appropriate and needs to be upheld in the national interest as well as in the interest of general public of the Union Territory of Jammu and Kashmir.

72. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-3**

73. **Ashaq Hussain Dar (PW-3)** tendered his affidavit as **Ex.PW-3/A** and deposed that he is posted as a Sub-Divisional Police Officer, Zakura, Srinagar and is the Supervisory officer of the FIR Nos. 117/2009 and 68/2008. He deposed that FIR No. 117/2009 was registered at PS Nigeen U/s 341/427/447A RPC on the basis of a written complaint received from the Registrar, Kashmir University at PS Nageen, which disclosed that on 11.11.2009 prominent separatist leader Syed Ali Shah Geelani, chairman of the proscribed organisation along with the supporters arrived at the Sir Syed Gate of the Kashmir University and despite being denied entry by the authorities and the security officials present, forcefully entered into the University premises along with his supporters in the form of a procession, and went to the Mosque of the University for offering prayers. It was further noted in the complaint that after offering prayers, in the garb of donating his books to the Library, led the procession to the Library and in between, jumped atop a car and delivered a speech for around one hour which was in tune of his political ideology. The prominent aspect of the said political ideology is that Jammu and Kashmir is not an intergral part of India. As such, it is preached that Jammu and Kashmir is an “unfinished agenda of partition”. Further, the ideology preached by Syed Ali Shah Geelani encourages disrespect for the Constitution of India and the sovereignty and integrity of India. He deposed that statement of the witnesses were recorded U/s 161 Cr.P.C. and a Charge-sheet already stands filed in this case. He deposed that due to the death of Syed Ali Shah Geelani, an abated challan was filed before the concerned court and the case stands abated.

74. He deposed that FIR No. 68/2008 was registered at PS Nigeen U/s 147/332/336/427 of RPC 04.07.2008 when after culmination of the Friday prayers, an unruly mob led by Separatist leaders Shabir Ahmad Shah, Mohd. Ashraf Sehrai and Ab. Rasheed Hakeem started pelting stones at public property and when the Police tried to stop the said mob they started pelting stones upon the Police and other security forces as well. Mohd. Ashraf Khan @ Sehrai was inducted as the chairman of the proscribed organization after the death of Syed Ali Shah Geelani, Ex-chairperson of the proscribed organization. He deposed that statement of the witnesses were recorded U/s 161 Cr.P.C., who corroborated the above incident, and a charge-sheet was filed in the jurisdictional court on 17.12.2023.

75. He has relied upon the certified true copies of FIR Nos. 117/2009 and 68/2008 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as Ex. PW-3/1A to PW-3/9A.

76. He deposed that he is in police service since the year 2014 and during this period he was posted in various parts of the Kashmir Valley where Tehreek, its founder Syed Ali Shah Geelani and other leaders including the current chairman had dominance for more than three decades and further that during his service, he has come across various incidents, reports, FIRs and cases including the above stated cases, facts of which show that Tehreek and leaders of the said organisation were indulged in anti-national activities and were working for secession of the Union Territory of Jammu and Kashmir from the Union of India and cession of the Constitution of India. He lastly deposed that the ban imposed upon the said organisation by the Central Government is appropriate and needs to be upheld in national interest as well as in the interest of general public of the Union Territory of Jammu & Kashmir.

77. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-4**

78. **Sarfraz Bashir (PW-4)** tendered his affidavit as **Ex.PW-4/A** and deposed that he is posted as Sub-Divisional Police Officer, Sopore, Kashmir and is the Supervisory Officer of FIR Nos. 460/1989 and 110/1990. He deposed that he is in police service since the year 2012. On the basis of his experience as a police officer in the State of Jammu and Kashmir, and on the basis of the various FIRs and the cases registered against Tehreek-E-Hurriyat, he deposed that the said organization is a secessionist organization, involved in disruption of law and order in the State of Jammu and Kashmir. He deposed that Syed Ali Shah Geelani, who formed the organization, has been its prominent face and remained its Chairman from 2004 till July, 2018. Later on, he was succeeded by Mohammad Ashraf Khan @ Sehrai who, in turn, was succeeded by Amir Hamza Shah, who is continuing as Chairman till date. He is currently lodged at Central Jail, Baramullah. The Organization has been advocating secession of Jammu and Kashmir from the Union of India at the instance of ISI, Pakistan and has been showing disrespect towards the Constitutional set up of the country. It has been brainwashing the local Muslim youth. Resultantly, various FIRs have been registered against Tehreek-E-Hurriyat and its leaders.

79. He deposed that FIR No.460/1989 was registered on 27.12.1989 U/s 13 of the ULAP Act and Section 10 of J&K Criminal Law Amendment Act at PS Sopore as some objectionable speeches were delivered by Qazi Nisar Ahmad at Anantnag on 08.10.1989 and by Syed Ali Shah Geelani at Jama Masjid, Sopore on 15.10.1989, relevant extracts of which were to the following effect “.... *Every powerful nation makes slaves to other weak nation and the chain of slavery had been put in the neck of the majority community of Jammu & Kashmir. We have seen that how we can get rid of this slavery. Jamati Islami is asking from last forty years that Kashmir is controversial issue and should be resolved within United Nations Organization. We should have to move forward towards the Independence. Till we get independence from the Indian Empire, we will not see the supremacy and glory of Islam.*” He deposed that statement of witness(s) were recorded under Section 161 Cr.P.C. and the charge-sheet in the above case was filed in the jurisdictional court.

80. He deposed that FIR No.110/1990 was registered on 20.03.1990 at PS Sopore U/s 2/13 ULAP Act and Section 4 of TADA when Syed Ali Shah Geelani delivered a provocative speech at Degree College, Sopore and that speech was to the effect that “freedom from India is not possible until the people are ready for sacrifice of their lives”. It was also mentioned that the situation of the J&K state is known to everyone and the State is under clutches of “cruelty and family rule since 1947 and is facing cruelty of India from last forty years”. It was also stated that “the people of J&K have to fight against this with great motivation”. He deposed that statements of witnesses were recorded under Section 161 of Cr.P.C., and a chargesheet was also filed in the concerned jurisdictional court.

81. He further deposed that his statement is based upon a perusal of the record of the investigation of the aforesaid FIR Nos. 460/1989 and 110/1990 as also based on the knowledge derived by him during the discharge of his official duties and on the basis of the records maintained in his district.

82. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-5**

83. **Mohammad Aftab (PW-5)** tendered his affidavit as **Ex.PW-5/A** and deposed that he is posted as Sub-Divisional Police Officer, Magam, Kashmir and is the Supervisory officer of FIR Nos. 230/1989, 32/1990 and 36/2015. He deposed that he is in police service since the year 2011 and has been posted in various parts of the Kashmir Valley where Tehreek, its founder Syed Ali Shah Geelani and other leaders, including the current chairman, had dominance for more than three decades. He deposed that on the basis of FIRs and the cases registered against Tehreek-E-Hurriyat, it is evident that Tehreek and its leaders were involved in the secessionist activities and most prominent face of Tehreek was Syed Ali Shah Geelani, who formed the organization and remained its Chairman from 2004 till July, 2018 and later on was succeeded by Mohammad Ashraf Khan @ Sehrai and thereafter by Amir Hamz Shah, who is continuing till date as its Chairman. The Organization has been advocating secession of Jammu and Kashmir from the Union of India at the instance of ISI, Pakistan and has shown disrespect towards the Constitutional set up of the country. It has also been brainwashing the local populace. Resultantly, various FIRs have been registered against Tehreek-E-Hurriyat and its leaders. It is borne out from the records of the present cases as well as from the cases registered against the members of the concerned organization that Syed Ali Shah Geelani, Mohammad Ashraf Khan @ Sehrai and Amir Hamza Shah are the prime separatist leaders of Jammu & Kashmir and that the concerned association has been part of the known conglomerate “Hurriyat Conference”.

84. He further deposed that Mohd. Ashraf Khan @ Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi i.e. Azadi and Ittehad (wherein word Azadi meant Rule of Islam in Jammu and Kashmir) and hence the sole object of the organization was secession of the State of Jammu and Kashmir from the Union of India and for the said purpose, the organization and its leaders have used unlawful activities.

85. He deposed that FIR No. 230/1989 was registered at PS Beerwah U/s 153A of RPC, 2/13 of UAPA and Section 4(11) on 25.08.1989 when Syed Ali Shah Geelani addressed a congregation at Eidgah Beerwah and gave provocative speech to the general public stating that the matter of Kashmir is disputed and it is a fact that “our state has been divided into two separate divisions and as per the map of United Nations, the matter of Kashmir is disputed”. He further stated that the people have become victims of bullets etc., have been wrongly booked in different jails of the State. He exhorted that “disputed matter of J&K to be resolved”. The speech was strongly advocating secession of Jammu and Kashmir from the Union of India and targeted the sovereignty and territorial integrity of the country. He deposed that statement of witness(s) were recorded under section 161 Cr.P.C., and the chargesheet dated 24.11.2022 has been filed in the jurisdictional court. However, since the accused Syed Ali Shah Geelani has passed away before filing of the charge-sheet, the challan against him has been abated.

86. He deposed that FIR No. 32/1990 was registered on 10.03.1990 at PS Beerwah U/s 2/13 of ULAP Act and Section 4(11) of the TADA on 18.07.1989, when Syed Ali Shah Geelani associated with JeI, addressed a huge congregation at Village Ohangam and stated that “we have to break the chains of slavery and we should not fear of pelts, tear gas shells etc. and we should not run after Govt. jobs, freedom could only be achieved by martyrdom and without lying down precious lives, freedom could not be achieved. India has achieved freedom by sacrificing millions of people for the said cause, similarly Pakistan also emerged as a nation by sacrificing lacks of people, Bangladesh also came into existence, in a similar way freedom fight of Afghanistan fought with Russia and forced them to leave Afghanistan. He further instigated the people “to uproot the so-called socialism of India and to fight for the cause of Islamic Settlement and also instigated the people to provide all support to terrorists who picked the guns for this cause and that we shall make ready our youth for this cause and that we have not accepted the socialism and democracy of India and would fight till our last breath for freedom against Indian Government”. He deposed that the statement of witness(s) were recorded under Section 161 Cr.P.C., who have corroborated the above incident, and later on, after investigation, Section 153A of RPC was also added and the offence punishable u/s 4(11) of the J&K Criminal Law Amendment Act were deleted. The charge-sheet dated 22.12.2022 in the case has been filed in the jurisdictional court. However, the accused Syed Ali Shah Geelani has passed away after filing of the charge-sheet, hence the challan against him has abated.

87. He deposed that FIR No.36/2015 was registered on 20.04.2015 at PS Magam U/s 147/148/336/341 of RPC and U/s 13 of the ULA(P) Act when the Chairman of Hurriyat (G) Syed Ali Shah Geelani, Farooq Ahmad Rather, Hurriyat (U) Chairman Umer Farooq, Nayeem Khan and JKLF Chairman Yaseen Malik came to Narbal to offer condolence to the family of deceased Suhail Ahmad and addressed a huge crowd of people there and raised separatist, pro-Pakistan and anti-India slogans and provoked sentiments of hate and violence against nation amongst the crowd due to which, after conclusion of the address, the crowd got instigated and pelted stones on the police officials and have also stopped the normal flow of traffic on Gulmarg Road. The statement of the witness(s) were recorded under Section 161 Cr.P.C. and the charge-sheet dated 03.11.2022 in the case has been filed in the jurisdictional court.

88. He further deposed that the statement in his affidavit is based upon a perusal of the record of the investigation of the aforesaid FIR Nos. 230/1989, 32/1990 and 36/2015 as also based on the knowledge derived by him during the course of discharge of his official duties as a police officer since 2011 as also on the basis of the records maintained in his district. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

89. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-6**

90. **Shafat Mohammad Najar (PW-6)** tendered his affidavit as **Ex.PW- 6/A** and deposed that he is posted as Sub-Divisional Police Officer, Bandipora, Kashmir and is the Supervisory officer of the case FIR Nos. 220/2009, 245/2009 and 41/2015. He deposed that based on the records of the investigation of these FIRs and based on his experience as a police officer in the State of Jammu and Kashmir since the last 13 years, he can say that Tehreek and its leaders have been involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani, who formed the organization and remained its Chairman from 2004 till July, 2018 succeeded by Mohammad Ashraf Khan @ Sehrai and later on Ameer Hamza Shah became and is still continuing as its Chairman. The prominent separatist leaders along with leaders of Tehreek are violent and influential and are spearheading anti-India agenda at the instance of ISI, Pakistan; continuously advocating secession of J&K from the Union of India; showing disrespect towards the Constitution of India and the Constitutional authorities and inciting and brainwashing the local Muslim Community and its youth to bring about secession of J&K from Union of India. Mohammed Ashraf Khan @ Sehrai declared that Tehreek is formed on the ideas of Moulana Moudoodi, i.e., Azadi and Ittehad (wherein word 'Azadi' means Rule of Islam in Jammu & Kashmir).

91. He deposed that FIR No. 220/2009 was registered at PS Bandipora U/s 13 of UAPA on 23.10.2009 on the basis of information received from police patrolling party that posters of Hurriyat Conference leader Syed Ali Shah Geelani were being pasted on electric poles and walls of shops. The said posters contained his photo and the provoking and instigating message that the Indian Army had "forcibly occupied Forty Seven Lakh Sixty One Thousand and One Hundred Forty Kanals of land", amongst other false statements. The posters were pasted by one Mohammad Ismail Mir S/o Gh Mohammad Mir R/o Watapora Bandipora, a militant who was believed to be an affiliate of Hurriyat-G Conference and he was accordingly apprehended by the police officers. He further deposed that statement of witnesses was recorded under Section 161, Cr.P.C.. However, the identity of the person who pasted the posters could not be established. Seizure Memo (Ex. PW-6/6A) was prepared. Even after diligent efforts, the concerned accused could not be traced and, hence, an untraced final report dated 25.01.2022 was filed in the jurisdictional court. He deposed that although this FIR has culminated in the said untraced final report dated 25.01.2022, yet it gives an insight into the ideology propagated by the concerned organization.

92. He deposed that FIR No.245/2009 was registered at PS Bandipora U/s 13 of UAPA on 04.12.2009 when observing the law and order duty, the police party witnessed that Syed Ali Shah Geelani and Bashir Ahmad Bhat @ Saifullah along with other associates came out of Jama Masjid (Jadeed), Bandipora and addressed a public gathering. They provoked and instigated the general public against the sovereignty and integrity of India and the said speech sought to create grief and anger in the hearts of the general public. After raising slogans, Syed Ali Shah Geelani and Bashir Ahmad Bhat @ Saifullah managed to escape from the spot by taking advantage of the huge gathering, rest of the accused persons were apprehended and arrested. He deposed that the statement of the witnesses were recorded under Section 161 and 164 Cr.P.C., and a chargesheet dated 26.02.2022 (Ex. PW-6/8A) stands filed in the jurisdictional court. Out of the six arrested accused persons, 5 accused, namely, Assadulla Parray, Mehraj ud din Nanda, Gh Hassan Shah, Ab Hamid Parray and Ab Majeed Gojari were granted bail by the jurisdictional court vide order dated 11.12.2009. He further deposed that the trial pursuant to the said FIR is ongoing and the next date of hearing before the concerned Court is 24.06.2024.

93. He further deposed that FIR No.41/2015 dated 20.03.2015 was registered at PS Bandipora U/s 19 of UAPA when separatist leader Ameer Hamza Shah along with Rayees Ahmad Mir appeared suddenly outside the Jama Masjid, Jadeed Bandipora and delivered anti-national speech amongst the large public gathering and instigated the public to protest against the country for the purpose of secession of the State of Jammu & Kashmir from India; their such actions were against the sovereignty and integrity of India. They managed to evade their arrests and fled from the

spot by taking shelter of the huge public gathering. He deposed that the statements of the witnesses were recorded under Section 161 Cr.P.C. and a chargesheet dated 25.01.2022 (Ex. PW-6/13A) was filed in the jurisdictional court. He deposed that during the course of investigation, Ameer Hamza Shah and Rayees Ahmad Mir were arrested and released on bail. Vide order dated 29.09.2021, the learned Trial Court discharged them citing insufficiency of evidence, against which order an appeal in the Hon'ble High Court has been filed. The judgment was reserved by the High Court and is awaited to be pronounced. He deposed that notwithstanding the fact that the accused was discharged by the trial court, the above case gives an insight into the ideology of the organization.

94. He further deposed that due to adverse situation created in the valley, people used to have fear in giving statements and co-operating with the investigation and that has always been a prominent cause which has hampered the conclusion of investigation against these organisations and their leaders. They also had sympathisers in the Government and departments which also prevented timely conclusion of the investigations and it is only after reorganisation of the State, that the investigations have substantially progressed and charge sheets have been filed.

95. He has relied upon the certified true copies of FIR Nos.220/2009, 245/2009 and 41/2015 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as Ex. PW-6/1A to PW-6/16A. He lastly deposed that the statements made by him in his affidavit are based upon a perusal of the record of the investigation of the aforesaid FIR Nos. 220/2009, 245/2009 and 41/2015 as also based on the knowledge derived by him during the course of discharge of his official duties as also on the basis of the records maintained in his district.

96. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-7**

97. **Gazanfur Syed (PW-7)** tendered his affidavit as **Ex.PW-7/A** and deposed that he is posted as Deputy Superintendent of Police, Kulgam, Kashmir and is the Supervisory officer of FIR Nos.223/2007 and 07/2018. He deposed that based on the record and on the basis of his experience as a police officer, Tehreek and its leaders were involved in secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani, who formed the organization and remained its Chairman from 2004 till July, 2018; succeeded by Mohammad Ashraf Khan @ Sehrai and later on Ameer Hamza Shah became and is still continuing as its Chairman. The prominent separatist leaders along with leaders of Tehreek are violent and influential and are spearheading anti-India agenda at the instance of ISI, Pakistan; continuously advocating secession of J&K from the Union of India; showing disrespect towards the Constitution of India and the Constitutional authorities and inciting and brainwashing the local Muslim Community and its youth to bring about cession of J&K from Union of India. Mohammad Ashraf Khan @ Sehrai declared that Tehreek is formed on the ideas of Moulana Moudoodi, i.e., Azadi and Ittehad (wherein word 'Azadi' means Rule of Islam in Jammu & Kashmir).

98. He deposed that FIR No.223/2007 was registered at PS Kulgam U/s 121/188/153-B of RPC and U/s 18 of UAPA on 16.09.2007 when Hurriyat (G) organized a procession in which about 1500 people had participated and Syed Ali Shah Geelani delivered a speech claiming that Jammu & Kashmir is not part of India and is temporarily affiliated with it and the terrorist activities carried out by the banned organizations were justified. Besides Geelani, Mohammad Ashraf Khan @ Sehrai and other separatist leaders also participated in the procession and raised anti-India slogans such as 'HM wali azadi, 'Lashkar Toiba wali Azadi', 'Badar wali azadi' and also supported Geelani's views. Although permission for procession was taken, yet they violated the terms of the permission and questioned the sovereignty of India and raised slogans supporting the secessionist movement and anti-national activities. Their slogans and speeches were designed to spread hatred among the general public against the Union of India and flared up the sentiments of general public against the established government.

99. He deposed that the statements of the witnesses were recorded under Section 161 Cr.P.C. He further deposed that any investigation against the separatist organizations and their leaders have always caused outcry and resulted in turmoil in the respective regions and the same has always been a prominent cause for delay of conclusion of investigation against these organizations and their leaders since the separatists were earlier enjoying staunch support both locally and from cross-border outfits. After reorganization of the State of Jammu and Kashmir, the situation has become conducive for conducting the investigations which has progressed satisfactorily. As such, in the present case, the investigation is at its final stages and, consequently, the charge sheet is also expected to be filed shortly.

100. He deposed that FIR No.07/2018 was registered at PS Kulgam U/s 13 of UAPA on 10.01.2018 when following the death of a terrorist i.e Farhan Ahmad Wani, a huge gathering assembled for his funeral prayers which was also attended by separatist leaders such as Bashir Ahmad Qureshi, Mohd. Hussain (JKLF) and Farooq Ahmad Shah (Geelani Group), wherein these leaders delivered anti-national speeches to the gathering and provoked them for indulging in militancy activities and incited the gathering to disrupt the sovereignty and integrity of the country. Syed Ali Shah Geelani also telephonically addressed the gathering and delivered a hateful speech designed to create disturbance and questioning the sovereignty of the country. He deposed that the statements of the witnesses were recorded under Section 161 Cr.P.C. and a charge sheet dated 19.04.2023 (Ex.PW-7/5A) against 5 accused persons,

namely, Farooq Ahmad Shah, Bashir Ahmad Quereshi, Syed Ali Shah Geelani (expired), Suhil Ahmad Dar and Owais Ahmad Lone stands filed in the jurisdictional court and the matter is pending before the concerned Court for framing of charges and the next date of hearing before the Trial Court is 20.06.2024.

101. He has relied upon the certified copies of FIR Nos.223/2007 and 07/2018 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as **Ex. PW-7/1A to PW-7/8A**. He deposed that the statements made by him in his affidavit are based upon a perusal of the record of the investigation of the aforesaid FIR Nos. 223/2007 and 07/2018 as also based on the knowledge derived by him during the course of discharge of his official duties as also on the basis of the records maintained in his district. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

102. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

### **PW-8**

103. **Owais Ahmad (PW-8)** tendered his affidavit as **Ex.PW-8/A** and deposed that he is posted as Deputy Superintendent of Police, Charar-i-Sharif, Budgam, Kashmir and is the Supervisory officer of the FIR Nos.207/2009, 80/2010 and 82/2010. He deposed that based on the record and on the basis of his experience as a police officer, it is evident that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani, who formed the organization and remained its Chairman from 2004 till July, 2018; succeeded by Mohammad Ashraf Khan @ Sehrai and later on Ameer Hamza Shah became and is still continuing as its Chairman. The prominent separatist leaders along with leaders of Tehreek are violent and influential and are spearheading anti-India agenda at the instance of ISI, Pakistan; continuously advocating secession of J&K from the Union of India; showing disrespect towards the Constitution of India and the Constitutional authorities and inciting and brainwashing the local Muslim Community and its youth to bring about cession of J&K from Union of India. Mohammad Ashraf Khan @ Sehrai declared that Tehreek is formed on the ideas of Moulana Moudoodi, i.e., Azadi and Ittehad (wherein word 'Azadi' means Rule of Islam in Jammu & Kashmir).

104. He deposed that FIR No.207/2009 was registered at PS Chadoora U/s 13 of UAPA on 20.11.2009 when several people had gathered for Friday Prayers at the Old Jamia Masjid, Sharief in Aram Mohalla Chadoora. At about 13.30 hrs, one person, Nayeem Ahmad Khan, leader of Hurriyat Conference (also chairman of JKNF), also a proscribed organization, entered the Masjid and raised slogans against the country and advised the people to continue their struggle of freedom and also supported the terrorists and provoked the people to end the "illegal occupation" of India. On the same date, Syed Ali Shah Geelani also gave a call for "Bandh" in Pulwama District which was followed by a speech by "Nayeem Ahmad Khan", in support of Pakistan. After the speech, he managed to escape from the location and could not be arrested. However, he is currently lodged in Tihar Jail in connection with some other case and Syed Ali Shah Geelani has expired, due to which case against him has abated. He deposed that the statements of the witnesses were recorded under Section 161 Cr.P.C. and a charge sheet (Ex. PW-8/2A) was filed in the jurisdictional court on 04.11.2022. Consequently, the charges were framed in the matter and two witnesses have been examined. The next date of hearing before the Trial Court is 07.05.2024.

105. He deposed that FIR No.80/2010 was registered at PS Chadoora, U/s 13 of UAPA on 21.05.2010 when the police patrolling team noticed at Sadar Bazar that Hurriyat Chairman Syed Ali Shah Geelani, along with other members, namely, Peer Saifullah, Imtiyaz Hyder, Tashooq Ahmad Banday, Farooq Gutpori and Ghulam Ahmad Dar @ Waseem Dar came in vehicles from Charar-i-Sharief towards Chadoora. Syed Ali Shah Geelani came down from his vehicle at Bazar Chadoora and delivered speech against India, and in support of Pakistan and their terrorists, and further advised the gathering to continue their freedom struggle till the end of "occupation" in India. Thereafter, he managed to escape with the help of crowd and could not be apprehended. He deposed that the statements of the witnesses were recorded under Section 161 Cr.P.C. and a chargesheet (Ex.PW-8/7A) stands filed in the jurisdictional court. Consequently, the matter is under trial and the next date of hearing before the Trial Court is 09.05.2024.

106. He deposed that FIR No.82/2010 was registered at PS Charar-i-Sharief, U/s 13 of UAPA and U/s 34/147 of RPC on 21.05.2010 when the police team on duty noticed that the separatist leaders led by Syed Ali Shah Geelani, after offering the Friday Prayers at Ziyarat Sharief (Charar-i-Sharief), delivered anti-national speech to the gathering outside Khankah. This gathering also included peer Saifullah, Imtiyaz Hyder, Tashooq Ahmad Banday, Farooq Gutpori and Ghulam Ahmad Dar @ Waseem Dar. They advised the gathering to continue the struggle for "freedom" till the end of "illegal occupation" of India. He deposed that the statements of the witnesses were recorded under Section 161 Cr.P.C. and a chargesheet dated 05.11.2022 (Ex. PW-8/12A) stands filed in the jurisdictional court and the case is currently at the stage of prosecution evidence/framing of charges and the next date of hearing before the Trial Court is 09.05.2024.

107. He has relied upon the certified true copies of FIR Nos.207/2009, 80/2010 and 82/2010 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited

as **Ex. PW-8/1A to PW-8/15A**. He deposed that the statement made by him in his affidavit are based upon a perusal of the record of the investigation of the aforesaid FIR Nos. 207/2009, 80/2010 and 82/2010 as also based on the knowledge derived by him during the course of discharge of his official duties as also on the basis of the records maintained in his district and the ban on the organization is justified and is necessary to prevent disruption of law and order.

108. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-9**

109. **B.B. Pathak (PW-9)** tendered his affidavit as **PW-9/A** and deposed that he is serving as Deputy Superintendent of Police in National Investigation Agency (NIA), New Delhi and is fully conversant with the facts of the case upon his knowledge derived from the relevant records of the case. He deposed that NIA, being India's Federal Counter Terrorism Investigation Agency, was directed by order No.11011/2017-IS-IV dated 30.05.2017 issued by the Ministry of Home Affairs (MHA), to register a regular case and take up the investigation as credible information was received by the Central Government that Hafiz Muhammad Saeed, Amir of Jammata-ud-Dawah and the secessionist and separatist leaders, including the members/cadres of the Hurriyat Conference, have been acting in connivance with the active militants of terrorist organizations, viz. Hizb-ul-Mujahideen (HM), Dukhtar-e-Millat, Lashkar-e-Taiba (LeT) and other terrorist organizations/associations for raising, receiving and collecting funds domestically and abroad through various illegal channels, including hawala, for funding separatist and terrorist activities in Jammu and Kashmir by way of pelting stones on the security forces, systematic burning of schools, damaging public property and waging war against India.

110. He deposed that the NIA registered a case being RC-10/2017/NIA/DLI U/s 120B,121,121A of the IPC and Sections 13,16,17,18,20,38,39 and 40 of the Unlawful Activities (Prevention) Act, 1996 (**Ex.PW-9/1**). The investigation into the case revealed that various terrorist organisations namely, Jammu and Kashmir Liberation Front (JKLF), Hizb-ul-Mujahideen (HM), LeT, in connivance with various secessionist groups, particularly the All Parties Hurriyat Conference (APHC/Hurriyat Conference) and its constituents, were funded by Pakistan and its agencies and terror groups entered into a criminal conspiracy to wage war against the Government of India. The Hurriyat leaders and the supporters were following the ideology of secessionism of Jammu and Kashmir from the Union of India. He deposed that he is the Chief Investigating Officer in respect of the said case since 15.12.2023. He had also personally participated in the searches that were conducted at the initial stage of the investigation, including search at the premises of accused no. A-8 (Raja Mehrajuddin Kalwal).

111. He deposed that the investigation revealed that APHC was formed as a conglomerate of 26 organizations in 1993 to give a political mask to the secessionist activities. This alliance has been consistently promoted and supported by Pakistan to fulfil its evil motives and establish its claim over Jammu and Kashmir. However, the real agenda of APHC was to create an atmosphere conducive to fulfil their goal, i.e., secession of Jammu and Kashmir from the Union of India. The investigation has further revealed that APHC through its constituents entered into criminal conspiracy with inimical elements and is engaged in instigating the gullible general public of Kashmir for taking part in violent activities to create a surcharged atmosphere in the Valley which is conducive for propagation of their secessionist agenda. The APHC has repeatedly asked people to observe strikes on irrelevant issues and instigated them to get involved in unlawful activities such as stone pelting, burning of public properties etc. The motive behind the disturbance caused by the frequent strikes and stone pelting incidents was to create circumstances designed to lead to secession of Jammu and Kashmir from Union of India. This agenda of Hurriyat was also reflected in its website "www.hurriyatconference.com", which speaks about freedom struggle and also states that the "People of Jammu and Kashmir have been fighting against Indian occupation".

112. He deposed that in the year 2008, the APHC split into three factions; one faction was headed by Mirwaiz and is called APHC (M), the other is led by Syed Ali Shah Geelani and is called APHC (G) and the third faction is led by Yasin Malik and is called JKLF. Accused A-4 to A-9 in the aforesaid NIA case are associated with APHC (G). The said accused are a part of Syed Ali Shah Geelani's Tehreek-e-Hurriyat. Syed Ali Shah Geelani, Mirwaiz Umer Farooq and Yasin Malik together form the Joint Resistance Leadership which espouses the cause of secession of Jammu & Kashmir from the Union of India.

113. He deposed that pursuant to the investigation carried out by the NIA, chargesheet dated 18.01.2018 was filed before the Hon'ble NIA Special Court, New Delhi against 12 accused persons, including two designated terrorists, based in Pakistan, namely, Hafiz Muhammad Saeed, who is the Head of banned terrorist organisation 'LeT', Mohd. Yusuf Shah @ Salahuddin, Head of banned terrorist organisation 'HM', as absconders. The said chargesheet also included other arrested accused persons, who are the leaders of APHC, viz., Aftab Ahmad Shah @ Shahid-ul-Islam, Altaf Ahmad Shah @ Fantoosh, Nayeem Ahmad Khan, Farooq Ahmad Dar @ Bitta Karate, Mohammad Akbar Khanday, including President of TeH, namely, Raja Mehrajuddin Kalwal, Secretary of TeH, namely, Bashir Ahmad Bhat @ Peer Saifullah, one accused Zahoor Ahmad Shah Watali, who were involved in providing funds for terrorists and secessionist activities and two accused who were involved in stone pelting in Kashmir Valley, under Sections 120B, 121, 121A & 124A of the Indian Penal Code and Sections 13, 16, 17, 18, 20, 38, 39 & 40 of the



Unlawful Activities (Prevention) Act, 1967. The case was further being investigated in terms of Section 173 (8) of Cr.PC.

114. He deposed that the aforesaid chargesheet takes note of the extent of secessionist and terrorist activities in Jammu and Kashmir as stated in Para 17.2.1 therein. Further, the charge sheet also refers to the role of Hurriyat and particularly accused A-8 (Raja Mehrajuddin Kalwal) and A-9 (Bashir Ahmad Bhat @ Peer Saifullah) in conspiracy/secessionist agenda; the contents of the charge sheet also show the magnitude of the secessionist and terrorist activities. In this regard, specific reference has been made to paras 17.2 and 17.3 of the said chargesheet. The facts stated therein show the hostile atmosphere which prevailed in the territory of Jammu and Kashmir.

115. He deposed that during the course of investigation, it was revealed that Raja Mehrajuddin Kalwal and Bashir Ahmad Bhat @ Peer Saifullah, members of TeH, along with other accused persons, played a key role in building the separatist/militant movement in Jammu and Kashmir and they were one of its chief architects. On 03.06.2017, several premises belonging to the separatists, the accused persons arraigned in the case, including Raja Mehrajuddin Kalwal, were searched in Jammu and Kashmir, and several incriminating documents were seized. I have myself participated in the searches conducted on 03.06.2017 in the house of accused Raja Mehrajuddin Kalwal, certain incriminating documents were seized, including the posters having contents as "Shaheedo Ka Khoon Bhulaya Nahi Jayega" and "Hum Kya Chahte-Aazadi" in Urdu language. Besides, document (General Membership Form) of Tehreek-e-Hurriyat (TeH), Jammu and Kashmir in Urdu language, showing the unlawful and secessionist activities by Tehreek-e-Hurriyat (TeH), were also seized.

116. He deposed that during investigation accused Raja Mehrajuddin Kalwal, s/o Late Mohd. Ameen Kalwal r/o Hamza Colony, Kenihama, Bagati Kanipora, P.S Nowgam, Srinagar and permanent address Kalwal Mohalla, Rainawari, Srinagar and accused Bashir Ahmad Bhat @ Peer Saifullah s/o Late Haji Mohammed Bhat r/o Dar Mohalla, Rawalpora, Srinagar, being a part of the conspiracy related to the secessionist and terrorist activities in Jammu and Kashmir, were arrested on 24.07.2017.

117. He deposed that the investigation established the nexus between TeH and Pakistan based proscribed terrorist organisation HM. Websites of Tehreek-e-Hurriyat, i.e., <http://thjk.org>, email [thkashmir@yahoo.com](mailto:thkashmir@yahoo.com), [admin@syedaligeelani.info](mailto:admin@syedaligeelani.info) were created on 27.08.2014 and is registered in the name of Ghulam Nabi Dar, Kashmir, web hosting address: 6-B knowledge Gazebo Commercial Market, Satellite Town City, Islamabad Postal Code: 46000 (Rawalpindi GPO, Punjab), Pakistan, Phone No. +1.03215520028, Email [zakirullah12@yahoo.co.in](mailto:zakirullah12@yahoo.co.in). This email ID was in contact with co-accused Altaf Ahmad Shah and Ayaz Akbar Khanday, who are the close associates of Raja Mehrajuddin Kalwal. Investigation has also established that website/domain of terrorist organisation HM, i.e., [hizbmedia.org](http://hizbmedia.org) was developed and designed by the same person Zakirullah with the same phone No. +1.03215520028. The website of HM was created on 20.04.2013 and the web hosting address is: NA#300A, New Malpora, Double Road RWP, City: Rawalpindi, Country: Pakistan.

118. He deposed that the Hurriyat leaders, viz., accused A-3 Shahid-ul-Islam, accused A-6 Farooq Ahmad Dar @ Bitta Karate, accused A-8 Raja Mehrajuddin Kalwal and accused A-9 Basir Ahmad Bhat @ Peer Saifulla were themselves members of various terrorist/militant organizations and had also received training in handling weapons in the training camps in PoK. Accused A-3 Shahid-ul-Islam was a member of Muslim Janbaaz Force and also Hizbullah, A-6 Farooq Ahmad Dar @ Bitta Karate was a member of Jammu Kashmir Liberation Front (JKLF), A-8 Raja Mehrajuddin Kalwal was a member of Jamaat-e-Islami and A-9 Bashir Ahmad Bhat @ Peer Saifulla was a member of Hizb-Ul-Mujahideen (HM).

119. He deposed that the above facts clearly show that the websites of TeH and terrorist organisation HM, are hosted from Pakistan and the same person developed, designed and administered both the websites, which clearly reflect the close linkages between TeH and HM. It is also clearly established that Pakistan extends all kinds of technical and logistical support for the secessionist and terrorist activities in the State of Jammu & Kashmir through organisations such as TeH.

120. He deposed that during investigation, several witnesses were examined and their statements have been recorded under section 161 and 164 of the Cr.PC; a perusal of which would reveal that the members and leaders of APHC, with the support of agencies of Pakistan as also Pakistan based terrorist organisations and secessionist groups and their alliance partners, have entered into a criminal conspiracy and adopted the strategy of instigating the local public to resort to violence and to create a surcharged atmosphere, which is conducive for the propagation of their secessionist agenda. People were repeatedly asked to observe strikes on various issues and then incited and instigated to be involved in unlawful activities such as stone pelting, attack on security forces, damaging public property, including burning of schools, arson, bank looting, organizing bandhs, forcible closure of roads and the government establishments etc. Members and leaders of APHC and its constituents, including TeH, have been found to be involved in the above mentioned unlawful activities. Statements of protected witnesses (i.e Alpha, Gamma, X-1 & X-10) in terms of Section 44 of the UAPA, have also been submitted in a sealed cover. He deposed that the statement of the said witnesses have been furnished in a sealed cover since the contents of the same are highly confidential and sensitive and it would be inimical to the public interest to disclose the same to any third party or to put the same in public domain.

121. He further deposed state that during investigation, the Facebook account of accused Bashir Ahmad Bhat @ Peer Saifullah, Secretary of TeH, was analyzed, which revealed that Bashir Ahmad Bhat used to share anti-national and secessionist posts on his Facebook profile to instigate his friends and followers to protest against the Indian security forces for secession of Kashmir from the Union of India. He had uploaded the photo of AFZAL GURU, the terrorist convicted in Parliament attack case, as his profile picture. He had shared SAS Geelani's statement on Facebook as "*Bharat apne saare dualat humare kadmu main dal de aur humare sadko per tarkoul key bajaye sona beecha deh.....jab bhi ek Shaheed kekhoon (blood) ki keemat nahi chukka sakta hai...Syed Ali Shah Geelani*". This clearly shows that SAS Geelani and other members of the APHC including Bashir Ahmad Bhat @ Peer Saifulla, were inciting anti-India sentiments among the masses through such inflammatory posts. Bashir Ahmad Bhat @ Peer Saifulla had also shared many anti-India slogans like "Go India Go back"; "We want freedom" etc., hence, arousing disaffection among the masses towards the Indian establishment to achieve their ultimate goal of securing secession of Jammu & Kashmir from India.

122. He further deposed that the charges have been framed against accused Raja Mehrajuddin Kalwal for the offences under sections 120B, 121, 121A of IPC and Section 13 UA(P) Act r/w 120B IPC, Section 15 UA(P) Act r/w 120B IPC, Section 17 UA(P) Act r/w 120B IPC Sections 18, 20 & 39 of UA(P) Act and against accused Bashir Ahmad Bhat @ Peer Saifullah u/s 120B, 121, 121A of IPC and Section 13 UA(P) Act r/w 120B IPC, Section 15 UA(P) Act r/w 120B IPC, Sections 17, 18 & 20 of UA(P) Act, on vide Court Order 16.03.2022. A copy of the Charge Order dated 16.03.2022 passed by the Ld. Special Judge, NIA, New Delhi is also enclosed along with his affidavit (**Ex.PW9/13**).

123. He deposed that accused Yasin Malik, head of JKLF, had pleaded guilty, following which he was convicted of all the charges levelled against him and was, thus sentenced with rigorous imprisonment for life and fine of Rs. 10 lakhs. The trial *qua* the other 11 co-accused persons is still underway and is pending adjudication and is now listed on 21.05.2024 and 24.05.2024 for examination of witnesses.

124. He deposed lastly that from the cogent and irrefutable evidence on record as filed before this Tribunal, it is clear that the TeH and its members have been actively and continuously encouraging a veiled armed insurgency at the behest and on instructions from Pakistan and POK based terrorist organizations and have been openly advocating and inciting the people to bring about a secession of the territory of Jammu and Kashmir from the territory of India; besides causing disaffection, disloyally and disharmony by promoting feelings of enmity and hatred against the lawful government and its members are indulging and acting in a manner prejudicial to the territorial integrity and sovereignty of India. As such, the decision of the Central Government to declare TeH as an unlawful association is just, proper and bona fide.

125. He has relied upon the certified true copies of FIR No. RC 10/2017/NIA/DLI (Exhibit PW9-2) and along with MHA order No.11011/2017-IS-IV (**Ex.PW9/1**); Seizure Memo dated 03.06.2017 (**Exhibit PW9/3**), Charge Sheet dated 18.01.2018 (**Ex. PW9/2**); copies of the posters along with English translation (**Ex.PW9/4**), General Membership Form of Tehreek-e-Hurriyat (TeH) along with its translation (**Ex.PW9/5**), arrest memos dated 24.07.2017 of Raja Mehrajuddin Kalwal and Bashir Ahmad Bhat @ Peer Saifulla (**Ex.PW9/6& PW9/7**), Copy of technical reports marked as D-187(**Ex. PW9/8**) and D-200 (**Ex.PW9/9**); statements of protected witness (in terms of Section 44 of UAPA) code as Alpha, Gamma, X-1 and X-10 (**Ex.PW9/10 colly**), Facebook posts of Bashir Ahmad Bhat @ Peer Saifullah, Secretary of the (**Ex.PW9/11**); Copy of the 2<sup>nd</sup> Supplementary Chargesheet dated 04.10.2019 (**Ex.PW9/12**), Charge Order dated 16.03.2022(**Ex.PW9/13**) passed by the Ld. Special Judge, NIA, New Delhi and true copy of order dated 25.05.2022 (**Ex.PW9/14**) convicting Yasin Malik as mentioned in my affidavit are also annexed with my affidavit.

126. He lastly deposed that the statement made by him herein above is based on the record of the investigation of the above case and also based on the knowledge derived by him during the course of Investigation done by himself. The investigation in the present case is ongoing and as such his knowledge is on the basis of the facts uncovered during the course of investigation.

127. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-10**

128. **Owaise Rashid (PW-10)** tendered his affidavit as **Ex.PW-10/A** and deposed that he is posted as Sub-Divisional Police Officer, Bijbehra, Anantnag and is the Supervisory Officer in respect of FIR No.158/2011, which was registered on 10.7.2011 U/s 13 of the UAPA and U/s 120-B RPC at PS Bijbehra when on a credible information received at PS Bijbehra that Syed Ali Shah Geelani and Mohammad Yousuf Makroo had gathered a huge crowd in village Arwani where they were delivering speeches in support of the separatist parties and against the nation. He deposed that statements of witness(s) were recorded under Section 161 Cr.P.C. During investigation a team of officers went to arrest accused SAS Geelani, but returned back since the accused was very ill and not in a condition to be taken along. However, other accused Mohammad Yousuf Makroo was arrested by the IO on 26.8.2020 and an arrest memo (**Ex. PW10/4A**) was prepared. The charge-sheet (**Exhibit PW-10/5A**) was filed in the jurisdictional court on 22.2.2021

and the trial is still pending. During the pendency of the trial, one of the accused SAS Geelani passed away and hence, trial has abated against him.

129. He relied upon the certified true copies of FIR Nos.158/2011 along with its English version of translated copies as also the statements recorded in the aforesaid case which have been exhibited as **Ex. PW-10/1A to PW-10/4A**. He deposed that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani who formed the organization and remained its chairman from 2004 till July 2018. After SAS Geelani, Ashraf Sehrai became its chairman and later succeeded by Amir Hamza Shah, who is continuing till date. These prominent separatist leaders working in Jammu & Kashmir along with other leaders of Tehreek are violent separatist leaders and have been advocating their anti-India secessionist agenda at the instance of ISI, Pakistan and prominent terrorist organization and also by following pro-Pakistan propaganda. Numerous FIRs have been registered against Tehreek and its leaders including its founder and erstwhile chairman Syed Ali Shah Geelani, Ashraf Sehrai and Amir Hamza Shah for the offences of rioting, unlawful activities, unlawful assemblies etc. and for offences punishable under special laws like UAPA etc. Tehreek has continuously advocated the secession of Jammu & Kashmir from the UOI and its members have shown sheer disrespect towards the constitutional authority and constitutional set up of the country and inciting and brainwashing the local Muslim community and youths of the said community to bring about such cession of constitutional authority of UOI and secession of Jammu & Kashmir from the UOI.

130. He further deposed that Ashraf Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi i.e. Azadi and Ittehad (wherein word 'Azadi' meant rule of Islam in Jammu & Kashmir) and hence the sole object of the organization was secession of the erstwhile State of Jammu & Kashmir from the UOI and for the said purpose the organization and its leaders have resorted to unlawful activities. He deposed that the investigations faced significant challenges due to volatile situation in the valley orchestrated by separatist leaders and their affiliated groups who received unwavering support from across the border and terrorist organizations. This climate of fear deterred individuals from coming forward to provide statements, hindering the progress of the investigations. It was only after the reorganization of the State that significant progress could be made in the investigations, leading to the filing of the charge-sheets.

131. He deposed that the the statement made by him in his affidavit is based upon a perusal of the record of the investigation of the aforesaid FIR No. 158/2011; based on the knowledge derived by him during the discharge of his official duties, as also on the basis of the records maintained in his district. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

132. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-11**

133. **Ajaj Ahmad (PW-11)** tendered his affidavit as **Ex.PW-11/A** and deposed that he is posted as a Deputy Superintendent of Police, Dooru, Anantnag since 08.01.2024 and is the Supervisory Officer FIR No. 66/2011, which was registered on 20.7.2011 U/s 147/148/336/332/307/152 of RPC and U/s 13 of the UAPA at PS Dooru on the basis of a written docket received from SHO PS Dooru that while they were on patrolling duty at Verinag, he saw SAS Geelani standing on a load carrier bearing No.JK-03 B-9356 and delivering speech to a gathering by using loud speaker. In his speech he provoked the gathering against the sovereignty and integrity of India due to which the mob got violent and started pelting stones on the police officials present there. He deposed that statement of witness(s) were recorded under Section 161/164 Cr.P.C., incriminating material such as loud speaker and vehicles used in the offence were seized by the IO and a seizure memo dated 20.07.2011 (Ex.PW11/4A) was prepared and ultimately the chargesheet (Exhibit PW-11/5A) in the above case was filed in the jurisdictional court and the trial is still pending.

134. He deposed that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani who formed the organization and remained its chairman from 2004 till July 2018. After SAS Geelani, Ashraf Sehrai became its chairman and later succeeded by Amir Hamza Shah, who is continuing till date. These prominent separatist leaders working in Jammu & Kashmir along with other leaders of Tehreek are violent separatist leaders and have been advocating their anti-India secessionist agenda at the instance of ISI, Pakistan and prominent terrorist organization and also by following pro-Pakistan propaganda.

135. He deposed that numerous FIRs have been registered against Tehreek and its leaders including its founder and erstwhile chairman Syed Ali Shah Geelani, Ashraf Sehrai and Amir Hamza Shah for the offences of rioting, unlawful activities, unlawful assemblies etc. and for offences punishable under special laws like UAPA etc. Tehreek has continuously advocated the secession of Jammu & Kashmir from the UOI and its members have shown sheer disrespect towards the constitutional authority and constitutional set up of the country and inciting and brainwashing the local Muslim community and youths of the said community to bring about such cession of constitutional authority of UOI and secession of Jammu & Kashmir from the UOI. He deposed that Ashraf Sehrai declared that Tehreek is

formed on the ideals of Moulana Moudoodi i.e. Azadi and Ittehad (wherein word 'Azadi' meant rule of Islam in Jammu & Kashmir) and hence the sole object of the organization was secession of the erstwhile State of Jammu & Kashmir from the UOI and for the said purpose the organization and its leaders have used unlawful activities.

136. He has relied upon the certified true copy of FIR No.66/2011 along with its English version of translated copy as also the statement recorded in the aforesaid case which have been exhibited as **Ex. PW-11/1A to PW-11/5A**. He further deposed that the investigations faced significant challenges due to volatile situation in the valley orchestrated by separatist leaders and their affiliated groups who received unwavering support from across the border and terrorist organizations. This climate of fear deterred individuals from coming forward to provide statements, hindering the progress of the investigations. It was only after the reorganization of the State that significant progress could be made in the investigations, leading to the filing of chargesheets. He lastly deposed that the statement made by him in his affidavit is based upon a perusal of the record of the investigation of the aforesaid FIR No. 66/2011 as also based on the knowledge derived by him during the discharge of his official duties as also on the basis of the records maintained in his district and that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

137. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

### **PW-12**

138. **Mohd. Nawaz Khandey (PW-12)** tendered his affidavit as **Ex.PW-12/A** and deposed that he is posed as a Deputy Superintendent of Police Hqrs., Pulwama since 12.02.2024 and is the Supervisory Officer of FIR Nos. 71/2004, 109/2008 and 320/2009. He deposed that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani who formed the organization and remained its chairman from 2004 till July 2018. After SAS Geelani, Ashraf Sehrai became its chairman and later succeeded by Amir Hamza Shah, who is continuing till date. These prominent separatist leaders working in Jammu & Kashmir along with other leaders of Tehreek are violent separatist leaders and have been advocating their anti-India secessionist agenda at the instance of ISI, Pakistan and prominent terrorist organization and also by following pro-Pakistan propaganda. Numerous FIRs have been registered against Tehreek and its leaders including its founder and erstwhile chairman Syed Ali Shah Geelani, Ashraf Sehrai and Amir Hamza Shah for the offences of rioting, unlawful activities, unlawful assemblies etc. and for offences punishable under special laws like UAPA etc. Tehreek has continuously advocated the secession of Jammu & Kashmir from the UOI and its members have shown sheer disrespect towards the constitutional authority and constitutional set up of the country and inciting and brainwashing the local Muslim community and youths of the said community to bring about such cession of constitutional authority of UOI and secession of Jammu & Kashmir from the UOI.

139. He deposed that Ashraf Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi i.e. Azadi and Ittehad (wherein word 'Azadi' meant rule of Islam in Jammu & Kashmir) and hence the sole object of the organization was secession of the erstwhile State of Jammu & Kashmir from the UOI and for the said purpose the organization and its leaders have used unlawful activities.

140. He deposed that FIR No.71/2004 was registered on 05.3.2004 U/s 13 of the UAPA and U/s 132-B RPC at PS Pulwama on the basis of information received from reliable sources that Hurriyat Conference Chairman SAS Geelani has addressed a large gathering at Litter Pulwama near Jamia Masjid after conclusion of the Friday prayers therein. In his speech, he advised the gathering that "India has forcibly and illegally occupied Jammu and Kashmir and made their people slaves". It was also informed that he instigated the people to continue their "struggle for freedom from India" and incited them to boycott the upcoming parliamentary elections and not to cast their votes as it will not resolve the Kashmir issue. The said programme was organized on the invitation of Auqaf leader namely Ab Rehman Baqal, S/o Ali Mohammad Wani, R/o Litter, whose house SAS Geelani was seen to be visiting for lunch and tea. It was also disclosed from the information that SAS Geelani's speech was aimed at disintegrating Jammu and Kashmir from India thereby harming the sovereignty and integrity of the country. He further deposed that the statement of witness(s) were recorded under Section 161 Cr.P.C. and a chargesheet (Ex.PW12/5A) was filed in the jurisdictional court. However, subsequently SAS Geelani passed away and hence, an abated challan No.243 of 2021 was filed against him before the concerned court.

141. He deposed that FIR No.109/2008 was registered on 13.4.2008 U/s 13 of the UAPA and U/s 132-B of RPC at PS Pulwama when the In-charge Police Post Lassipora during patrolling noted that Hurriyat leader SAS Geelani had arrived at village Chakoora to offer funeral prayers for a terrorist namely Shabir Ahmad Bhat, S/o Mohammad Ismail Bhat, R/o Chakoora, who died during an encounter with Army and Special Operation Group (SOG) on 12.4.2008, and delivered provocative speech advising the people to boycott upcoming assembly elections and also incited the people by saying "we are determined to free Jammu and Kashmir from the possession of India till last breath". Hearing the said speech, the people turned violent and started raising slogans against the Government of India. He further deposed that the statement of witness(s) were recorded under Section 161 Cr.P.C. and a chargesheet (Ex.PW12/9A) was filed in the jurisdictional court. However, subsequently SAS Geelani passed away and hence, an abated challan No.242 of

2021 was filed against him before the concerned court. There are no other accused in the case.

142. He deposed that FIR No.320/2009 was registered on 19.11.2009 U/s 13 of the UAPA and U/s 153-A RPC at PS Pulwama on the basis of an information that Hurriyat affiliated persons namely (i) Bashir Ahmad Bhat @ Saif Ullah S/o Ali Mohammad Bhat R/o Zadoora (ii) Sana Ullah Mir S/o "Gh.Mohammad Mir R/o Nowpora Payeen (iii) Bashir Ahmad Dar S/o Mohammad Akbar Dar R/o Kangan were distributing posters in connection with the "Pulwama Chalo Call on 20.11.2009" at the behest of the Hurriyat chairman, SAS Geelani. The purport of the same was to instigate the local populace to show resistance to the local government and to propagate secessionism. At 19.30 hrs, the officials deployed at Pulwama witnessed that the aforesaid persons were affixing posters on the fencing wall of Shaheed Park situated at Rajpora Chowk. When the said officials proceeded towards the above-named persons, they managed to flee away. However, the posters affixed by them were removed and seized by the officials. The aim of the said persons was to instigate the public to participate in processions which could not only disturb the law and order situation in Pulwama and other parts of Kashmir but also cause harm to the sovereignty and integrity of India. He further deposed that the statement of witness(s) were recorded under Section 161 Cr.P.C., three posters of "Tehreek e Hurriyat Jammu and Kashmir" from the place of occurrence and were accordingly seized against Seizure Memo (Ex.PW-12/13A) and a chargesheet (Ex.PW12/14A) was prepared and filed in the jurisdictional court.

143. He has relied upon the certified true copies of FIR Nos. 71/2004, 109/2008 and 320/2009 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as **Ex. PW-12/1A to PW-12/13A**. He deposed that the investigations faced significant challenges due to volatile situation in the valley orchestrated by separatist leaders and their affiliated groups who received unwavering support from across the border and terrorist organizations. This climate of fear deterred individuals from coming forward to provide statements, hindering the progress of the investigations. It was only after the reorganization of the State that significant progress could be made in the investigations, leading to the filing of chargesheets. He further deposed that the statement made by him in his affidavit is based upon a perusal of the record of the investigation of the aforesaid FIR Nos. 71/2004, 109/2008 and 320/2009; based on the knowledge derived by him during the discharge of his official duties, as also on the basis of the records maintained in his district.

144. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

145. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

### **PW-13**

146. **Mr. Shabir Ahmad (PW-13)** tendered his affidavit as **Ex.PW-13/A** and deposed that he is posted as SHO, P.S. Pulwama, Kashmir since 15.02.2024 and is the Supervisory Officer of FIR Nos. 69/2010, which was registered on 19.2.2010 U/s 121, 153-A RPC and U/s 13 of the UAPA at PS Pulwama on the basis of an information received from reliable sources that some Hurriyat activists had come to Ratnipora to the residential house of a slain militant namely Javid Ah Hajam R/o Ratnipora who was killed in an encounter on 18.2.2010 at Shangerpora Pulwama. The Hurriyat activists namely (i) Saif Ullah R/o Zadoora and (ii) Tariq Ah R/o Beegumbagh had provoked the huge gathering who were assembled there and raised anti national slogans designed to attack the sovereignty and integrity of India. The nature of the anti-national slogans are referred to in the statement/s under Section 161 Cr.P.C. He deposed that statement of witness(s) were recorded under Section 161 Cr.P.C. and a chargesheet vide challan No.183 of 2003 (Ex.PW13/4A) was filed in the jurisdictional court. Charges have been framed by the concerned Court. The trial in the matter is pending.

147. He deposed that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani who formed the organization and remained its chairman from 2004 till July 2018. After SAS Geelani, Ashraf Sehrai became its chairman and later succeeded by Amir Hamza Shah, who is continuing till date. These prominent separatist leaders working in Jammu & Kashmir along with other leaders of Tehreek are violent separatist leaders and have been advocating their anti-India secessionist agenda at the instance of ISI, Pakistan and prominent terrorist organization and also by following pro-Pakistan propaganda. He deposed that numerous FIRs have been registered against Tehreek and its leaders including its founder and erstwhile chairman Syed Ali Shah Geelani, Ashraf Sehrai and Amir Hamza Shah for the offences of rioting, unlawful activities, unlawful assemblies etc. and for offences punishable under special laws like UAPA etc. Tehreek has continuously advocated the secession of Jammu & Kashmir from the UOI and its members have shown sheer disrespect towards the constitutional authority and constitutional set up of the country and inciting and brainwashing the local Muslim community and youths of the said community to bring about such cession of constitutional authority of UOI and secession of Jammu & Kashmir from the UOI.

148. He deposed that Ashraf Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi i.e. Azadi and Ittehad (wherein word 'Azadi' meant rule of Islam in Jammu & Kashmir) and hence the sole object of the

organization was secession of the erstwhile State of Jammu & Kashmir from the UOI and for the said purpose the organization and its leaders have used unlawful activities.

149. He has relied upon the certified copy of FIR No.69/2010, along with its English version of translated copy as also the statements recorded in the aforesaid case which have been exhibited as **Ex. PW-13/1A to PW-13/3A**.

150. He deposed that the investigations faced significant challenges due to volatile situation in the valley orchestrated by separatist leaders and their affiliated groups who received unwavering support from across the border and terrorist organizations. This climate of fear deterred individuals from coming forward to provide statements, hindering the progress of the investigations. It was only after the reorganization of the State that significant progress could be made in the investigations, leading to the filing of chargesheets.

151. He deposed that the statement made by him in his affidavit is based upon a perusal of the record of the investigation of the aforesaid FIR No. 69/2010; based on the knowledge derived by him during the discharge of his official duties, as also on the basis of the records maintained in his district. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

152. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-14**

153. **Mr. Javeed Ahmad (PW-14)** tendered his affidavit as **Ex.PW-14/A** and deposed that he is posted as Deputy Superintendent of Police Hqrs, Shopian, Kashmir and is the Supervisory Officer of FIR Nos. 394/2010 and FIR No.210/2010. He deposed that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani who formed the organization and remained its chairman from 2004 till July 2018. After SAS Geelani, Ashraf Sehrai became its chairman and later succeeded by Amir Hamza Shah, who is continuing till date. These prominent separatist leaders working in Jammu & Kashmir along with other leaders of Tehreek are violent separatist leaders and have been advocating their anti-India secessionist agenda at the instance of ISI, Pakistan and prominent terrorist organization and also by following pro-Pakistan propaganda. Numerous FIRs have been registered against Tehreek and its leaders including its founder and erstwhile chairman Syed Ali Shah Geelani, Ashraf Sehrai and Amir Hamza Shah for the offences of rioting, unlawful activities, unlawful assemblies etc. and for offences punishable under special laws like UAPA etc. Tehreek has continuously advocated the secession of Jammu & Kashmir from the UOI and its members have shown sheer disrespect towards the constitutional authority and constitutional set up of the country and inciting and brainwashing the local Muslim community and youths of the said community to bring about such cession of constitutional authority of UOI and secession of Jammu & Kashmir from the UOI.

154. He deposed that Ashraf Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi i.e. Azadi and Ittehad (wherein word 'Azadi' meant rule of Islam in Jammu & Kashmir) and hence the sole object of the organization was secession of the erstwhile State of Jammu & Kashmir from the UOI and for the said purpose the organization and its leaders have used unlawful activities.

155. He deposed that FIR No.210/2010 was registered on 14.5.2010 U/s 19 of UAPA and U/s 506 RPC at PS Shopian on the basis of a written docket received from I/C DSB Shopian disclosing that on the same date he along with Ct. Bilal Ahmad 501/SPN, Javaid Ahmad 454/SPN were performing duties at Golchakri Shopian where after Friday prayers a gathering led by 1. Mohd Yousuf Falaie, 2. Shakeel Ahmad, 3. Nisar Ahmad and 4. Parvaiz Ahmad were shouting slogans of "Azadi". Further Mohd Yousuf Falaie delivered his speech asking people to continue their "struggle for freedom" and threatened shopkeepers to close their shops on Friday and participate in procession otherwise face dire consequences. All the accused persons are members of the proscribed association. He deposed that statements of witness(s) were recorded under Section 161 Cr.P.C.. As per the statements of witnesses and evidences on record, a prima facie case under Section 506 of RPC, 13 of UAPA was made out against 1. Mohd. Yousuf Ganaie @ Falaie S/O Gh. Ahmad Ganaie R/O Moolu Chitragam 2. Shakeel Itoo S/O Gh. Nabi Itoo R/O Manihal 3. Nisar Ahmad Najar S/o Ab Gani Najar 4. Parvaiz Ahmad Bhat S/o Gh. Ahmad Bhar both residents of Sindoo Shirmal whereas Section 19 of UAPA was dropped. Accused persons were arrested in the case and are presently on bail. Subsequently, a chargesheet No.15/2014 (Ex. PW14/2A) was filed before the jurisdictional court. Charges have been framed by the Trial Court in the matter.

156. He deposed that FIR No.394/2010 was registered on 13.9.2010 U/s 148, 149, 332, 336, 427 of RPC at PS Shopian for an incident which took place on 13.9.2010 when the SHO along with his team and CRPF 14 BN team were performing law and order duties at Hospital Chowk Shopian and they noticed an unruly mob led by 1. Mohd Yousuf Ganaie, 2. Shakeel Itoo, 3. Bilal Ahmad Sheikh, 4. Mohd Rafiq Paul, 5. Parvaiz Ahmad Rather, 6. Imtiyaz Ahmad Shah, 7. Shahnawz Ahmad Dar, 8. Mohd Rafiq Bhat, 9. Mudasar Ahmad, 10. Amir Ahmad Dar, 11. Shahid Salam, pelting stones on P/S Shopian building and DSP Hqrs residential quarters. Due to such stone pelting, SHO and other personnel got injured and certain vehicles got damaged. The mob was dispersed by using tear gas shelling, pump

action gun and aerial firing. All the accused persons are members of the proscribed association. He deposed that statement of witness(s) were recorded under Section 161 Cr.P.C. Since a prima facie case was established against 13 accused persons based on credible evidences collected during the investigation, the accused persons 9 to 13 were arrested in the case and were on bail at the time of filing of the chargesheet No.167/2010 dated 04.11.2010 (Ex.PW14/7A), and accused persons 1 to 8 are absconding. A Seizure memo of the broken glasses at the site was also prepared.

157. He has relied upon the certified true copies of FIR No.210/2010 and FIR No.394/2010 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as **Ex. PW-14/1A to PW-14/10A**. He deposed that the investigations faced significant challenges due to volatile situation in the valley orchestrated by separatist leaders and their affiliated groups who received unwavering support from across the border and terrorist organizations. This climate of fear deterred individuals from coming forward to provide statements, hindering the progress of the investigations. It was only after the reorganization of the State that significant progress could be made in the investigations, leading to the filing of chargesheets.

158. He deposed that the statement made by him in his affidavit is based upon a perusal of the record of the investigation of the aforesaid FIR Nos. 394/2010 and FIR 210/2010 as also based on the knowledge derived by him during the discharge of his official duties as also on the basis of the records maintained in his district. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

159. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-15**

160. **Parvaiz Ahmad Bhat (PW-15)** tendered his affidavit as **PW-15/A** and deposed that he is posted as SHO, P.S. Mattan, Anantnag, Kashmir and has gone through the records of the case files of FIR Nos. 92/2015 (erroneously referred to as 92/2016 in para 1 of his affidavit), 66/2016 and 68/2016. He deposed that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani who formed the organization and remained its chairman from 2004 till July 2018. After SAS Geelani, Ashraf Sehrai became its chairman and later succeeded by Amir Hamza Shah, who is continuing till date. These prominent separatist leaders working in Jammu & Kashmir along with other leaders of Tehreek are violent separatist leaders and have been advocating their anti-India secessionist agenda at the instance of ISI, Pakistan and prominent terrorist organization and also by following pro-Pakistan propaganda. Numerous FIRs have been registered against Tehreek and its leaders including its founder and erstwhile chairman Syed Ali Shah Geelani, Ashraf Sehrai and Amir Hamza Shah for the offences of rioting, unlawful activities, unlawful assemblies etc. and for offences punishable under special laws like UAPA etc. They were part of the world known separatist conglomerate 'Hurriyat Conference'. Tehreek has continuously advocated the secession of Jammu & Kashmir from the UOI and its members have shown sheer disrespect towards the constitutional authority and constitutional set up of the country and inciting and brainwashing the local Muslim community and youths of the said community to bring about such cession of constitutional authority of UOI and secession of Jammu & Kashmir from the UOI.

161. He deposed that Ashraf Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi i.e. Azadi and Ittehad (wherein word 'Azadi' meant rule of Islam in Jammu & Kashmir) and hence the sole object of the organization was secession of the erstwhile State of Jammu & Kashmir from the UOI and for the said purpose the organization and its leaders have used unlawful activities.

162. He deposed that FIR No.92/2015 was registered on 04.09.2015 U/s 13 of the UAPA at PS Mattan upon a written complaint of Head Constable Javed Ahmed to the SHO, P.S. Mattan, who noticed during patrolling duties near Sheer Hamdan that after culmination of Friday prayers from Jamia Masjid Peer Hamdam, a violent mob of 100-110 people led by Hafizullah Mir [District President Hurriyat (G)], were raising slogans viz., 'we want freedom at any cost will achieve freedom' 'Indian Army Go Back' 'Your brother – My brother – Our brother Burhan Brother Birhan Brother' etc. and were also instigating the youth against the government and against the integrity of the country thereby encouraging the secessionist movement. The nature of the anti-national slogans are referred to in the statement/s under Section 161 Cr.P.C. He deposed that the statement of witness(s) were recorded under Section 161 Cr.P.C. and a chargesheet vide challan No.34 of 2023 (Ex.PW15/4A) was filed in the jurisdictional court on 08.06.2023. The trial in the matter is pending.

163. He further deposed that FIR No.66/2016 was registered on 18.08.2016 U/s 13 of the UAPA at PS Mattan upon a written complaint of HC Parvaiz Ahmad that while performing patrolling duties near Sheer Hamdan, he noticed that a violent mob of 800-900 people led by Altaf Ahmad @ Nadvi Mubashir Veer (JK Bank employee), Ruiyaz Mir, Hafizullah Mir [Hurriyat (G) members] were raising slogans viz 'We want freedom at any cost will achieve freedom' 'Indian Army Go Back' etc. and were also instigating the youth against the government and against the integrity of the country thereby encouraging secessionist movement. The nature of the anti-national slogans are

referred to in the statement/s under Section 161 Cr.P.C. He deposed that the statement of witness(s) were recorded under Section 161 Cr.P.C. and a charge-sheet (Ex.PW15/8A) was filed in the jurisdictional court.

164. He further deposed that FIR No.68/2016 was registered on 25.08.2016 U/s 13 of the UAPA at PS Mattan when upon performing law and order duty near Kehribalwhen, the SHO PS Mattan noticed that a violent mob of 1000-1500 people led by Hafizullah Mir, Mushtaq Ahmad Bhat (Veeri), Mohd. Shafi Wagay, Farooq Ahmad Khan @ Engineer [Hurriyat (G) members) were raising slogans viz. 'We want freedom at any cost will achieve freedom' 'Indian Army Go Back' etc. and were also instigating the youth against the government and against the integrity of the country thereby encouraging secessionist movement. The nature of the anti-national slogans are referred to in the statement/s under Section 161 Cr.P.C. He deposed that the statement of the witness(s) were recorded under Section 161 Cr.P.C. After thorough investigation and based on the statement and material collected, charge U/s 13 UAPA was modified and a chargesheet (Ex.PW15/12A) was filed in the jurisdictional court on 06.06.2023 vide challan No.33 of 2023 against the accused persons U/s 147/153 RPC.

165. He has relied upon the certified true copies of FIR Nos.92/2015, 66/2016 and 68/2016 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as **Ex. PW-15/1A to PW-15/12A**. He deposed that the investigations faced significant challenges due to volatile situation in the valley orchestrated by separatist leaders and their affiliated groups who received unwavering support from across the border and terrorist organizations. This climate of fear deterred individuals from coming forward to provide statements, hindering the progress of the investigations. It was only after the reorganization of the State that significant progress could be made in the investigations, leading to the filing of chargesheets. The statement made by him in his affidavit is based upon a perusal of the record of the investigation of the aforesaid FIR Nos.92/2015, 66/2016 and 68/2016; based on the knowledge derived by him during the discharge of his official duties, as also on the basis of the records maintained in my district.

166. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

167. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-16**

168. **Mohd. Ajab Khan (PW-16)** tendered his affidavit as **Ex.PW-16/A** and deposed that he is working as investigating officer in PS Shopian, Kashmir and has gone through the records of the case files of FIR Nos. 174/2010 and 80/2008. He deposed that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani who formed the organization and remained its chairman from 2004 till July 2018. After SAS Geelani, Ashraf Sehrai became its chairman and later succeeded by Amir Hamza Shah, who is continuing till date. These prominent separatist leaders working in Jammu & Kashmir along with other leaders of Tehreek are violent separatist leaders and have been advocating their anti-India secessionist agenda at the instance of ISI, Pakistan and prominent terrorist organization and also by following pro-Pakistan propaganda. Numerous FIRs have been registered against Tehreek and its leaders including its founder and erstwhile chairman Syed Ali Shah Geelani, Ashraf Sehrai and Amir Hamza Shah for the offences of rioting, unlawful activities, unlawful assemblies etc. and for offences punishable under special laws like UAPA etc. They were part of the world known separatist conglomerate 'Hurriyat Conference'. Tehreek has continuously advocated the secession of Jammu & Kashmir from the UOI and its members have shown sheer disrespect towards the constitutional authority and constitutional set up of the country and inciting and brainwashing the local Muslim community and youths of the said community to bring about such cession of constitutional authority of UOI and secession of Jammu & Kashmir from the UOI.

169. He deposed that Ashraf Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi i.e. Azadi and Ittehad (wherein word 'Azadi' meant rule of Islam in Jammu & Kashmir) and hence the sole object of the organization was secession of the erstwhile State of Jammu & Kashmir from the UOI and for the said purpose the organization and its leaders have used unlawful activities.

170. He deposed that FIR No.174/2010 was registered on 27.04.2010 U/s 19 of UAPA and U/s 153-B of RPC at PS Shopian upon a written docket received from In-charge DSB, Shopian to the effect that when he was performing his duties at Gol Chakri Shopian, Hurriyat (G) Chairman SAS Geelani addressed a public gathering in which he made statements that India had illegally occupied Kashmir and brutally conquered the region. The said act tantamount to disturb the peace in the region of Jammu and Kashmir and was against the sovereignty of the country. The nature of his address is referred to in the statement/s under Section 161 Cr.P.C. He deposed that the statement of witness(s) were recorded under Section 161 Cr.P.C. and a charge-sheet No.77/2013 (Ex.PW16/2A) was filed in the jurisdictional Court. However, as the accused SAS Geelani passed away on 01.09.2021, an abated challan (Ex.PW16/5A) was filed against him before the jurisdictional court.

171. He further deposed that FIR No.80/2008 was registered on 23.05.2008 U/s 13 of the UAPA at PS Shopian on the basis of a written docket to the effect that while performing patrolling duties at Sindoo Shirmal, the beat In-charge



noticed that SAS Geelani, Mohammad Ashraf Khan, Molvi Tariq Amin Shah and Mohd Yousuf Ganaie were delivering speeches at Sindoo Shirmal in which they raised anti national slogans and instigated youth against the government and asked people not to take part in the upcoming elections and to make Hurriyat Conference strong. All the accused persons as mentioned above were members of the proscribed association. He deposed that the statement of witness(s) were recorded under Section 161 Cr.P.C., on the basis of which a prima facie case was established against Mohd. Yousuf Ganaie @ Falaie, Molvi Tariq Amin Shah, SAS Geelani, Mohammad Ashraf Khan @ Sehraie. Thereafter, a chargesheet (Ex.PW16/7A) was filed in the jurisdictional court. The accused 1 and 2 were arrested in the instant case but are presently on bail while accused 3 and 4 have expired and challan has been abated against them.

172. He has relied upon the certified true copies of FIR Nos.174/2010 and 80/2008 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as **Ex. PW-16/1A to PW-16/11A**. He deposed that the investigations faced significant challenges due to volatile situation in the valley orchestrated by separatist leaders and their affiliated groups who received unwavering support from across the border and terrorist organizations. This climate of fear deterred individuals from coming forward to provide statements, hindering the progress of the investigations. It was only after the reorganization of the State that significant progress could be made in the investigations, leading to the filing of chargesheets. The statement made by him in his affidavit is based upon a perusal of the record of the investigation of the aforesaid FIR Nos.174/2010 and 80/2008; based on the knowledge derived by him during the discharge of my official duties, as also on the basis of the records maintained in his district.

173. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

174. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-17**

175. **Satish Kumar (PW-17)** tendered his affidavit as **Ex.PW-17/A** and deposed that he is working as SDPO, Handwara, Kashmir since September, 2023 and is the Supervisory Officer since September, 2023 of FIR Nos. 140/1999 and 141/2000. He deposed that he is in police service since the year 2012 and during this period he had been posted in various parts of the Kashmir Valley. Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani who formed the organization and remained its chairman from 2004 till July 2018. After SAS Geelani, Ashraf Sehrai became its chairman and later succeeded by Amir Hamza Shah, who is continuing till date. These prominent separatist leaders working in Jammu & Kashmir along with other leaders of Tehreek are violent separatist leaders and have been advocating their anti-India secessionist agenda at the instance of ISI, Pakistan and prominent terrorist organization and also by following pro-Pakistan propaganda.

176. He deposed that numerous FIRs have been registered against Tehreek and its leaders including its founder and erstwhile chairman Syed Ali Shah Geelani, Ashraf Sehrai and Amir Hamza Shah for the offences of rioting, unlawful activities, unlawful assemblies etc. and for offences punishable under special laws like UAPA etc. They were part of the world known separatist conglomerate 'Hurriyat Conference'. Tehreek has continuously advocated the secession of Jammu & Kashmir from the UOI and its members have shown sheer disrespect towards the constitutional authority and constitutional set up of the country and inciting and brainwashing the local Muslim community and youths of the said community to bring about such cession of constitutional authority of UOI and secession of Jammu & Kashmir from the UOI. He deposed that Ashraf Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi i.e. Azadi and Ittehad (wherein word 'Azadi' meant rule of Islam in Jammu & Kashmir) and hence the sole object of the organization was secession of the erstwhile State of Jammu & Kashmir from the UOI and for the said purpose the organization and its leaders have used unlawful activities.

177. He deposed that FIR No.140/1999 was registered on 08.09.1999 U/s 13 of the UAPA and U/s 188 of RPC at PS Handwara upon a written docket sent by SHO, PS Handwara disclosing that he along with other team members were performing patrolling duty in the area of Karalgund, where they saw some persons affiliated with Hurriyat Conference led by SAS Geelani raising slogans due to which a mob had assembled. He provoked the general public against the Government of India. The Hurriyat activists raised anti national slogans and provoked and instigated the general public for secession of J&K from India and against the sovereignty of India. They also cautioned the public not to participate in the elections. He deposed that the statement of witness(s) were recorded under Section 161 Cr.P.C. and during investigation credible evidence was obtained, a prima facie case was established against SAS Geelani and, accordingly, a charge-sheet (Ex.PW17/6A) was prepared enclosing therewith the death certificate of SAS Geelani since the accused SAS Geelani had passed away on 01.09.2021. Death certificate of SAS Geelani and Mohd. Ashraf Sehrai and lodgment certificate of Masarat Alam Bhat in Central Jail Srinagar were also annexed with the chargesheet. Photographs recovered by the IO of SAS Geelani and others addressing the mob is also enclosed as Ex.PW17/5. The charge-sheet specifically referred to affiliation of the accused persons with the Hurriyat Conference.

178. He further deposed that FIR No.141/2000 was registered on 01.11.2000 U/s 13 of the UAPA at PS Handwara on the basis of a written docket sent by ASI Ahamadullaha to the effect that while performing patrolling duties in town Handwara, he received a reliable information that SAS Geelani, Masarat Alam and Sheikh Ab Aziz affiliated with Hurriyat Conference have come in the residential house of Aijaz Ahmad Wani for condolence of deceased Aijaz Ahmad Wani who was killed by the Special Forces at Kak Gali Karnah while ex-filtrating to PoK on 30.10.2000 for obtaining illegal arms and ammunition at the instigation of Hurriyat activists. The Hurriyat activists provoked and instigated the general public for secession of J&K from India and against the sovereignty of the nation. They pressurized the shopkeepers to close their shops and also provoked the general public to join the militant ranks. He deposed that the statements of 17 witness(s), out of whom certain were independent witnesses, were recorded under Section 161 Cr.P.C. and the death certificates in respect of Sheikh Abdul Aziz and SAS Geelani were collected. Lodgement certificate of Masarat Alam Bhat in Central Jail, Srinagar was also collected. Thereafter, a chargesheet (Ex.PW17/8A) was filed in the jurisdictional court on 09.12.2022 against SAS Geelani (abated), Sheikh Abdul Aziz (abated) and Masarat Alam Bhat. He has relied upon the certified true copies of FIR Nos. 140/1999 and 141/2000 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as **Ex. PW-17/1A to PW-17/10A**.

179. He deposed that the investigations faced significant challenges due to volatile situation in the valley orchestrated by separatist leaders and their affiliated groups who received unwavering support from across the border and terrorist organizations. This climate of fear deterred individuals from coming forward to provide statements, hindering the progress of the investigations. It was only after the reorganization of the State that significant progress could be made in the investigations, leading to the filing of chargesheets. The statements made by him in his affidavit is based upon a perusal of the record of the investigation of the aforesaid FIR Nos. 140/1999 and 141/2000; based on the knowledge derived by him during the discharge of his official duties, as also on the basis of the records maintained in his district.

180. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

181. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-18**

182. **Aijaz Ahmad (PW-18)** tendered his affidavit as **Ex.PW-18/A** and deposed that he is posted as Station House Officer, Police Station Zainapora since 22.01.2024 and have gone through the records of the case files of FIR Nos.58/2016, 57/2016 and 32/2008. He deposed, based on the records, that it is evident that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani, who formed the organization and remained its Chairman from 2004 till July, 2018; succeeded by Mohammad Ashraf Khan @ Sehrai and later on Ameer Hamza Shah became and is still continuing as its Chairman. The prominent separatist leaders along with leaders of Tehreek are violent and influential and are spearheading anti-India agenda at the instance of ISI, Pakistan; continuously advocating secession of J&K from the Union of India; showing disrespect towards the Constitution of India and the Constitutional authorities and inciting and brainwashing the local Muslim Community and its youth to bring about cession of J&K from Union of India. Mohammad Ashraf Khan @ Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi, i.e., Azadi and Ittehad (wherein word 'Azadi' means Rule of Islam in Jammu & Kashmir).

183. He deposed that FIR No.58/2016 was registered on 25.08.2016 at PS Zainapora U/s 13 of UAPA on the basis of a written docket wherein the police patrolling team saw a huge gathering of people at Kadgam area where Hurriyat separatist leaders, namely, (1) Sarjan Ahmad Wagay @ Barkat S/o Abdul Razaq Wagay R/o Reban Zainapora, (2) Mohammad Hussain Wagay S/o Ghulam Mohammad Wagay R/o Homehuna, (3) Mohammad Yousuf Ganie @ Falaie S/o Ghulam Mohammad Ganie R/o Molu Chitragam and Tariq Ahmad Sheikh S/o Shamim Ahmad Sheikh R/o Molu Chitragam (deceased) addressed and delivered speeches to the people in the area one by one and shouted slogans against India and in favour of Pakistan and instigated the people against the sovereignty and integrity of the country with a view to disturb peace and tranquility of the J&K State. They also provoked people to fight against the security forces/police forces. He deposed that the statements of witnesses were recorded under Section 161 Cr.P.C. and the chargesheet dated 16.07.2023 stands filed in the jurisdictional court.

184. He further deposed that FIR No.57/2016 was registered on 24.08.2016 at PS Zainapora U/s 13 of UAPA on the basis of a written docket whereby the police were performing patrolling duties at Turkawangam when they saw that some Hurriyat activists, namely, (1) Mohd. Yousuf Ganie @ Falaie S/o Ghulam Mohd. Ganie R/o Molu Chitragam, (2) Sarjan Ahmad Wagay @ Barkati S/o Abdul Razak Wagay R/o Reban, (3) Shahnawaz Ahmad Shah @ Gazali S/o Abdul Rasheed Shah R/o Derpora Yaripora A/p Litter, (4) Mohammed Hussain Wagay S/o Ghulam Mohammed Wagay R/o Homoona, etc. sought support from the people of the area and delivered speech amongst the people at Turkawangam and shouted anti-national slogans and instigated the people against the integrity and sovereignty of the country, especially youngsters, and provoked them to disturb the peace and tranquility in the state,

and urged them to follow hartals as per Hurriyat calendar. He deposed that the statements of witnesses were recorded under Section 161 Cr.P.C. and out of the 29 accused persons, arrest was effected in respect of 27 persons, later on they were granted bail on different dates. Mohd Yousuf Ganie @ Falai S/o Ghu Mohd. Ganie is presently under PSA and is lodged in Naini Jail, Uttar Pradesh. The charge sheet dated 02.07.2023 stands filed in the jurisdictional court. The chargesheet specifically refers to the affiliation of all the 29 accused persons with Hurriyat.

185. He further deposed that FIR No.32/2008 was registered on 31.05.2008 at PS Zainapora U/s 13 of UAPA and U/s 121 of RPC on the basis of a written docket whereby it was stated that Hurriyat activists, namely, (1) Syed Ali Shah Geelani S/o Syed Peer Shah Geelani R/o A/P Hyderpora, Srinagar, (2) Mohammad Yousuf Ganie @ Falahi S/o Gh. Mohammad Ganie R/o Molu Chitrangam, (3) Shakeel Ahmad Itoo S/o Gh. Nabi Itoo R/o Manihal Sopian and (4) Tariq Amin Shan S/o Mohammad Amin Shah R/o Baba Mohalla Shopian had held a gathering at village Manihal and were chanting anti-India slogans; the speech of the said activists was to instigate the youth to join in the “freedom struggle” movement and also instigated them to refrain from taking part in any government activities and urged them to get involved in anti-national movements, etc. He deposed that the statements of witnesses were recorded under Section 161 Cr.P.C., and during investigation, three accused persons, namely, (1) Mohd Yousuf Ganie @ Falai S/o Gh Mohd. Ganie (2) Shakeel Ahmad Itoo S/o Gh. Nabi Itoo and (3) Tariq Amin Shan S/o Mohammad Amin Shah were arrested in the instant case; later on bail was granted by the Court. Syed Ali Shah Geelani died later on. The charge sheet dated 02.07.2023 stands filed in the jurisdictional court. The chargesheet specifically refers to the affiliation of all the accused persons with Hurriyat.

186. He has relied upon the certified true copies of FIR Nos. 58/2016, 57/2016 and 32/2008 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as **Ex. PW-18/1A to PW-18/14A**. He deposed that the statements made by him in his affidavit are based upon a perusal of the record of the investigation of the aforesaid FIR Nos. 58/2016, 57/2016 and 32/2008; based on the knowledge derived by him during the course of discharge of his official duties, as also on the basis of the records maintained in his police station.

187. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

188. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-19**

189. **Kuldeep Raj (PW-19)** tendered his affidavit as **Ex.PW-19/A** and deposed that he is posted as Deputy Superintendent of Police, Hqrs., Anantnag, Kashmir and is the Supervisory officer of the FIR No.05/2011. He deposed, based on the records, that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani, who formed the organization and remained its Chairman from 2004 till July, 2018; succeeded by Mohammad Ashraf Khan @ Sehrai and later on Ameer Hamza Shah became and is still continuing as its Chairman. The prominent separatist leaders along with leaders of Tehreek are violent and influential and are spearheading anti-India agenda at the instance of ISI, Pakistan; continuously advocating secession of J&K from the Union of India; showing disrespect towards the Constitution of India and the Constitutional authorities and inciting and brainwashing the local Muslim Community and its youth to bring about secession of J&K from Union of India. Mohammad Ashraf Khan @ Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi, i.e., Azadi and Ittehad (wherein word ‘Azadi’ means Rule of Islam in Jammu & Kashmir).

190. He deposed that FIR No.05/2011 was registered on 03.01.2011 at PS Anantnag U/s 13(1)B of UAPA on the basis of an information that Syed Ali Shah Geelani had published calendars and diaries in 2011 wherein appeal was made to people for separation of Kashmir from India and the said calendars and diaries were distributed amongst the people by Ghulam Mohi-ud-din Sheikh @ Mohi-ud-din master and Yousuf Makroo close associates of Syed Ali Shah Geelani. He deposed that the statements of witnesses were recorded under Section 161 and 164 of Cr.P.C. and the chargesheet stands filed in the jurisdictional court on 28.09.2022.

191. He has relied upon the certified true copy of FIR No. 05/2011 along with its English version of translated copies as also the statements recorded in the aforesaid case which have been exhibited as **Ex. PW-19/1A to PW-19/5A**. He deposed that the statements made by him in his affidavit are based upon a perusal of the record of the investigation of the aforesaid FIR No. 05/2011; based on the knowledge derived by him during the course of discharge of his official duties, as also on the basis of the records maintained in his district. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

192. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

**PW-20**

193. **Syed Yasir Qadri (PW-20)** tendered his affidavit as **Ex.PW-20/A** and deposed that he is posted as Additional Superintendent of Police, Baramullah, Kashmir and has gone through the records of the case files of FIR Nos. 16/1999, 166/2011, 69/1999 and 88/2013. He deposed, based on the records, that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani, who formed the organization and remained its Chairman from 2004 till July, 2018; succeeded by Mohammad Ashraf Khan @ Sehrai and later on Amir Hamza Shah became and is still continuing as its Chairman. The prominent separatist leaders along with leaders of Tehreek are violent and influential and are spearheading anti-India agenda at the instance of ISI, Pakistan; continuously advocating secession of J&K from the Union of India; showing disrespect towards the Constitution of India and the Constitutional authorities and inciting and brainwashing the local Muslim Community and its youth to bring about cession of J&K from Union of India. Syed Ali Shah Geelani, Mohammad Ashraf Khan @ Sehrai and Amir Hamza Shah are the prime separatist leaders of Jammu & Kashmir and were part of the world known conglomerate “Hurriyat Conference” and Mohammad Ashraf Khan @ Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi, i.e., Azadi and Ittehad (wherein word ‘Azadi’ means Rule of Islam in Jammu & Kashmir).

194. He deposed that FIR No.16/1999 was registered on 16.01.1999 at PS Baramulla U/s 13(2) of UAPA on the basis of a reliable information that SAS Geelani, Chairman Tehreek E Hurriyat (G) delivered anti-national speeches to the gathering at Baitul Mukaram Mosque Baramulla instigating and propagating the idea of separation of Kashmir from India by spreading hatred against the Indian dominion amongst the people of the town of Baramulla and its adjacent areas and further instigated the gathering to celebrate the day of martyrs on every 3<sup>rd</sup> Friday in the month of Ramadhan. They raised slogans such as “Hum kya chahte Azaadi” in memory of martyrs and also propagated the idea of “freeing Kashmir” from the “illegal occupation” of the Union of India. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C.. SAS Geelani died on 01.09.2021 and the case stands abated against him. The charge-sheet (Exhibit PW20/2) dated 11.02.2022 stands filed in the jurisdictional court.

195. He further deposed that FIR No.166/2011 was registered on 02.09.2011 at PS Baramulla U/s 307, 148, 149, 332, 336, 188, 153-A RPC on the basis of a written docket received by the police station that near bus stand Baramulla at Baitul Mukaram Mosque, the police patrolling team witnessed a gathering being addressed by the Chairman of Hurriyat (G), namely, SAS Geelani alongwith other activists and delivered anti-national speeches with the intention to promote the idea of separation of Kashmir from the Union of India and instigated the gathering by promoting the idea that Jammu & Kashmir is “illegally occupied” by India and the mob raised anti-national slogans and the mob pelted stones on the police officials who were performing official duties, thereby causing damage to the government property. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. SAS Geelani died on 01.09.2021 and the case stands abated against him. The charge-sheet (Exhibit PW20/6) dated 09.06.2022, against all the other accused persons stands filed in the jurisdictional court.

196. He further deposed that FIR No.69/1999 was registered on 10.09.1999 at PS Uri U/s 13/2 UAPA and Sections 188 and 121 of RPC on the basis of a written docket received by the police station that at the Uri Market, the police patrolling team witnessed members of Hurriyat Conference (G) including its chief SAS Geelani alongwith other Hurriyat activists, namely, Mohammad Maqbool Sofi, Khazir Mohammad Ganaie, Azad Ahmad Bangroo, Suraj-ud-din Ganaie, Abdul Ahad Dantoo, Abdul Rasheed Shugun, Haji Ghulam Mohammad Sankar and Ghulam Ahmad Gulzar addressing the general public / pedestrians at bus stand Uri and inciting them to boycott the elections and further promoted the idea of secession of Jammu & Kashmir by delivering speeches to the gathering and the said leaders instigated the gathering to take part in “the armed struggle against the Union of India”. They also violated the order of DM Bramulla issued under Section 144 Cr.P.C. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. SAS Geelani died on 01.09.2021 and the case stands abated against him. Other accused, namely, Azad Ahmad Bangroo and Abdul Ahad Waza are absconding and the challan for the same shall be presented under Section 512 Cr.P.C. The charge-sheet in respect of other accused persons (**Exhibit PW20/17**) stands filed in the jurisdictional court.

197. He further deposed that FIR No.88/2013 was registered on 19.04.2013 at PS Pattan U/s 307, 148, 149, 336, 427, 332, 153-B, 124-A RPC on the basis of a written docket to the effect that at the Palhallan Mod (turn), the police patrolling team witnessed that the Chairman of Hurriyat (G), namely, SAS Geelani telephonically delivered anti-national speeches in connection with the funeral of slain militant Shabir Ahmad Sheikh, against the integrity and sovereignty of India and urged people to remain united in order to fight against the Union of India and under the command of Mohd. Maqbool Mir, Nazir Ahmad Tantray, Nisar Ahmad Bhat, Javid Ahmad Bhat, Manzoor Ahmad Bhat, Altaf Hussain Bhat, Arif Ahmad Mir, Aijaz Ahmad Wani, Nazir Ahmad Tantray, Nayeem Ahmad Tantray, Mohd. Umar Mir, Mohd. Ramzan Sheikh, Ishaq Sheikh, Mehranj Ud-din Malla, Mushtaq Ahmad Mir, Zahoor Ahmad Lone, Mohd. Yaqoob Bhat and Gh. Mohammad Bhat, and started pelting stones at the deployed police personnel and other security forces with the intention to cause damage. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C., who have corroborated the above incident.

198. He has relied upon the certified true copies of FIR Nos.16/1999, 166/2011, 69/1999 and 88/2013 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as Ex. **PW-20/1 to PW-20/22A**. He further deposed that the statements made by him in his affidavit are based upon a perusal of the record of the investigation of the aforesaid FIRs; based on the knowledge derived by him during the course of discharge of his official duties, as also on the basis of the records maintained in his district.

199. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

200. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

### **PW-21**

201. **Adil Rashid Ahanger (PW-21)** tendered his affidavit as **Ex.PW-21/A** and deposed that he is working as SHO and has gone through the records of the case files of FIR Nos.344/2012 and 189/2015. He deposed that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani who formed the organization and remained its chairman from 2004 till July 2018. After SAS Geelani, Ashraf Sehrai became its chairman and later succeeded by Amir Hamza Shah, who is continuing till date. These prominent separatist leaders working in Jammu & Kashmir along with other leaders of Tehreek are violent separatist leaders and have been advocating their anti-India secessionist agenda at the instance of ISI, Pakistan and prominent terrorist organization and also by following pro-Pakistan propaganda.

202. He deposed that numerous FIRs have been registered against Tehreek and its leaders including its founder and erstwhile chairman Syed Ali Shah Geelani, Ashraf Sehrai and Amir Hamza Shah for the offences of rioting, unlawful activities, unlawful assemblies etc. and for offences punishable under special laws like UAPA etc. They were part of the world known separatist conglomerate 'Hurriyat Conference'. Tehreek has continuously advocated the secession of Jammu & Kashmir from the UOI and its members have shown sheer disrespect towards the constitutional authority and constitutional set up of the country and inciting and brainwashing the local Muslim community and youths of the said community to bring about such secession of constitutional authority of UOI and secession of Jammu & Kashmir from the UOI. He deposed that Ashraf Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi i.e. Azadi and Ittehad (wherein word 'Azadi' meant rule of Islam in Jammu & Kashmir) and hence the sole object of the organization was secession of the erstwhile State of Jammu & Kashmir from the UOI and for the said purpose the organization and its leaders have used unlawful activities.

203. He deposed that FIR No.344/2012 was registered on 04.11.2012 U/s 13 UAPA and U/s 505 RPC at PS Anantnag on the basis of a credible information received at P.S. Anantnag that Hafizullah Mir (affiliated with Hurriyat and the District President, Anantnag of the proscribed association) had opened an office in Aquaf Building at K.P. Road, Anantnag near Al-Noor Masjid and were distributing banners/pamphlet among people. The posters were against the accession of J&K with the Union of India and constituted a threat to the sovereignty and integrity of country. He deposed that the statement of witness(s) were recorded under Section 161 Cr.P.C. and the incriminating posters, pamphlets etc. were seized against seizure memo. Accused Mir Hafizullah was arrested against an arrest memo. However, before culmination of the investigation, both the accused, SAS Geelani and Mir Hafizullah, have passed away, and hence, after obtaining their death certificates, an abated challan was filed in the jurisdictional court on 02.12.2022.

204. He deposed that FIR No.189/2015 was registered on 03.07.2015 U/s 147/148/149/336/307 of RPC at PS Anantnag on the basis of a written complaint received from incharge PP Sherbagh disclosing that on the said date a convoy of 3<sup>rd</sup> Bn CRPF and IRP 11<sup>th</sup> Bn were deployed at Lal Chowk, Anantnag for law and order duties when after culmination of Friday prayers near Rahat Dedi Masjid Hurriyat leader namely Hafizuallah Mir heading an unruly mob came and started raising slogans against the integrity of State/country and also pelted stones upon the security forces. He deposed that the statement of witness(s) were recorded under Section 161 Cr.P.C. and a chargesheet was prepared and filed before the concerned court on 25.03.2022.

205. He has relied upon the certified true copies of FIR Nos. 344/2012 and 189/2015 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as **Ex. PW-21/1A to PW-21/11A**. He deposed that the investigations faced significant challenges due to volatile situation in the valley orchestrated by separatist leaders and their affiliated groups who received unwavering support from across the border and terrorist organizations. This climate of fear deterred individuals from coming forward to provide statements, hindering the progress of the investigations. It was only after the reorganization of the State that significant progress could be made in the investigations, leading to the filing of chargesheets.

206. He deposed that the statements made by him in his affidavit is based upon a perusal of the record of the investigation of the aforesaid FIR Nos. 344/2012 and 189/2015; based on the knowledge derived by him during the discharge of his official duties, as also on the basis of the records maintained in his district.

207. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

208. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

### **PW-22**

209. **Sunil Kumar (PW-22)** tendered his affidavit as **Ex.PW-22/A** and deposed that he is posted as Dy. Superintendent of Police, Zainapora, Shopian and is the Supervisory Officer of FIR Nos.94/2011, 50/2011 and 46/2011 since February, 2024. He deposed, based on the records, that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani, who formed the organization and remained its Chairman from 2004 till July, 2018; succeeded by Mohammad Ashraf Khan @ Sehrai and later on Amir Hamza Shah became and is still continuing as its Chairman. The prominent separatist leaders along with leaders of Tehreek are violent and influential and are spearheading anti-India agenda at the instance of ISI, Pakistan; continuously advocating secession of J&K from the Union of India; showing disrespect towards the Constitution of India and the Constitutional authorities and inciting and brainwashing the local Muslim Community and its youth to bring about cession of J&K from Union of India. Syed Ali Shah Geelani, Mohammad Ashraf Khan @ Sehrai and Amir Hamza Shah are the prime separatist leaders of Jammu & Kashmir and were part of the world known conglomerate “Hurriyat Conference” and Mohammad Ashraf Khan @ Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi, i.e., Azadi and Ittehad (wherein word ‘Azadi’ means Rule of Islam in Jammu & Kashmir).

210. He deposed that FIR No.94/2011 was registered on 26.09.2011 at PS Zainapora, Shopian U/s 13 of UAPA, 121 of RPC, 132-B PR Act on the basis of a DD R No.11 from Police Post Wachi to the effect that during the routine checking by the police personnel at Safanagri Crossing, the police stopped one motorcyclist for checking and recovered 16 posters from the motorcyclist, namely, Shakeel Ahmad Thoker S/o Ghulam Qadir Thoker R/o Meemander Shopian, which upon perusing, were found containing anti-national contents and photograph of SAS Geelani. The said rider was assigned the task to paste these posters at different locations, so that people of the area were restrained to take part in the upcoming Panchayat elections at Wachi, which is against unity and sovereignty of the country. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. The accused Shakeel Ahmad Thoker was arrested and later on was granted bail by the court. The charge-sheet (**Exhibit PW22/2**) dated 28.04.2022 stands filed in the jurisdictional court.

211. He further deposed that FIR No.50/2011 was registered on 13.05.2011 at PS Zainapora, Shopian 13 of UAPA and 132-B PP Act on the basis of an information received through a reliable source that a Tata vehicle bearing Registered No.JK01E/8188 belonging to Hurriyat (G) boarded by the activists of Hurriyat (G), namely, (1) SAS Geelani, (2) Bashir Ahmad Dar S/o Gh. Hassan R/o Rassa Beerwah (3) Gulzar Ahmad Teeli S/o Mohammad Shaban Teeli (4) Jameel Ahmad Dar S/o Ab. Rashid Dar R/o Nagbal (5) Ab. Hamid Wani S/o Mohammad Shaban Wani R/o Drawni Imamsahab (6) Parvaiz Amad Malla S/o Ab. Gani R/o Pehlipora Shopian (7) Ameer Hamza S/o Gh. Mohi-uddin Shah R/o Qoil Muqam Bandipora (8) Shoib Ahmad Bhat S/o Ab. Rashid Bhat R/o Urpora Nagbal (9) Azaad Ahmad Mir S/o Mohammad Anwar Mir R/o Urpora Nagbal driven by Parvaiz Ahmad Malla S/o Ab. Gani Malla R/o Pehlipora, Shopian, halted at Nagbal Market and pasted the election boycott posters on the directions of Hurriyat Chairman SAS Geelani. The posters depicted the picture of SAS Geelani and urged boycott of the Panchayat elections of 2011 and the posters also depicted that Indian Army has forcefully occupied J&K since 1964 and has adopted all the illegal measures to suppress the freedom struggle since 1947 and have martyred five lakh people leaving behind thousands of mothers as widows. Thus, the people were instigated against the integrity and sovereignty of India and calling the alliance of J&K with India as illegal and the cessation of Jammu and Kashmir from India. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. and a chargesheet (**Exhibit PW-22/6**) dated 23.01.2023 stands filed in the jurisdictional court.

212. He further deposed that FIR No.46/2011 was registered on 20.04.2011 at PS Zainapora, Shopian U/s 13 of UAPA, 121-A of RPC, 132-A PR Act on the basis of a written letter received from DSB Zainapora to the effect that on 12.04.2011, some posters of Hurriyat (G) Group were pasted on the electric poles at village Melhoura Wachi, Shopian through which the villagers were urged not to participate in the upcoming Panchayat elections and to completely boycott the said elections. The said posters contained the photographs of Hurriyat Chairman SAS Geelani. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. and a charge-sheet (**Exhibit PW-22/10**) dated 15.12.2021 stands filed in the jurisdictional court.

213. He has relied upon the certified true copies of FIR Nos.94/2011, 50/2011 and 46/2011 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as **Ex. PW-22/1 to PW-22/11A**. He deposed that the statements made by him in his affidavit are based upon a perusal of the record of the investigation of the aforesaid FIRs; based on the knowledge derived by him during the course of discharge of his official duties, as also on the basis of the records maintained in his district. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the

concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

214. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

### **PW-23**

215. **Vikram Nag (PW-23)** tendered his affidavit as **Ex.PW-23/A** and deposed that he is presently working as SDPO, Shaheed Gunj, Srinagar and is the Supervisory Officer of FIR Nos.192/1996, 157/ 2009, 54/2010 & 44/2011. He deposed, based on the records, that it is evident that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani, who formed the organization and remained its Chairman from 2004 till July, 2018; succeeded by Mohammad Ashraf Khan @ Sehrai and later on Amir Hamza Shah became and is still continuing as its Chairman. The prominent separatist leaders along with leaders of Tehreek are violent and influential and are spearheading anti-India agenda at the instance of ISI, Pakistan; continuously advocating secession of J&K from the Union of India; showing disrespect towards the Constitution of India and the Constitutional authorities and inciting and brainwashing the local Muslim Community and its youth to bring about cession of J&K from Union of India. Syed Ali Shah Geelani, Mohammad Ashraf Khan @ Sehrai and Amir Hamza Shah are the prime separatist leaders of Jammu & Kashmir and were part of the world known conglomerate "Hurriyat Conference" and Mohammad Ashraf Khan @ Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi, i.e., Azadi and Ittehad (wherein word 'Azadi' means Rule of Islam in Jammu & Kashmir).

216. He deposed that FIR No.192/1996 was registered on 17.07.1996 at PS Shergarhi U/s 307, 341, 148, 336 & 332 of RPC r/w U/s 7 & 27 of Arms Act and U/s 13 of UAPA on the basis of an incident happened on 17.7.1996 when a large gathering of people led by Hurriyat leader SAS Geelani, Shabir Shah, Javid Mir, Yaqoob Wakil and others carrying the dead body of the militant Hilal Ahmad Beigh of Allochibagh, who was encountered by the Security Forces at Parimpora, marched towards Jahangeer Chowk and raised slogans against India. The said mob was apprehended and stopped by the police personnel at the Naaz Crossing, upon which the said mob started pelting stones at the security forces. Some shots were also fired by some unknown militants at the police officials with the intention to kill them. In order to maintain law and order, the security forces were constrained to fire tear gas shells and also resorted to lathi charge. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C., a seizure memo of the few items like glass pieces and lathies gathered from the place of incident was prepared.

217. He deposed that FIR No.157/2009 was registered on 30.12.2009 at PS Shaheed Gunj U/s 120, 120-B, 121 & 153-A of RPC r/w Section 13 of ULAP Act on the basis of an incident happened on 30.12.2009 when a seminar was conducted on the occasion of death anniversary of late Ali Mohammad Jinnah by Separatist leaders headed by Feroz Ahmad Khan (Vice Chairman, Muslim League) along with Asia Indrabi, Shabir Ahmad Najor (Distt. President, Muslim League), Main Abdul Qayoom (President, Bar Association), Zahid Ali (Advocate), Ghulam Ahmad Mir, Mohammad Amin Ganie (People's League) and Mushtaq-ul-Islam. The said separatist leaders delivered speeches against India and raised anti national slogans in the seminar. These separatist leaders stressed upon the fact that the future of the Kashmir depends upon Pakistan and they further propagated the idea of Islamic law in the state of Jammu & Kashmir. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. and the investigation of the case is now complete, albeit a delay, and the filing of the chargesheet is in process.

218. He further deposed that FIR No.54/2010 was registered on 18.06.2010 at PS Shergarhi, Srinagar U/s 153-B of RPC and Section 13 of ULAP Act on the basis of an incident that happened on 18.6.2010 when the chairman of Hurriyat G Group, SAS Geelani along with other associates of Hurriyat (G) after offering Friday prayers at Iqra masjid Magarmal Bagh, Srinagar came out of the Masjid and in the shape of an unlawful assembly started marching towards the road carrying stones in their hands. The said members along with the unruly mob raised slogans against the sovereignty and integrity of India as also to boycott the Panchayat elections. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. and the investigation of the case is likely to be completed shortly, albeit a delay, and the chargesheet is also expected to be filed shortly.

219. He further deposed that FIR No.44/2011 was registered on 06.05.2011 at PS Batmaloo, Srinagar U/s 147, 336, 148, 307 of RPC and Section 13 of UAPA Act on the basis of a docket received from Ct. Mushtaq Ahmad to the effect that on 06.5.2011 at about 1500 hours ASI Gh Mohd along with nafri of PS Batmaloo and SDPO Shaheed Gunj while performing law and order duty at Ziyarat Batmaloo witnessed that the leader of Hurriyat Conference G SAS Geelani along with other members came out of the Masjid and addressed a huge mob. The said leader and members of the organization delivered provocative and hate speeches to the effect that all the people of Kashmir should unite together without any fear to make Kashmir independent of India with further slogans like "GO INDIA GO BACK, HUM KAI CHAHTA HAI AZAADI". They also provoked the public gathering to connect with Pakistan and to join them to protest against India which also led to the stone pelting at the police officials with the intention to kill them. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C., a seizure memo of the few

pieces of stones seized from the place of incident was also prepared. The investigation of the case is likely to be completed shortly, albeit a delay, and the chargesheet is also expected to be filed shortly.

220. He has relied upon the certified true copies of FIR Nos.192/1996, 157/2009, 54/2010 & 44/2011 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited Ex. **PW-23/1 to PW-23/14A**; and that the draft charge-sheet of two out of these four cases has already been submitted to the Legal Section in the SP Office for opinion and the same is likely to be filed in the jurisdictional Court shortly. He deposed that the statements made by him in his affidavit are based upon a perusal of the record of the investigation of the aforesaid FIRs; based on the knowledge derived by him during the course of discharge of his official duties, as also on the basis of the records maintained in his district.

221. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

222. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-24**

223. **Saqib Ghani (PW-24)** tendered his affidavit as **Ex.PW-24/A** and deposed that he is posted as SDPO, Budgam, Kashmir and is the Supervisory Officer of FIR Nos.92/2015, 274/2016, 74/2007, 350/2013 and 241/2012. He has deposed that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani, who formed the organization and remained its Chairman from 2004 till July, 2018; succeeded by Mohammad Ashraf Khan @ Sehrai and later on Amir Hamza Shah became and is still continuing as its Chairman. The prominent separatist leaders along with leaders of Tehreek are violent and influential and are spearheading anti-India agenda at the instance of ISI, Pakistan; continuously advocating secession of J&K from the Union of India; showing disrespect towards the Constitution of India and the Constitutional authorities and inciting and brainwashing the local Muslim Community and its youth to bring about cession of J&K from Union of India. Syed Ali Shah Geelani, Mohammad Ashraf Khan @ Sehrai and Amir Hamza Shah are the prime separatist leaders of Jammu & Kashmir and were part of the world known conglomerate "Hurriyat Conference" and Mohammad Ashraf Khan @ Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi, i.e., Azadi and Ittehad (wherein word 'Azadi' means Rule of Islam in Jammu & Kashmir).

224. He has deposed that FIR No.92/2015 was registered on 15.04.2015 at PS Budgam U/s 120-B, 121, 124-A, 147, 341, 336, 427 RPC and Section 13 of UAPA on the basis of a specific information received by the police station and on the media reports that SAS Geelani was returning from Delhi to Humhama Airport on 15.04.2015 by Indigo Airlines. As the said activists were in Delhi for long time and Hurriyat (G) alongwith the Muslim League invited their supporters to welcome SAS Geelani. On the date when SAS Geelani reached airport, around three thousand (3000) supporters reached the IG Road which were led by SAS Geelani, Masarat Alam Bhat, Bashir Ahmad Bhat @ Peer Saifullah, Mehraj-ud-din Kalwal, Mohammad Akbar Bhat @ Ayaz Akbar, Imtiyaz Hyder in the form of unlawful assembly and slogans were raised against Government of India, including the State Government and administration. They blocked the IG Road and pelted stones on CRPF Vehicles and damaged them. Some members of this assembly also waved Pakistani flags which were led by Javid Ahmad Najar S/o Gh Rasool Kana R/o Namchibal.

225. He has deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. and that SAS Geelani died on 01.09.2021, hence, the case stands abated against him. Three accused persons, namely, (1) Bashir Ahmad Bhat @ Peer Saifullah, (2) Mehraj-ud-din Kalwal and (3) Mohammad Akbar Khanday @ Ayaz Akbar are presently under NIA Custody in Tihar Jail, New Delhi. The charge-sheet (**Exhibit PW24/2**) stands filed in the jurisdictional court.

226. He has deposed that FIR No.274/2016 was registered on 04.09.2016 at PS Budgam U/s 147, 341 of RPC and Section 13 of UAPA on the basis of a docket received from Incharge Hotspot Hyderpora to the effect that in view of the prevailing law and order situation, one delegation from Central Government and J&K reached the house of SAS Geelani at Rehmatnagar, but the Hurriyat leader locked the doors of his house from inside and refused to talk to them. However, when the delegation was returning back, an unruly mob headed by Advocate Javeed Ahmad Jaloo R/o Peerbagh disrupted the vehicular movement and raised slogans against the Union/State Governments. He has deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. and that the accused Advocate Javeed Ahmed Jaloo could not be apprehended. SAS Geelani died on 01.09.2021, hence, the case stands abated against him. The charge-sheet (**Exhibit PW-24/7A**) stands filed in the jurisdictional court.

227. He further deposed that FIR No.74/2007 was registered on 23.02.2007 at PS Budgam U/s 13 of UAPA and Section 341 of RPC on the basis of a docket forwarded by Incharge PP Humhama to the effect that he alongwith other police personnel was deputed for duty in the market and after completion of Friday prayers, an unruly mob headed by four accused persons, namely, Mohammad Ashraf Sehrai, Gh. Nabi, Imtiyaz Ahmad and Mohammad Yaseen blocked the IG Road and started raising slogans in favour of freedom of Kashmir from India and against the integrity and sovereignty of India. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. and



the chargesheet (**Exhibit PW-24/11**) dated 22.12.2009 stands filed in the jurisdictional court.

228. He further deposed that FIR No.241/2012 was registered on 18.08.2012 at PS Budgam U/s 153-A, 124-A of RPC and Section 13 of UAPA on the basis of an information received through reliable source that Hurriyat Conference (G) Chairman SAS Geelani had authored and released a booklet titled “**Eid-ul-fitr**” 2012 Edition. The said book contained religious statements and the contents thereof were inciting and instigating people against sovereignty and integrity of India; the book also instigated people for separating the State of Jammu & Kashmir from the Union of India and tried to disrupt the communal harmony in the State. The accused in the said book, also referred to the Muslim population of India as “third grade civilians”. The book further had inciting material to the effect that the Muslims are being arrested merely on doubts and that the armed forces and the police have been harassing the people of Kashmir, and the masses are being driven to bad behavior and immodesty. It further stated that the security forces have been indulging in heinous crimes like rape and that upon being questioned by the public, they are being shot dead by the security forces. The book further contained statements that the future of the people of the State of Jammu & Kashmir is dark because of the presence of Indian forces in the State and that the freedom from the occupation of India of the State is necessary and need of the hour. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. and the chargesheet (**Exhibit PW-24/15**) stands filed in the jurisdictional court.

229. He further deposed that FIR No.350/2013 was registered on 18.09.2013 at PS Budgam U/s 13 of UAPA on the basis of an information received through reliable source that SAS Geelani in order to instigate the general public, urged them to march towards the UNO Office, Srinagar. Upon such instigation and provocation, a state of panic was caused among the general public. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. and the charge-sheet (**Exhibit PW-24/20**) dated 27.12.2021 stands filed in the jurisdictional court.

230. He has relied upon the certified true copies of FIR Nos. 92/2015, 274/2016, 74/2007, 350/2013 and 241/2012 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as Ex. **PW-24/1 to PW-24/22A**. He deposed that the statements made by him in his affidavit are based upon a perusal of the record of the investigation of the aforesaid FIRs; based on the knowledge derived by him during the course of discharge of his official duties, as also on the basis of the records maintained in his district. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

231. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-25**

232. **Imtiyaz Ahmad (PW-25)** tendered his affidavit as **Ex.PW-25/A** and deposed that he is posted as SHO Budgam and has gone through the records of the case files of FIR Nos. 70/2014, 110/2014 and 78/2006. He deposed, based on the records, that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani, who formed the organization and remained its Chairman from 2004 till July, 2018; succeeded by Mohammad Ashraf Khan @ Sehrai and later on Amir Hamza Shah became and is still continuing as its Chairman. The prominent separatist leaders along with leaders of Tehreek are violent and influential and are spearheading anti-India agenda at the instance of ISI, Pakistan; continuously advocating secession of J&K from the Union of India; showing disrespect towards the Constitution of India and the Constitutional authorities and inciting and brainwashing the local Muslim Community and its youth to bring about cession of J&K from Union of India. Syed Ali Shah Geelani, Mohammad Ashraf Khan @ Sehrai and Amir Hamza Shah are the prime separatist leaders of Jammu & Kashmir and were part of the world known conglomerate “Hurriyat Conference” and Mohammad Ashraf Khan @ Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi, i.e., Azadi and Ittehad (wherein word ‘Azadi’ means Rule of Islam in Jammu & Kashmir).

233. He deposed that FIR No.70/2014 was registered on 18.04.2014 at PS Budgam U/s 13 of UAPA on the basis of an information received through reliable sources that Hurriyat (G) Chairman SAS Geelani during a press conference told people to remain away from polling and had also instigated the people against the sovereignty and integrity of India, which gave rise to law and order problem.

234. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. and the accused, namely, Shabir Ahmad Shah, Nayeem Ahmad Khan, Mohammad Akbar Khandey and Bashir Ahmad Bhat @ Pir Saifullah, are lodged in different jails of the country. The charge-sheet (**Exhibit PW-25/10**) stands filed in the jurisdictional court.

235. He deposed that FIR No.110/2014 was registered on 11.06.2014 at PS Budgam U/s 13 of UAPA and Sections 147, 341 and 353 of RPC on the basis of a DD Extract No.08 received through Sgct Urmila Bharti that Hurriyat (G) Chairman SAS Geelani held a conference at his Hyderpora residence in commemoration of the martyrs of 2010 and after conclusion of the conference, SAS Geelani, alongwith other associates of Hurriyat (G), namely, Shabir Ahmad Shah, Nayeem Ahmad Khan, Aayaz Akbar, Bashir Ahmad Bhat @ Pir Saifullah, Mohd Amin, had defied the orders of the District Magistrate issued vide No.DMS/GBD/144-CRPC/358-365/14 dated 24.04.2014

whereby he was put under house arrest. The said leaders, after defying the orders of the District Magistrate, prevented the police from discharging their legitimate duties and came on Hyderpora Chowk in the form of unlawful assembly and stopped the movement of traffic on Airport road and started sloganeering against the sovereignty and unity of India. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. However, before filing of the charge-sheet, SAS Geelani died on 01.09.2021. Hence, an abated challan (**Exhibit PW25/6**) was filed against him before the jurisdictional court.

236. He further deposed that FIR No.78/2006 was registered on 11.04.2006 at PS Budgam U/s 121 of RPC and Section 18 of UAPA on the basis of a letter which was received at PS Saddar, Srinagar from DPO Srinagar alongwith a few press cuttings of Daily Newspaper “Greater Kashmir”. The said press cuttings had information to the effect that a few police officials, namely, Muneer Khan, Aashak Hussain Bukhari and Ashkooor Wani, had violated human rights by establishing jungle rule in the state. The investigation of the case was later on transferred to PS Budgam. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. and a chargesheet (**Exhibit PW-25/14**) dated 01.08.2022 stands filed in the jurisdictional court.

237. He has relied upon the certified true copies of FIR Nos. 70/2024, 110/2014 and 78/2006 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as **Ex. PW-25/5 to PW25/16A**. He deposed that the statements made by him in his affidavit are based upon a perusal of the record of the investigation of the aforesaid FIRs; based on the knowledge derived by him during the course of discharge of his official duties, as also on the basis of the records maintained in his district. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

238. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-26**

239. **Shukat Rafiq Wani (PW-26)** tendered his affidavit as **Ex.PW-26/A** and deposed that he is working as Addl. SP, Shopian, Kashmir and has gone through the records of the case files of FIR Nos. 38/2016, 51/2016 and 53/2016. He deposed that Tehreek and its leaders were involved in the secessionist activities. The most prominent face of Tehreek was Syed Ali Shah Geelani, who formed the organization and remained its Chairman from 2004 till July, 2018; succeeded by Mohammad Ashraf Khan @ Sehrai and later on Amir Hamza Shah became and is still continuing as its Chairman. The prominent separatist leaders along with leaders of Tehreek are violent and influential and are spearheading anti-India agenda at the instance of ISI, Pakistan; continuously advocating secession of J&K from the Union of India; showing disrespect towards the Constitution of India and the Constitutional authorities and inciting and brainwashing the local Muslim Community and its youth to bring about cession of J&K from Union of India. Syed Ali Shah Geelani, Mohammad Ashraf Khan @ Sehrai and Amir Hamza Shah are the prime separatist leaders of Jammu & Kashmir and were part of the world known conglomerate “Hurriyat Conference” and Mohammad Ashraf Khan @ Sehrai declared that Tehreek is formed on the ideals of Moulana Moudoodi, i.e., Azadi and Ittehad (wherein word ‘Azadi’ means Rule of Islam in Jammu & Kashmir).

240. He deposed that FIR No.38/2016 was registered on 23.06.2016 at PS Zainpora U/s 147, 336 of RPC r/w U/s 13 of UAPA on the basis of a written complaint received from HC Abdul Rasheed to the effect that while conducting patrolling duty at Village Awneera, it was found that an Iftar party held by the Hurriyat Conference (G), some separatist leaders namely Mohd. Yousuf Ganie @ Falaie and Mohammed Amin Ahangerat raised anti-national slogans and sought support of the people of Awneera to propagate their ideologies. They delivered speeches instigating the people, especially youngsters and further provoked them to cause unrest and disturbance of peace and tranquility in the State by instigating the gathering to follow the hartals according to the Hurriyat calendar and further motivated them to join the militant ranks of the said organization. The said Iftar party was organized by the inhabitants of adjacent areas namely Irfan Ahmad Bhat, Reyaz Ahmad, Tahir Nisar Dar, Mohd. Imran Dar, Sayar Manzoor Dar, Manzoor Ahmad Shikh, Aadil Bashir Khan, Hilal Yousuf Dar, Rayees Gulzar Teli, Mohd. Hussain Wagey and Rameez Mushtaq Dar and pelted stones at police officials. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. Further, 12 accused persons who organized the iftar party except one accused Mohd. Yousuf Ganie @ Fallaie, who is presently under PSA lodged in Kot Balwal Jail, were arrested. Out of 12 accused persons, 9 were released on bail by the court and the rest 3 accused namely Manzoor Ahmad Sheikh, Aadil Bashir Khan and Imran Yousuf Dar are presently under judicial custody lodged in district jail, Pulwama. Charges for the offence U/s 13 UAPA, 147, 226 of RPC were found proved against 13 accused persons namely Mohd Yousuf Ganie @ Falaie, Mohd Ameen Ahanger, Irfan Ahmad Bhat, Reyaq Ahmad Mir, Tahir Nisar Dar, Mohd Imran Dar, Sayar Manzoor Dar, Manzoor Ahmad Sheikh, Aadil Bashir Khan, Hilal Yousuf Dar, Rayees Gulzar Teli, Mohd Hussain Wagey and Rameez Mushtaq Dar. A charge-sheet was, accordingly, filed before the concerned jurisdictional court.

241. He deposed that FIR No.51/2016 was registered on 08.08.2016 at PS Zainpora U/s13 of UAPA on the basis of a docket received from ASI Mohd. Sultan to the effect that about 14.35 hours on 08.08.2016 while performing patrolling duty alongwith other nafri at Urpora Nagbal, they witnesses a gathering at Eidgah Nagbal being addressed

by Hurriyat (G) activists namely Mohd. Yousuf Ganie @ Falaie, Sarjan Ahmad Wagey, Molve Sajad and Mohd. Ranzan Naiko. The said activists persuaded the gathering to follow the Hurriyat Calender regarding Band calls and raised anti national slogans with the intent to spread hatred amongst the public against the Union of India. They further advised the youth to continue the struggle process. He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C. The investigation established involvement of 13 accused mentioned in the challan. Due to insufficient evidence, Section 13 UAP Act was deleted and offence U/s 147, 153 RPC were established against the accused persons, who were later arrested and released as per directions of the court. However, accused Mohd. Yousuf Ganie @ Falahie is lodged in Central Jail, Srinagar. A chargesheet stands filed in FIR No.51/2016.

242. He deposed that FIR No.53/2016 was registered on 11.08.2016 at PS Zainpora U/s13 of UAPA on the basis of a docket received from ASI Ab Aziz stating that on 11.8.2016 while conducting patrolling duty along with other nafri of police post Wachi at Jamia Masjid Ziyarat Hazrat Amir Kabir (R.A) Wachi, they witnessed a Huffiyat conference floating "Wachi Chalo" call. Hurriyat activists namely Mohd. Yousuf Ganie, Sarjan Ahmad Wagay and Molvi Sajad had assembled in Wachi village and delivered anti-national/pro-Pakistan speeches to the gathering thereby instigating and provoking them against the sovereignty of the Indian dominion. This resulted in the people from the gathering raising anti national slogans like "Hindustan murdabad Pakistan Zindabad". He deposed that the statements of witnesses were recorded under Section 161 of Cr.P.C.. The investigation established involvement of accused persons mentioned in the challan. Accused Nos. 1 to 5 were arrested and were later released as per direction from the court. However, accused No.6 namely Mohd. Yousuf Ganie @ Fallie is presently lodged in sub jail Pulwama in case FIR No.293/2016 at PS Shopian. Lodgement certificate is also filed with the affidavit. Mohd. Yousuf Ganie @ Fallie is a prominent member of the proscribed association. A chargesheet stands filed in FIR No.53/2016.

243. He has relied upon the certified true copies of FIR Nos.38/2016 , 51/2016 and 53/2016 along with their English version of translated copies as also the statements recorded in the aforesaid cases which have been exhibited as **Ex. PW-26/1 to PW-26/12A**. He has further deposed that the statements made by him in his affidavit are based upon a perusal of the record of the investigation of the aforesaid FIRs; based on the knowledge derived by me during the course of discharge of his official duties, as also on the basis of the records maintained in my district. He lastly deposed that the ban on the organization is justified and is necessary to prevent disruption of law and order and to prevent the concerned organization from continuing to preach disaffection, disloyalty and feelings of enmity and hatred against the lawfully established government of the Union of India.

244. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **PW-27**

245. By order dated 22.5.2024, while allowing Application No.TeH 01/2024, affidavit of Shri Brijesh Kumar Sharma, Under Secretary, MHA was withdrawn and in his place affidavit of Shri Rajesh Kumar Gupta, Director (Counter Terrorism), MHA (PW-28), was taken on record.

#### **PW-28**

246. **Rajesh Kumar Gupta (PW-28)** tendered his affidavit as **Ex.PW-28/A** and deposed that he is presently posted as Director (CTCR Division) in the Ministry of Home Affairs, New Delhi and is authorized and competent to swear this affidavit on behalf of the Central Government on the basis of his knowledge as derived from official records. He deposed that he has been specifically authorized by the Union Home Secretary to depose before this Tribunal as regards the background and rationale of the decision to ban the concerned association i.e. Tehreek-e-Hurriyat, Jammu & Kashmir (TeH). He deposed that he has been dealing with all the relevant files/records pertaining to banning of the proscribed association in his official capacity and is personally familiar with the procedure followed and the decision making process that ultimately led to the banning of the proscribed association.

247. He deposed that the notification no. S.O. 5532(E) dated 31.12.2023 issued by the Central Government is based on the information and material received from the central intelligence agencies and Criminal Investigation Department of Govt. of Union Territory of Jammu and Kashmir with regard to the unlawful activities of the proscribed association i.e. Tehreek-E-Hurriyat, Jammu & Kashmir (TeH). Based on this information, a note along with a draft notification was prepared and sent for the consideration of the Cabinet Committee on Security (CCS), which was approved on 15.12.2023. Accordingly, the declaration was made and published vide notification dated 31.12.2023, bearing S.O. 5532(E), which is exhibited as Ex.PW28/1. Accordingly, vide notification dated 16.1.2024 bearing S.O. 179(E), this Tribunal was constituted in terms of Section 5(1) r/w sub-section (1) of Section 4 of the UAPA Act, 1967. In terms of Rule 5 of the UAP Rules, 1968, vide letter dated 24.1.2024 a background note was filed before the Tribunal (Ex.PW28/2). The said background note was prepared by his section and was routed through him to be placed before the competent authority and further to be filed before this Tribunal. The contents of the background note are based on the official records maintained with his Ministry including inputs from various intelligence agencies.

248. He deposed that various affidavits have been filed on behalf of J&K Police and NIA against the founder and members of TeH under various provisions of law including the UAPA, Ranbir Penal Code etc. He has personally

perused the said affidavits. The evidence adduced by various witnesses together with the materials/information obtained from various intelligence/investigating agencies clearly establishes that TeH is continuously indulging in unlawful activities which pose a serious threat to the internal security of the country. He deposed that the reports of the various intelligence agencies referred by him in his affidavit are received by him; or brought to his notice during the course of discharge of his official duties.

249. He deposed that in the circumstances, the banning of TeH is necessary in the interest of national security, sovereignty and territorial integrity of India as its members and activists have been indulging in radicalizing and brainwashing the minds of the populace, and indoctrinating the youth through provocative speeches and canvassing for separation of Jammu and Kashmir from Union of India.

250. He deposed that the original files (duly indexed) containing various central intelligence reports/inputs and also reports of the Criminal Investigation Departments of the Union Territory of Jammu and Kashmir are being submitted in a sealed cover for the perusal of this Tribunal which is annexed herewith and exhibited as PW-28/3. The Central Government is seeking privilege/confidentiality for these original files and relies on Section 123 of the Evidence Act r/w Rules 3(2) of the UAP Rules. The confidentiality is being claimed since the contents of the same are privileged and confidential in nature and the same cannot be made available to the banned association or to any third party as the Government considers it against the public interest to disclose the same to either the banned association or to any third-party inter alia in terms of the provisions of Section 5 of the Unlawful Activities (Prevention) Rules, 1968. Claiming of privilege by the Government or its nodal agency has been authoritatively laid down under para 20-22 by the Hon'ble Supreme Court in *Jamaat-E-Islami Hind Vs. Union of India* (1995) 1 SCC 428.

251. He deposed that the Union Home Secretary has specifically granted permission to claim privilege in respect of the documents submitted in the sealed covers (Ex.PW-28/3) and has authorized him to depose before this Tribunal and claim privilege in respect of the said confidential documents which are accordingly being tendered in the sealed covers. He stated that the claim of privilege is in accordance with law and as per the established norms and procedure.

252. He lastly deposed that from the cogent and irrefutable evidences, TeH is continuously encouraging a veiled armed insurgency and are openly advocating and inciting people to bring about a secession of a part of the territory of India from the Union. It is also established that the activities of TeH is aimed at causing disaffection, disloyalty and dis-harmony by promoting feeling of enmity and hatred against the lawful government and the members of TeH are indulging and acting in a manner prejudicial to the territorial integrity and sovereignty of India by inciting and orchestrating violence. If the TeH is not banned, the activists and sympathizers of TeH will pose a serious threat to the communal harmony, internal security and integrity of the country.

253. Opportunity for cross-examination was given, but not availed in view of non-appearance on the part of the association.

#### **VIII. SUBMISSIONS ON BEHALF OF THE UOI**

254. On 22.05.2024 the matter was fixed for hearing. On the said date, learned Additional Solicitor General for the Union of India, while arguing for claiming privilege for producing documents in sealed cover, has referred to Section 123 of the Evidence Act read with Section 3(2) of the UAP Rules, 1968, which are reproduced as under:-

##### **Indian Evidence Act, 1872**

*“123. Evidence as to affairs of State – No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.”*

##### **The Unlawful Activities (Prevention) Rules, 1968**

*“3. Tribunal and District Judge to follow rules of evidence.-*

*(1) In holding an inquiry under sub-section (3) of section 4 or disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8, the Tribunal or the District Judge, as the case may be, shall, subject to the provisions of sub-rule (2), follow, as far as practicable, the rules of evidence laid down in the Indian Evidence Act, 1872 (1 of 1872).*

*(2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), where any books of account or other documents have been produced before the Tribunal or the Court of the District Judge by the Central Government and such books of account or other documents are claimed by that Government to be of a confidential nature then, the Tribunal or the Court of the District Judge, as the case may be, shall not,-*

*(a) Make such books of account or other documents a part of the records of the proceedings before it; or*

(b) *Allow inspection of, or grant a copy of, the whole of or any extract from, such books of account or other documents by or to any person other than a party to the proceedings before it.*"

255. Learned Additional Solicitor General submitted that the claim of privilege by the Union of India for the documents placed is made as the documents are of such a nature that the non-disclosure of which would be in the interest of the public. It was submitted that this concept of public interest is taken into account even in the criminal proceedings qua the accused, whereas in juxtaposition, the present matter stands at a much higher pedestal and involves the issue of sovereignty and integrity of the country. Learned ASG submitted that in the cases concerning national security, sovereignty and integrity, the Tribunal has to interpret and analyze the material differently as the decisions taken by the Central Government in such matters are based on highly sensitive information and inputs; and the effects of such decisions are not confined to the boundaries of the nation; and, in fact, in the present scenario when the terrorist activities and national insurgency are on rise, the global boundaries have become meaningless.

256. To support her arguments, learned ASG has relied upon the judgment in a case of preventive detention in **Raj Kumar Singh vs. State of Bihar** (1986) 4 SCC 407; where the Supreme Court, *inter alia*, held as under:-

*"The executive authority is not the sole judge of what is required for national security or public order. But the court cannot substitute its decision if the executive authority or the appropriate authority acts on proper materials and reasonably and rationally comes to that conclusion even though a conclusion with which the court might not be in agreement. It is not for the court to put itself in the position of the detaining authority and to satisfy itself that untested facts reveal a path of crime provided these facts are relevant. See in this connection the observations of O. Chinnappa Reddy, J. in Vijay Narain Singh case [(1984) 3 SCC 14: 1984 SCC (Cri) 361: AIR 1984 SC 1334: (1984) 3 SCR 435 ] at p. 440 and 441. (SCC p. 19, para 1) 346. Similarly, in the case of Union of India vs. Rajasthan High Court, (2017) 2 SCC 599: 2016 SCC Online SC 1468.. It was not for the court in the exercise of its power of judicial review to suggest a policy which it considered fit. The formulation of suggestions by the High Court for framing a National Security Policy travelled far beyond legitimate domain of judicial review. Formulation of such a policy is based on information and inputs which are not available to the court. The court is not an expert in such matters. Judicial review is concerned with the legality of executive action and the court can interfere only where there is a breach of law or a violation of the Constitution."*

257. The learned ASG has also placed reliance upon the judgment in **Ex-Armymen's Protection Services (P) Ltd. v. Union of India**, (2014) 5 SCC 409, wherein it has been *inter alia* held as under:

*"15. It is difficult to define in exact terms as to what is "national security". However, the same would generally include socio-political stability, territorial integrity, economic solidarity and strength, ecological balance, cultural cohesiveness, external peace, etc.*

*16. What is in the interest of national security is not a question of law. It is a matter of policy. It is not for the court to decide whether something is in the interest of the State or not. It should be left to the executive."*

258. The learned ASG submitted that the UAPA and the Rules framed thereunder provide for a mechanism to claim privilege and withhold certain facts/documents to seek non-disclosure of the same. The learned ASG then placed reliance on the judgment in **Jamaat-e-Islami Hind** (supra), wherein the Hon'ble Supreme Court has held as under:-

*"19. ...the proviso to sub-section (2) of Section 3 of the Act itself permits the Central Government to withhold the disclosure of acts which it considers to be against the public interest to disclose. Similarly, Rule 3(2) and the proviso to Rule 5 of the Unlawful Activities (Prevention) Rules, 1968 also permit nondisclosure of confidential documents and information which the Government considers against the public interest to disclose...*

*20...*

*21. It is obvious that the unlawful activities of an association may quite often be clandestine in nature and, therefore, the source of evidence of the unlawful activities may require continued confidentiality in public interest. In such a situation, disclosure of the source of such information, and, may be, also full particulars thereof, is likely to be against the public interest. The scheme of the Act and the procedure for inquiry indicated by the Rules framed thereunder provide for maintenance of confidentiality, whenever required in public interest.*

*22....in such cases where the Tribunal is satisfied that non-disclosure of such information to the association or its office-bearers is in public interest, it may permit its non-disclosure to the association or its office-bearers, but in order to perform its task of adjudication as required by the*

*Act, the Tribunal can look into the same for the purpose of assessing the credibility of the information and satisfying itself that it can safely act on the same. In such a situation, the Tribunal can devise a suitable procedure whereby it can itself examine and test the credibility of such material before it decides to accept the same for determining the existence of sufficient cause for declaring the association to be unlawful. The materials need not be confined only to legal evidence in the strict sense.*

23...

*24. Such a modified procedure while ensuring confidentiality of such information and its source, in public interest, also enables the adjudicating authority to test the credibility of the confidential information for the purpose of deciding whether it has to be preferred to the conflicting evidence of the other side. This modified procedure satisfies the minimum requirements of natural justice and also retains the basic element of an adjudicatory process which involves objective determination of the factual basis of the action taken."*

259. The learned ASG also relied on the judgment in ***People's Union for Civil Liberties vs. Union of India***, (2004) 2 SCC 476, where it was, *inter alia*, held as under:

*"69. The legislative policy behind the aforementioned provisions is no longer res integra. The State must have the prerogative of preventing evidence being given on matters that would be contrary to public interest.*

*70. For determining a question when a claim of privilege is made, the Court is required to pose the following questions:*

*(1) whether the document in respect of which privilege is claimed, is really a document (unpublished) relating to any affairs of State; and*

*(2) whether disclosure of the contents of the document would be against public interest?*

*71. When any claim of privilege is made by the State in respect of any document, the question whether the document belongs to the privileged class has first to be decided by the court. The court cannot hold an enquiry into the possible injury to public interest which may result from the disclosure of the document in question. The claim of immunity and privilege has to be based on public interest.*

*72. The section does not say who is to decide the preliminary question viz. whether the document is one that relates to any affairs of State, or how it is to be decided, but the clue in respect thereof can be found in Section 162. Under Section 162 a person summoned to produce a document is bound to —bring it to the court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the court. It further says that: —The court, if it seems fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility*

*73. In order to claim immunity from disclosure of unpublished State documents, the documents must relate to affairs of the State and disclosure thereof must be against interest of the State or public interest."*

260. The learned ASG, thus, submitted that from a bare reading of the aforesaid judgment of the Supreme Court, it is clear that an enquiry contemplated under the UAPA gives a right to the government to claim privilege of sensitive documents in public interest/national interest and in the interest of justice; which right has been duly upheld by the Supreme Court; and that in the present case, the documents for which claim of privilege, by their very nature, are confidential and sensitive in nature and, therefore, cannot be supplied as a public document.

261. The learned ASG further submitted that the document forms part of the evidence collected by the intelligence agencies which pertains to secessionist and unlawful activities of the TeH and those associated with it and the said documents are confidential and secret in nature and the same can be verified by the Tribunal only. The learned ASG further submitted that the nature of material placed in the sealed cover by the Central Government is in the form of intelligence reports, secret information collected from time to time by the investigating and intelligence agencies, communications between the intelligence agencies, information which may lead to further recoveries, discoveries of facts as also unearth conspiracies, the disclosure whereof would be clearly detrimental to the larger public interest and the security of the State. The learned ASG submitted that the material filed by the Central Government contains the note then put up to the Cabinet Committee on Security along with documents supporting the note and the grounds on which the notification was issued besides intelligence inputs and correspondence in relation thereto. Hence the claim of privilege of the documents by the Central Government is in accordance with law and the documents submitted in sealed cover are not required to be disclosed in the public interest.

262. Learned ASG further submitted that the sealed cover material as mentioned in the affidavit of the Union of India, forms part of the evidence which is inherently and dehors being part of the evidence of the present proceeding is of confidential nature, disclosure of which would be contrary, not only to the public interest but also to national interest and the interest of justice. In the same breath, the learned ASG submitted that the privilege of the said documents is claimed based on the nature of documents which impinge upon national security. The disclosure of these documents to the other side would jeopardize not only the interest and safety of certain individuals but would also compromise national security.

263. Learned ASG has submitted that with regard to the claim of privilege for non-disclosure of sealed documents, the Supreme Court in *S.P. Gupta* (supra), has held as under:

*“73. We have already pointed out that whenever an objection to the disclosure of a document under Section 123 is raised, two questions fall for the determination of the court, namely, whether the document relates to affairs of State and whether its disclosure would, in the particular case before the court, be injurious to public interest. The court in reaching its decision on these two questions has to balance two competing aspects of public interest, because the document being one relating to affairs of State, its disclosure would cause some injury to the interest of the State or the proper functioning of the public service and on the other hand if it is not disclosed, the nondisclosure would thwart the administration of justice by keeping back from the court a material document. There are two aspects of public interest clashing with each other out of which the court has to decide which predominates. The approach to this problem is admirably set out in a passage from the judgment of Lord Reid in Conway v. Rimmer [(1968) AC 910, 952, 973, 979, 987, 993 : (1968) 1 All ER 874 (HL)] :*

*“It is universally recognized that there are two kinds of public interest which may clash. There is the public interest that harm shall not be done to the nation or the public service by disclosure of certain documents, and there is the public interest that the administration of justice shall not be frustrated by the withholding of documents which must be produced if justice is to be done. There are many cases where the nature of the injury which would or might be done to the nation or the public service is of so grave a character that no other interest, public or private, can be allowed to prevail over it. With regard to such cases it would be proper to say, as Lord Simon did, that to order production of the document in question would put the interest of the State in jeopardy. But there are many other cases where the possible injury to the public service is much less and there one would think that it would be proper to balance the public interests involved.”*

264. Learned ASG, therefore, submitted that the rigors of *S.P Gupta* (supra) for claiming privilege have to be read in context of the provisions of UAPA and the Rules framed thereunder which provide that document, disclosure whereof may not be in the public interest, be not disclosed. She further submitted that the UAP Rules, as quoted above, starts with a *non obstante* clause and thus an inbuilt mechanism has been provided under the UAPA and the Rules framed thereunder. Accordingly, the Tribunal is mandated to grant privilege forbidding disclosure where the claim of the Government is that the disclosure of such documents could affect the larger public interest of the nation by jeopardizing the safety and sovereignty of the country and also finds that the public interest outweighs the interest of the association/members/office bearers.

265. Learned ASG submitted that the claim of confidentiality has to satisfy on the test of character of the document and if on an objective satisfaction it is concluded that the document is of such a character that its disclosure will injure public interest, the contents thereof cannot be permitted to be disclosed to the other side. Thus, the foundation of immunity from non-disclosure stems from the character of the document and an act of balancing public interest against the interest of the individual, the office bearer or the association which has been banned, has to be carried out by the Tribunal.

266. The learned ASG submitted that the statement of objects and reasons of the UAPA itself underlines the purpose of the enactment to provide for the more effective prevention of certain unlawful activities of individuals and associations and for matters connected therewith. She submitted that the statute empowers the Parliament to impose by a due process of law reasonable restrictions in the interest of sovereignty and integrity of India on the right to form an association and incidentally a restriction on the freedom of speech and expression, to assemble peacefully and with arms. UAPA being a special statute, the procedure provided therein necessarily prevails on the general provisions of law. Learned ASG submitted further that Section 48 of the UAPA itself provides that the provisions of the UAPA and the Rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of an enactment other than this Act giving a clear over-riding position.

267. The learned ASG also submitted that the decision of the previous Tribunals constituted under Section 4 of the UAPA, in which the claim of privilege by the Central Government had been allowed holding that the same satisfied the requirement of Section 123 of the Evidence Act, are binding on this Tribunal in view of the provisions of Section

5(7) of the UAPA which provide that the proceedings before this Tribunal are judicial proceedings and, therefore, reliance has been placed on the Extraordinary Gazette Notification bearing no CG-DL-E-27032023-244721 published in PART II—Section 3—Sub-section (ii) having No. 1382 dated MONDAY, MARCH 27, 2023/CHAITRA 6, 1945 whereby, Tribunal comprising of Hon'ble Mr Justice Dinesh Kumar Sharma, Judge, Delhi High Court in exercise of the powers conferred by sub-Section (3) of section 4 of the said Act, passed an order on the 21st March, 2023, confirming the declaration made by Central Government declaring the Popular Front of India (PFI) and its associates or affiliates or fronts including Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women's Front, Junior Front, Empower India Foundation and Rehab Foundation, Kerala as an unlawful association vide notification of the Government of India in the Ministry of Home Affairs, number S.O. 4559 (E), dated the 27th September, 2022 (hereinafter referred to as the said notification), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) dated the 28th September, 2022.

268. In view of the aforesaid position, the learned ASG submitted that the Central Government respectfully claims privilege on the documents contained in the sealed cover, as mentioned in the affidavit filed by the Central Government.

269. The Tribunal posed a question to the learned ASG as to what is the difference between the 'unlawful activity' & 'unlawful association' and the 'terrorist activity' & the 'terrorist organization'. To this, learned ASG submitted that the wisdom of Parliament to create two species of offences i.e. 'unlawful activity' & 'unlawful association' and 'terrorist activity' & 'terrorist organization' cannot be questioned. She submitted that the validity of the provisions of the Act ought to be judged in the backdrop of the history of the Act necessitating their introduction. Learned ASG submitted that as per the Statement of Objects and Reasons, the Unlawful Activities (Preventive) Act, 1963 was enacted to make powers available for dealing with activities directed against the integrity and sovereignty of India which may take the manner and form either of "terrorism" or "other unlawful activity" that threatens the sovereignty of India.

270. Learned ASG further submitted that the exception to the freedom of speech and expression, and to form associations and union, under Article 19(1) of the Constitution of India, was inserted in the form of "sovereignty and integrity of India" in Article 19(2) and 19(4), after the National Integration Council appointed a Committee on National Integration and Regionalization. The said Committee was to look into the aspect of putting reasonable restrictions in the interests of the sovereignty and integrity of India. Learned ASG submitted that pursuant to the acceptance of recommendations of the Committee, the Constitutional Sixteenth Amendment) Act 1963 was enacted to impose reasonable restrictions in the interests of the sovereignty and integrity of India. Further, in order to implement the provisions of the 1963 Act, the Unlawful Activities (Prevention) Bill was introduced in the Parliament. The main objective of the Unlawful Activities (Prevention) Act is to make powers available for dealing with activities directed against the integrity and sovereignty of India.

271. Learned ASG submitted that after Independence of India, Parliament of India has passed many laws to regulate national security and in order to protect sovereignty of India. The UAPA, 1967 is an Act to provide for the more effective prevention of certain unlawful activities of individuals and associations and for dealing with terrorist activities and other matters connected therewith. Learned ASG submitted that the present Act is the Central Act and has been amended time and again to tackle the menace of terrorism and terrorist activities from India.

272. Learned ASG further submitted that to achieve the aforesaid purpose of tackling the menace of activities inimical to the sovereignty and integrity of India, the legislature in its wisdom decided to create two species of the offence i.e.

- i. Unlawful Activity & Unlawful Association [S-2(o) r/w Chapter 2 & 3 (Sections 3-14)]; and
- ii. Terrorist Act & Terrorist Organization [S-2(k), (I),(m) r/w Chapter 4-6 (Sections 15-40)].

273. Learned ASG further submitted that the growing threat of terrorism posed immediate harm to the lives of the Indian citizens and the security of the State led to the enactment of special deterrent laws from time to time. Learned ASG submitted that notably, the repeal of the Prevention of Terrorist Activities Act, 2002 entailed an absence of a legal framework to address the menace of terrorism. Accordingly, as a consequence, the UAPA was amended to include a definition of the term 'terrorism' and to give substantive powers to the Indian State to address the same. The amendments made therein were made also keeping in mind India's commitments under the Security Council Resolution dated 28th September, 2001, which enjoined to fight both terrorism as well as terror funding, which was to be treated as a genus of terrorism. The amendments were in furtherance of the global fight against terrorism.

274. In view of the aforesaid, learned ASG submitted that it is evident that the provisions of UAPA have been enacted by the Parliament which had the legislative competence to enact the same and that once it is clear that the Parliament had the legislative competence to enact the law, there is a presumption of constitutionality in favour of the statute. It is further submitted that there is always presumption of constitutional validity of the statute and it is presumed that the Legislature understands the needs of the people. Learned ASG submitted that an organization can be banned solely based on the opinion of the Central Government and, therefore, the challenge to Chapter II of UAPA



has already been repelled by the Hon'ble Supreme Court in para 84 -92 of *Arup Bhuyan v. State of Assam* (2023) 8 SCC 745. In para 90 of this judgment, the Hon'ble Supreme Court held as under:-

*“90. Thus from the aforesaid it can be seen that before any organization is declared unlawful a detailed procedure is required to be followed including the wide publicity and even the right to a member of such association to represent before the Tribunal. As observed hereinabove the notification issued by the Central Government declaring a particular association unlawful, the same is subject to inquiry and approval by the Tribunal as per Section 4. Once that is done and despite that a person who is a member of such unlawful association continues to be a member of such unlawful association then he has to face the consequences and is subjected to the penal provisions as provided under Section 10 more particularly Section 10(a)(i) of the UAPA, 1967.”*

275. Learned ASG submitted that from the aforesaid discussion of the Supreme Court, it is clear that an organization can be banned on the basis of the opinion of the Central Government and through the process duly established by the law enacted by the Parliament.

276. Part-heard arguments were heard on behalf of the Union of India and the matter was fixed for final arguments on 28.05.2024.

277. On 28.05.2024, Mr. Rajat Nair, learned counsel for the Union of India submitted that the proceedings before this Tribunal are akin to civil proceedings; the standard of proof is the standard prescribed by the Supreme Court in *Jamaat-e-Islami Hind* (supra) and the matter has to be decided by objectively examining which version is more acceptable and credible. In this regard, learned counsel has referred to the observation made in para 30 of *Jamaat-e-Islami Hind* (supra). Learned counsel also argued that the procedure to be followed by the Tribunals can be read from the law enacted under the Administrative Tribunals Act, 1985. Learned counsel then submitted that similarly the Tribunal established under the UAPA has been bestowed with certain powers and the procedure to be adopted by it under Section 5 read with Section 9 of the said Act.

278. Mr. Nair has submitted that as per the mandate of Section 4 of the UAPA, the jurisdiction of this Tribunal is to adjudicate whether or not there is sufficient cause available with the Central Government to ban the organization in question. Learned counsel has submitted that any procedural irregularities or defects in material adduced before this Tribunal are to be tested by the concerned trial court within the parameters of the Indian Evidence Act, 1872 and other relevant laws. Learned counsel further submitted that the jurisdiction of this Tribunal is to satisfy itself whether these documents can be relied upon to ascertain ‘sufficiency of cause’ and whether the agencies responsible for the enforcement of law and order could or could not have ignored the same for recommending suitable action under the UAPA.

279. Mr. Nair further has submitted that for the purpose of assessing the sufficiency of the cause, this Tribunal has to holistically look into the entire materials / incidents and if the material / incidents are relatable acts of commission of unlawful activity, secession or ‘cession of a part of the territory of India’ on the anvil of preponderance of probability, then the ban is justified and is required to be confirmed. Learned counsel submitted that the Central Government has led sufficient and cogent material and evidence to demonstrate that there was sufficient material available with the Central Government to form an opinion that TeH and its associates were indulging in unlawful activities. Learned counsel submitted that the law does not require that the cases which should form the basis of opinion formed by the Central Government should not be proximate to the date of the decision or there should be ‘X’ number of cases to prove an association to be an unlawful association; and that even one case may be sufficient. Learned counsel has submitted that the delay in the investigation will have no bearing in the present proceedings as the degree of evidence required before this Tribunal and the adjudication thereon is to be based on the principles of preponderance of probabilities.

280. Mr. Nair submitted that the evidence adduced by the Central Government has not been refuted on any ground whatsoever, and as such, in view of non-rebuttal of the evidence adduced by the Central Government by any member / erstwhile member of TeH opposing the ban, the Notification No. S.O.5532 (E) published in the Gazette of India, Extraordinary, dated 31<sup>st</sup> December, 2023, declaring the Tehreek-e-Hurriyat, Jammu and Kashmir (TeH) as an ‘unlawful association’ under sub-Section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 is liable to be confirmed.

281. As regards the hostile environment prevailing in the territory of Jammu & Kashmir creating hurdles in conclusion of cases against the separatist and militants, the learned counsel submitted that as has been stated in the testimonies of various witnesses, the delay in the investigation and trial has occurred due to extremely hostile environment which prevailed in the erstwhile State of Jammu and Kashmir. Learned counsel submitted that it is a matter of public knowledge that since last more than three decades, the erstwhile State of Jammu and Kashmir has been adversely affected by the acts and deeds of the Separatist groups and its leaders.

282. Learned counsel submitted that from 1989 to 2016 the situation in the erstwhile State of Jammu and Kashmir remained volatile and disturbed due to the circumstances created by terrorist groups camouflaged as Separatist

Groups/Political Parties or self-styled political leaders who instigated and provoked the general public at large against the lawfully established governments with the help of foreign state and non-state actors having interests inimical to the interest of the country. Learned counsel has submitted that these facts have been referred to in the concurring opinion of Justice Sanjay Kishan Kaul in para-31 and Epilogue recorded in para 113-135 in the judgment **Re: Article 370 of the Constitution**, reported in 2023 INSC 1058 : 2023 SCC Online SC 1647.

283. Learned counsel submitted that the separatist leaders and their activists had created such terror in the minds of public that the general public, which even did not support their cause, feared to oppose them or to report to the police against various incidents and even feared to depose or give evidence against the said separatist leaders, thus, leading to a non-cooperative atmosphere for the police investigating agencies in the cases registered against the said separatist organizations or its leaders.

284. Learned counsel also submitted that the investigation was further slowed thereafter due to COVID-19 Pandemic which had brought all the routine activities to a standstill and a complete lockdown in the entire nation was imposed, hence, the investigation in the cases registered against the TeH and its members in the State of Jammu & Kashmir could not be processed at the pace it should have been.

285. Learned counsel has also submitted that the NIA in its charge-sheet filed on 18.01.2018 in RC-10/2017/NIA/DLI vide paragraphs 17.2. to 17.5 has highlighted the magnitude of secessionist and terrorist activities in the Kashmir valley and the nexus of TeH and cross border terrorist organizations in the Kashmir valley and that the investigation carried out by the NIA, therefore, corroborates the hostile environment in the State of Jammu and Kashmir for a long period of time which could not let the Investigating Agency to complete the investigations in respective FIRs.

286. The learned counsel submitted that a bare perusal of the facts stated in the NIA charge-sheet read with the facts stated in the judgment of the Supreme Court in **Re: Article 370 of the Constitution** (supra), it can be clearly inferred that prior to coming into force the Jammu & Kashmir Re-Organization Act, 2019, the various successive governments / authorities from 2004 to 2019 for the reasons recorded in the judgment of the Supreme Court did not take any stern action against the separatists. Learned counsel submitted that the said authorities rather than concentrating on prosecuting the criminal acts of separatist and secessionist forces, indulged in dialogue. Learned counsel submitted that it appears that due to such non-conducive and hostile environment, the investigations / prosecutions could not reach to their logical conclusions, which are not taken up with a sense of urgency and seriousness post coming into force the Jammu and Kashmir Re-Organization Act, 2019.

287. Learned counsel submitted that despite several FIRs having been lodged against TeH, its members / activists / sympathizers are still active and are indulging in unlawful activities as defined in the UAPA and are indulging in anti-national activities posing a serious threat to the sovereignty and integrity of India, peace, communal harmony, internal security and maintenance of secular fabric of the Indian society. Learned counsel has submitted that if the TeH is not banned again, the activists and sympathizers of TeH will again pose a serious threat to the communal harmony, internal security and integrity of the country.

288. Lastly, learned counsel has submitted that the notification No. S.O. 5532 (E); dated October 31<sup>st</sup> December, 2023, issued by the Central Government declaring TeH as an unlawful association is based on the information and material received from the State Government of Jammu and Kashmir, the National Investigation Agency, Directorate of Enforcement and the various intelligence agencies, with regard to the unlawful activities of the TeH and is liable to be confirmed.

#### **IX. CLAIM FOR PRIVILEGE**

289. The Union of India has claimed privilege in respect of the documents filed in sealed envelopes, disclosure whereof is injurious to public interest, as specifically envisaged in the UAP Rules, 1968. Rule 3 of the said UAP Rules, is in the following terms :-

**“3. Tribunal and District Judge to follow rules of evidence.—(1) In holding an enquiry under sub-section (3) of Section 4 or disposing of any application under sub-section (4) of Section 7 or sub-section (8) of Section 8, the Tribunal or the District Judge, as the case may be, shall, subject to the provisions of sub-rule (2), follow, as far as practicable, the rules of evidence laid down in the Indian Evidence Act, 1872 (1 of 1872).**

**(2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), where any books of account or other documents have been produced before the Tribunal or the Court of the District Judge by the Central Government and such books of account or other documents are claimed by that Government to be a confidential nature then, the Tribunal or the Court of the District Judge, as the case may be, shall not, --**

**(a) make such books of account or other documents a part of the records of the proceedings before it; or**

(b) allow inspection of, or grant a copy of, the whole of or any extract from, such books of account or other documents by or to any person other than a party to the proceedings before it.”

291. It can be seen that the Rule 3 (2) starts with a non-obstante clause providing that notwithstanding anything contained in the Indian Evidence Act, 1872, where any books of account or other documents are sought to be produced by the Central Government and these documents are claimed to be of a confidential nature, then the Tribunal shall not make such documents a part of the records of the proceedings before it or allow inspection of or grant a copy of the same to any person other than the parties to the proceedings before it.

292. Rule 5 of the UAP Rules which provides for the documents which should accompany a reference to the Tribunal viz. a copy of the notification and all facts on which grounds specified in the notification are based, further provides that nothing in the said Rule shall require the Central Government to disclose any fact to the Tribunal which it considers against public interest to disclose. The said rule is in the following terms:-

*“5. Documents which should accompany a reference to the Tribunal. – Every reference made to the Tribunal under sub-section (1) of Section 4 shall be accompanied by –*

*(i) a copy of the notification made under sub-section (1) of Section 3, and*

*(ii) all the facts on which the grounds specified in the said notification are based:*

*Provided that nothing in this rule shall require the Central Government to disclose any fact to the Tribunal which that Government considers against the public interest to disclose.”*

293. The aforementioned provisions and the requirement of maintaining confidentiality of certain documents specifically came to be considered by the Supreme Court in the case of **Jamaat-e-Islami Hind** (supra), wherein it was held as under :-

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

23. In *John J. Morrissey and G. Donald Booher v. Lou B. Brewer* the United States Supreme Court, in a case of parole revocation, indicated the minimum requirements to be followed, as under: (L Ed pp. 498-99)

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

*relied on and reasons for revoking parole. We emphasise there is no thought to equate this second stage of parole revocation to a criminal prosecution in any sense. It is a narrow inquiry; the process should be flexible enough to consider evidence including letters, affidavits, and other material that would not be admissible in an adversary criminal trial.”*

24. *In Paul Ivan Birzon v. Edward S. King placing reliance on Morrissey, while dealing with a similar situation, when confidential information had to be acted on, it was indicated that the credibility issue could be resolved by the Board retaining confidentiality of the information but assessing the credibility itself, and a modified procedure was indicated as under:*

*“... the board was required to decide whether it would believe the informants or the parolee and his witnesses. The infirmity that we see in the hearing and determination by the parole board is that it resolved the credibility issue solely on the basis of the State report, without itself taking the statements from the informants. Thus the board had no way of knowing how reliable the informants were and had no real basis on which to resolve the credibility issue against the parolee....*

*We do not mean to intimate that the board should have taken testimony from the informants at the hearing and given the parolee the opportunity to cross-examine. What we do mean is that the board should have received the information directly from the informants (although not necessarily in the presence of the parolee), instead of relying solely on the State report. The board could then have reached its own conclusions about the relative reliability of the informants' statements and those of the parolee and his witnesses.*

*Similarly, the board could then have made its own decision about how realistic were the claims of potential danger to the informants or to State parole officers if their identity was disclosed, instead of placing exclusive reliance on the State report. Thus, we hold that, in relying exclusively on the written synopsis in the State report, which was the only evidence of a parole violation, in the face of the parolee's denial and his presentation of the testimony of other witnesses, the revocation of Satz's parole was fundamentally unfair to him and was a denial of due process of law.”*

25. *Such a modified procedure while ensuring confidentiality of such information and its source, in public interest, also enables the adjudicating authority to test the credibility of the confidential information for the purpose of deciding whether it has to be preferred to the conflicting evidence of the other side. This modified procedure satisfies the minimum requirements of natural justice and also retains the basic element of an adjudicatory process which involves objective determination of the factual basis of the action taken.*

26. *An authorised restriction saved by Article 19(4) on the freedom conferred by Article 19(1)(c) of the Constitution has to be reasonable. In this statute, provision is made for the notification to become effective on its confirmation by a Tribunal constituted by a sitting High Court Judge, on adjudication, after a show-cause notice to the association, that sufficient cause exists for declaring it to be unlawful. The provision for adjudication by judicial scrutiny, after a show-cause notice, of existence of sufficient cause to justify the declaration must necessarily imply and import into the inquiry, the minimum requirement of natural justice to ensure that the decision of the Tribunal is its own opinion, formed on the entire available material, and not a mere imprimatur of the Tribunal affixed to the opinion of the Central Government. Judicial scrutiny implies a fair procedure to prevent the vitiating element of arbitrariness. What is the fair procedure in a given case, would depend on the materials constituting the factual foundation of the notification and the manner in which the Tribunal can assess its true worth. This has to be determined by the Tribunal keeping in view the nature of its scrutiny, the minimum requirement of natural justice, the fact that the materials in such matters are not confined to legal evidence in the strict sense, and that the scrutiny is not a criminal trial. The Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the association, if the public interest so requires.*

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

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

294. The High Court of Andhra Pradesh in *Deendar Anjuman v. Government of India*, 2001 SCC OnLine AP 663 after applying the test laid down in *Jamaat-e-Islami Hind* (supra) held that the entire material available on record itself need not be published or made available to the aggrieved person but what is required is disclosure of reasons and the grounds. Relevant extract of the said judgment is as under:

*"19. The expression "for reasons to be stated in writing" did not necessarily mean that the entire material available on record itself is to be published or made available to the aggrieved person. What is required is disclosure of reasons. The grounds must be disclosed. The notification issued under sub-section (1) of Section 3 alone is required to be referred to the Tribunal "for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful." The Tribunal after such reference is required to issue notice to the affected association to show cause, why the association should not be declared unlawful. The Tribunal is required to hold an enquiry in the manner specified in Section 9 and after calling for such further information as it may consider necessary from the Central Government or from the association and then decide whether or not there is sufficient cause for declaring the association to be unlawful. The Tribunal is required "to adjudicate whether or not there is sufficient cause for declaring the association unlawful." As held by the Supreme Court in *Jamaat-e-Islami Hind v. Union of India*<sup>2</sup> the Tribunal is required to weigh the material on which the notification under sub-section (1) of Sec. 3 is issued by the Central Government after taking into account the cause shown by the Association in reply to the notice issued to it and by taking into consideration such further information which it may call for, to decide the existence of sufficient cause for declaring the action to be unlawful. The Tribunal is required to objectively determine the points in controversy. The Supreme Court further held that subject to non-disclosure of information which the Central Government considers to be against the public interest to disclose, all information and evidence relied on by the Central Government to support the declaration made by it of an association to be unlawful, has to be disclosed to the association to enable it to show cause against the same. The Tribunal is entitled to ascertain the credibility of conflicting evidence relating to the points in controversy. It is observed by the Supreme Court:*

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

20. It is, therefore, evident that disclosure of all the facts and material available on record subject to the claim of any privilege in this regard by the Central Government is only after the reference of the notification issued under sub-section (1) of Section 3 of the Act to the Tribunal for the purpose of adjudication whether or not there is sufficient cause for declaring the association unlawful. The material available on record may have to be revealed to the association or its members. In a case wherever any privilege is claimed, the Tribunal has to examine the material itself in the manner it considers appropriate, to assess its credibility without disclosing the same to the association. Therefore, there is no requirement to disclose the material itself and publish the same in the notification or provide to the association along with the notification issued in exercise of the power under proviso to sub-section (3) of Section

*3 declaring the association to be unlawful with immediate effect. The requirement is disclosure of additional reasons and grounds and not the material. The notification issued in exercise of the power under proviso to sub-sec. (3) of Section 3 cannot be set aside on the ground that the material relied upon for stating the reasons is not communicated to the association concerned declaring it to be an unlawful association with immediate effect. Such notification would become vulnerable only when the reasons are not notified: The record should contain the reasons in writing and the same is required to be revealed and published in the notification or communicated to the association concerned. Such reasons are required to be distinct and different and cannot be the same for imposing ban under Section 3 of the Act. The reasons are required to be communicated but not the entire material. Disclosure of the material is only after reference of the notification issued under Section 3 of the Act to the Tribunal.”*

295. The legal position, that emerges, can be succinctly put in the following terms:-

- i. The scheme of the Act and the procedure for inquiry indicated by the Rules framed thereunder contemplates maintenance of confidentiality whenever required in public interest;
- ii. The Tribunal can look into the confidential material without the same being disclosed to the Association or its office-bearers, for the purpose of assessing the credibility of the information and satisfying itself that the same is reliable;
- iii. The Tribunal can devise a suitable procedure for itself for examining and testing the credibility of such material
- iv. The requirement of natural justice can be suitably modified by the Tribunal in the manner it considers appropriate for the purpose of assessing/examining the confidential material/documents, and arriving at a conclusion based on a perusal thereof.

296. Further, the rigors prescribed by the Supreme Court in the case of *S.P. Gupta* (supra) have to be read in the context of the provisions of the UAPA and the Rules framed thereunder. In particular, it needs to be borne in mind that Rule 3(1) of the UAP Rules, 1968 expressly provides that in holding any inquiry under Sub-Section (3) of Section 4 of the UAPA, the Tribunal shall follow “as far as practicable”, the rules of evidence laid down in the Indian Evidence Act. Thus, the rigors that have been contemplated in the context of Section 123 of the Indian Evidence Act, cannot *ipso-facto* be made applicable to these proceedings. The legislative intent in making the provisions of the Evidence Act applicable only “as far as practicable” is evident from the nature of these proceedings. The proceedings before this Tribunal do not contemplate a full-fledged trial; rather the proceedings are in the nature of an “inquiry” as referred to in Section 4(3).

297. Further, the proceedings are time-bound and as laid down by the Supreme Court in the case of *Jamaat-e-Islami Hind* (supra), an appropriate procedure has to be devised/tailored by this Tribunal for the purpose of its inquiry. As such, any claim seeking privilege has to be assessed in terms of the in-built mechanism as provided under the UAPA and the Rules framed thereunder and the Tribunal is mandated to grant privilege from disclosure where it finds that the disclosure would be against/injurious to public interest. Thus, the nature of the documents has to be assessed by the Tribunal to see whether it contains any sensitive information, disclosure of which would be against public interest.

298. On perusal of the documents submitted by the Central Government in a sealed cover, it is found that the same contains inputs from intelligence agencies, secret information collected from time to time by the police and intelligence agencies, notes/memos prepared by the investigating and intelligence agencies, information revealed on investigation including information as to the clandestine nature of the activities of the concerned association and its office-bearers and linkage of the association and its office-bearers with organizations and individuals outside of India.

299. I find from the perusal of these documents that the disclosure of these documents would be detrimental to the larger public interest and security of the State. One of the documents which is contained in the sealed cover, is a note prepared for consideration of the cabinet committee on security, which contains sensitive information about activities of the Association and its inimical impact on national security. Clearly, the nature of these documents is such that it would be in public interest and in the interest of the security of the State to maintain confidentiality as regard thereto.

300. I also note that the claim for privilege has been expressly stated by the concerned witness from the Ministry of Home Affairs (PW - 28) to be based on a specific approval/direction of the Union Home Secretary (The head of the Department). The said position is also borne out from the relevant official/noting files shared with this Tribunal.

301. In the circumstances, this Tribunal allows the claim for privilege in respect of the documents submitted in a sealed cover by the concerned witness from the Ministry of Home Affairs (PW-28) and by the concerned witness from NIA (PW-9). Consequently, the Tribunal has proceeded to peruse the said documents, as contemplated in the Judgment of the Supreme Court in *Jamaat-e-Islami Hind* (supra) and to assess the credibility thereof and the implications flowing therefrom for the purpose of the present inquiry.

**X. ANALYSIS AND CONCLUSION**

302. On the basis of the material placed on record and the evidence adduced by the Central Government, I find sufficient cause for declaring Tehreek-e-Hurriyat, Jammu and Kashmir ('TeH') as an unlawful association.

303. The notification dated 31<sup>st</sup> December, 2023 issued under Section 3(1) of the Act *inter alia* mentions that, (i) the members of TeH have been at the fore-front of the secessionist activities in Jammu and Kashmir; (ii) the leaders and members of TeH have been involved in raising funds through various sources including those in Pakistan for promoting unlawful activities, including supporting terrorist activities; (iii) TeH and its members have scant respect towards the constitutional authority and constitutional set-up of the country; (iv) TeH members have been paying tributes to terrorists who were killed in encounters with security forces, and its members have been involved in supporting terrorist activities with an intent to create a reign of terror in the country; (v) TeH and its leaders or members have been indulging in unlawful activities, which are prejudicial to the integrity, sovereignty, security and communal harmony of the country.

304. The above grounds/justification cited in the notification issued under Section 3(1) of the Act are borne out from the extensive evidence adduced by the Central Government. The said evidence can be broadly categorized into four categories:-

- i. Evidence adduced by officers (senior police officers) from Union Territory of Jammu and Kashmir;
- ii. Evidence in the form of Charge-sheet filed in NIA case No. RC-10/2017/NIA/DLI;
- iii. Evidence showing receipt of funds by members of the TeH from Pakistan, and collusion with external agencies/inimical elements; and
- iv. Evidence in the form of documents/material submitted in a sealed cover before this Tribunal.

**EVIDENCE ADDUCED BY OFFICERS FROM THE UNION TERRITORY OF JAMMU AND KASHMIR**

305. As many as 26 senior police officers/officials from the Union Territory of Jammu and Kashmir (PW1 – PW26) have deposed as regards the litany of incidents involving leaders/members of the TeH since the past several decades. The same clearly brings out that the concerned association through its chief protagonist late Syed Ali Shah Geelani, later succeeded by Mohammad Ashraf Khan @ Sehrai and then by Ameer Hamza Shah, its current Chairman, has been relentlessly indulging in "unlawful activities".

306. The incidents with regard to which voluminous evidence have been adduced, *inter alia* involves:

- i. raising anti-India and pro-Pakistan slogans (evidence of PW-1, PW-5, PW-7, PW-8, PW-9, PW-10, PW-12, PW-13, PW-14, PW-15, PW-16, PW-17, PW-18, PW-19, PW-20, PW-21, PW-23, PW-24 and PW-25);
- ii. encouraging boycott of elections and openly professing dis-allegiance towards the Constitution of India (evidence of PW-16, PW-17, PW-20, PW-22 and PW-24);
- iii. inciting the people of Jammu and Kashmir to take resort to violence/pelting of stones on security forces (evidence of PW-1, PW-2, PW-3, PW-9, PW-11, PW-14, PW-18, PW-20, PW-21, PW-23, PW-24 and PW-25);
- iv. undermining the sovereignty and territorial integrity of India and professing affection towards Pakistan by making hate speeches (evidence of PW-1, PW-2, PW-3, PW-6, PW-7, PW-8, PW-9, PW-11, PW-14, PW-15, PW-17, PW-18, PW-20, PW-21, PW-23, PW-24 and PW-25);
- v. instigating the general public intending to cause disaffection against India (evidence of PW-1, PW-3, PW-5, PW-6, PW-7, PW-9, PW-12, PW-14, PW-16, PW-17, PW-18, PW-19, PW-20, PW-21, PW-22, PW-23, PW-24, PW-25 and PW-26);
- vi. raising of funds through various sources including for promoting unlawful activities, including supporting terrorism/ violence/ militancy, spreading secessionist ideology in Jammu and Kashmir (evidence of PW-9).

307. On a cumulative consideration of the various incidents/activities which are subject matters of the various FIRs with regard to which the aforesaid evidence has been led, it is evident that TeH and its Chairman (from 2004 till July, 2018) late Syed Ali Shah Geelani, succeeded by Mohammad Ashraf Khan @ Sehrai and later on Ameer Hamza Shah have been indulging in "unlawful activities" and have posed a grave threat to the law and order situation in Jammu and Kashmir since the last several decades.

308. Although it is true that the investigation in most of the FIRs (with regard to which PW-1 to PW- 26 have deposed) has been protracted, learned ASG of the Union of India has sought to emphasise that the same was on account of hostile environment prevailing in the Territory of Jammu and Kashmir over a long period of time. However, what is of relevance to this Tribunal is the clear pattern that is discernible as regards the nature of activities

of the concerned association and its office bearers. The pattern of conduct is to incessantly encourage secession of the State of Jammu and Kashmir, questioning or seeking to disrupt the sovereignty and territorial integrity of India, inciting the people of Jammu and Kashmir to take resort to violence/pelting of stones etc., and to disrupt peace in the region of Jammu and Kashmir.

309. This Tribunal also takes note of the fact that each of the senior police officers from the State of Jammu and Kashmir, who have deposed before this Tribunal, during the course of their examination, strenuously emphasized from their own personal knowledge derived during the course of discharge of their official functions, that the leaders/members of TeH have been:

- i. incessantly encouraging and have been actively and continuously advocating claims for secession of Jammu and Kashmir from the Union of India and have been inciting the separatist groups to destabilize the government of India;
- ii. promoting anti-national and separatist sentiments prejudicial to the integrity and security of the country;
- iii. spearheading / conspiring / masterminding / facilitating / escalating secessionist movement and unlawful activities inside the country and especially in J & K;
- iv. tacitly and tactically supporting militancy and incitement of violence in the territory of Jammu and Kashmir on religious lines and have been a firm preacher of Kashmir separatist movement;

310. The compelling testimony of officers from numerous districts of Jammu and Kashmir cannot be disregarded. The aforesaid evidence remains unrebutted by the concerned association/ its office bearers. At every stage of these proceedings, a right was afforded to the concerned association/its members and any other interested party in the matter to appear before this Tribunal and cross-examine the concerned officers who have deposed before this Tribunal. However, the said opportunity has not been availed.

#### **EVIDENCE IN THE FORM OF CHARGE-SHEET FILED IN NIA CASE NO. RC-10/2017/NIA/DLI**

311. This case pertains to the terrorist and secessionist activities that have rattled Jammu and Kashmir since late 1980's and early 1990's. Various terrorist organizations such as Lashkar-e-Toiba (LeT), Hizub-ul-Mujahideen (HM), Jammu & Kashmir Liberation Front (JKLF), Harkat-ul-Jihad-al-Islami, Jaish-e-Mohammad (JeM) etc. unleashed a spate of violence in the valley by attacking civilians as well as the security forces with the active support of the Inter-Services Intelligence (ISI) of Pakistan. Pakistan has not only been training the terror groups but also supporting them financially and diplomatically. Amidst the violent activities of the terrorists and mass exodus of the minority community from Jammu and Kashmir, the All Parties Hurriyat Conference (APHC) was formed as a conglomerate of 26 political/social/religious organizations in the year 1993 which gave a political front to the secessionist activities.

312. The investigation in the NIA case uncovered a conspiracy involving various terrorist organizations, such as JKLF, HM, and LeT, in collusion with secessionist groups comprising the APHC, funded by Pakistan and its agencies. The aim was to wage war against the Indian Government and advocating for the secession of Jammu & Kashmir from India. APHC, initially formed as a political front, was found to be actively involved in inciting violence and unrest in Kashmir to further their secessionist agenda. Pursuant to the investigation, a charge-sheet dated 18.01.2018 was filed before the NIA Special Court, New Delhi - against 12 accused persons (who are leaders in APHC), including two designated terrorists, based in Pakistan, as absconders.

313. In the chargesheet filed in the NIA case, accused no.A-4 is Altaf Ahmad Shah @ Fantoosh, who is stated to be the public relation officer for TeH and the chief organizer and secretary of APHC; Accused no. A-8 is Raja Mehrajuddin Kalwal, who is stated to be the president of TeH for district Srinagar; Accused no. A-9 is Bashir Ahmad Bhat @ Peer Saifulla who is described in the chargesheet as an "Imam in a masjid and personal assistant of SAS Geelani as well as the secretary of TeH". The chargesheet documents the nefarious activities of TeH in considerable detail.

314. Para 17.3.2 of the chargesheet specifically refers to the secessionist agenda of TeH. The said paragraph is reproduced as under:-

*17.3.2 The secessionist agenda of the Hurriyat is also reflected in its website www.hurriyatconference.com, which speaks about "Freedom struggle" and that "People of Jammu & Kashmir have been fighting against Indian Occupation". The website shows Syed Ali Shah Geelani as the Chairman of APHC and Tehreek-e- Hurriyat, A-4 as Secretary Public Relations and A-7 as Spokesman APHC. The content on the website reads as follows:-*

*"Freedom Struggle - At Glance.*

*People of Jammu and Kashmir have been struggling for their freedom from 1819. At no point of time did people of this state spreading over 84000 Kilometres reconcile to the oppressive rule of the alien rulers. In 1865 people raised*



*organized voice against oppressive Dogra rulers and twenty eight people were drowned and ever since that people of the state have been fighting against their subjugation. It was in 1924 the protests against the oppressive ruler took an organized shape. At 9.30 A.M. on October 27, 1947 Indian troops landed in Kashmir and ever since that people of Jammu and Kashmir have been fighting against Indian Occupation".*

*This kind of content clearly shows the secessionist agenda of the Tehreek-e-Hurriyat and its leaders and cadres. Their main aim and object is to succeed in breaking Jammu & Kashmir away from the Union of India. All their activities and programmes are aimed at inciting and instigating people against the Government of India and the Indian security forces in order to achieve the so-called 'freedom from the Indian Occupation'.*

315. Para 17.3.3 refers to the active role of aforesaid accused Raja Mehrajuddin Kalwal in raising funds for fueling the unlawful and subversive activities as part of their secessionist agenda. The said paragraph is reproduced as under:-

*"17.3.3 During the course of investigation, it is also revealed that the APHC has its own network and cadres - President at district level, block head at the block level and other members/workers/cadres. These district level functionaries and the members of Hurriyat remain in touch with the active terrorists of various terrorist organizations including Hizb-UL-Mujahideen (HM) and Lashkar-e-Toiba (LeT), motivate and instigate the youth of their areas to join these terrorist organizations to wage war against the Government of India by way of an armed struggle and to secure secession of the State of Jammu & Kashmir from the Union of India.*

*These district level functionaries also play an important role in mobilising and collecting funds by way of donations from the general public. They organise rallies and processions on the directions of the Hurriyat leaders and instigate youth to come on roads and protest against the Indian Government and the Indian security forces showing complete defiance. They also instigate the youth to pelt stones on the security forces and their vehicles, and also cause damage to the Government property. Accused A8 Raja Mehrajuddin Kalwal is one such Hurriyat leader who was the District president of Srinagar and Ganderbal and was actively involved in raising funds for fuelling unlawful and subversive activities in Jammu & Kashmir as a part of their secessionist agenda."*

316. Paragraph 17.3.5 refers to a video retrieved from the mobile phone of the aforesaid accused no. A-4 i.e. Altaf Ahmad Shah @ Fantoosh. The said paragraph is reproduced as under:-

*"17.3.5 Further, a video retrieved from the mobile phone of accused A-4 Altaf Ahmad Shah Fantoosh contains a speech by Chairman APHC, S.A.S. Geelani, which is as follows-*

*Now there is neither Tony nor Bush nor is Musharraf so there no need to demoralize or fear from any one. Now the 3RD fact which I urged before you people that this is demand of time that we must continue our struggle in accordance with Kuran. This is the most important part of our struggle and just keep this in your mind without any doubt Jihad is not Oital. Oital is gitul and Jihad is part of Oital. Jihad could also be done through Words, by writing, by helping Mujahiddin, by fulfilling every needs of Mujahiddin. The life of every Muslim should be like Mujahiddin life. Even though if he may not pick weapons its ok but if he is fighting against rule or part of struggle he may consider as doing a Jihad. If we continue our struggle then Allah will change the heart of our enemy. India is not accepting our struggle. India is using her agents against us to demolish our struggle."*

This clearly shows that S.A.S. Geelani and certain Hurriyat leaders have been instigating and motivating people to assist and help the terrorists who are waging a war against the Government of India to achieve their secessionist goal.

317. Paragraph 17.3.6 refers to the analysis of the facebook account of the aforesaid accused no. A-9 i.e. Bashir Ahmad Bhat @ Peer Saifulla, which revealed that he had uploaded the photograph of Afzal Guru, the terrorist convicted in Parliament attack case, as his profile picture. The said paragraph reads as under:-

*17.3.6 Similarly, analysis of the Facebook account of A-9 Bashir Ahmad Bhat @ Peer Saifullah reveals that he has uploaded the photo of AFZAL GURU, the terrorist convicted in Parliament attack case, as his profile picture. Further, on December 5, 2013, A-9 Bashir Ahmad Bhatt @*

*Peer Saifulla shared Geelani's statement on Facebook as Bharat apne saare dalat humare kadmu main de aur humare sadko per tarkoul ke bajaye gold beecha deh.....jab bhi ek The value of Shaheed's blood cannot be measured... Syed Ali Shah Geelani.*

*This clearly shows that SAS Geelani and other members of the APHC including A-9 Bashir Ahmad Bhat @ Peer Saifulla, were inciting anti-India sentiments among the masses through such inflammatory posts. He also shared many anti-India slogans like Go India Go back; We want freedom etc., hence arousing disaffection among the masses towards the Indian establishment to achieve their ultimate goal of securing secession of Jammu & Kashmir from India.*

318. The chargesheet further elaborates the secessionist activities of the aforesaid members of the TeH. In this regard, reference may be made to the following paragraphs of the chargesheet:-

*17.4.2 The SMS messages of July 2016, retrieved from the mobile phone of accused A-4 Altaf Ahmad Shah @ Fantoosh clearly reveals that the 'Resistance Leadership' i.e. Syed Ali Shah Geelani, Mirwaiz Umar Farooq and Yasin Malik incite people to hold protests, Hartals and complete shut-downs for 'Right to self-determination'; they 'ask Imams to lead the protests in Mosques'; and 'tell traders etc, not to go to police when they are called there'. Also revealed from the SMS messages is that they are particular about sending the press notes regarding strike-calls given by them so that the maximum number of people can be mobilized for the protests. In furtherance of the criminal conspiracy, the secessionists wilfully create circumstances in which human lives, especially young lives, will be lost and then they exploit the sentiments arising out of such situations. The SMS from one of the accused A-4 Altaf Ahmad Shah @ Fantoosh revealing the entire strategy of the Hurriyat which resulted in Hartaals and strikes leading to large- scale violence and loss of lives is as follows:-*

*"In a joint statement issued by Hurriyat Leadership, Syed Ali Shah Geelani, Mirwaiz Umar Farooq and Mohammad Yasin Malik, have extended protests and complete shutdown for next 72 hours starting from Saturday morning till Monday evening. On 16th of July, status at, people are appealed to observe protests after Maghrib prayers and raise pro freedom slogans of right to self-determination. While continuing protest strike on 17th July, Sunday, people of Kashmir valley are asked to visit the families of recent martyrs and injured in order to pay tribute to their courageous roles in the on-going freedom struggle of Kashmir. Furthermore, on 18th July, people of Kashmir shall organise freedom march towards their respective district headquarters. Hurriyat leadership and Kashmiris are thankful to the Government and people of Pakistan for their unflinching support for the freedom struggle of Kashmiris. We welcome the call from Govt. Of Pakistan call to observe 19th July as Black day to apprise the world about the on-going genocide of Kashmiris by Indian forces and to aware them about the struggle of Kashmiris for right to self-determination. In resolve to this black day call, we appeal people of Kashmir and Kashmiris living abroad, to observe the 19th of July as a Black day."*

*Another message circulated to various Hurriyat separatist leaders by A-4 Altaf Ahmad Shah @ Fantoosh reads as below:-*

*14th July Aar paarhartal, 15 hartal and protest after Friday prayers for right to self determination, 16 hartaluptoNimazAsrar and relaxation after hill Nimazisha and protest in mosques afterwards, 17 people in every district visit martyrs and injured".*

*17.4.3 The investigation also revealed that the protests and demonstrations in the valley are not happening randomly or spontaneously. They are happening as per the elaborate calendar of protests authored by the. Joint. Resistance Leadership ie. Syed Ali Shah Geelani, Mirwaiz Umar Farooq and Yasin Malik well in advance and disseminated through newspapers and other social media platforms. These calendars, with detailed instructions of Hartal, Picketing, blockage of routes and roads, suspension of public transport, instructions for organizing processions and marches, writing of graffiti on the walls, exhorting people to play Azadi Taranas (Songs) and complete shutdown of markets and other economic activities, would exhort and provoke people to agitate against the State and the security forces, showing defiance against the Government of India. This fact gets corroborated by one such protest calendar seized from the possession of accused A-4 Altaf Ahmad Shah @ Fantoosh for the period from 06.08.2016 to 16.08.2016, dated 04:8.2016, signed by the Chairman APHC.) A perusal of the calendar clearly shows the involvement of APHC in promoting unrest and unlawful activities in the valley by issuing such directions as not allowing Government employees to join office, directing the law enforcement agencies to leave Kashmir directing the*

*elected representatives of Panchayati Raj Institutions to resign, directing people to celebrate 'Pakistan day' by offering special prayers for stability of Pakistan and by playing 'Azadi Taranas' in Masjids for the whole day and directing people to observe 15th August as 'BLACK DAY' by raising black flags atop their houses, shops, market centres and local chowks. The snap shot of the protest calendar seized from the house of accused A-4 Altaf Ahmed Shah@ Fantoosh.*

Date	Activities
6 <sup>th</sup> August Saturday No Relaxation	Assemble and Occupy local chowks and centers from Asr to Magrib in the vicinity of your Mohalla's, villages and localities. Protest peacefully; Play Islamic and Azadi Taranas in Masjids from Magrib to Isha.
7 <sup>th</sup> August Sunday Relaxation (after 6 pm)	Sanitation and cleanliness drive from 10 am to 4 pm in Mohallas, Villages, localities and hospitals. A team of volunteers under the guidance of local Masjid Committees should supervise the drive. Peaceful protests from Asr to Magrib.
8 <sup>th</sup> August Monday No Relaxation	Block all the roads towards and around Civil Secretariat Srinagar, DC and Tehsil offices and ensure that no employee is able to join the duty. The Deputy commissioners are directed to desist from calling the employees on phones and persuading them to resume the duty.
9 <sup>th</sup> August Tuesday Relaxation (after 6 pm)	Women's Protests from Zuhar to Asr and Men's protest from Asr to Magrib; Play Islamic and Azadi Taranas in Masjids from Magrib to Isha.
10 <sup>th</sup> August Wednesday No Relaxation	A letter to all the Indian forces to vacate the Jammu and Kashmir. People including elders and youth are asked to give this letter to Indian Forces.
11 <sup>th</sup> August Thursday Relaxation (after 6 pm)	A Poster letter asking pro-India politicians and their workers including panchs and sarpanchs to resign from their parties and positions to be posted on the gates of their homes.
12 <sup>th</sup> August Friday No Relaxation	A Freedom Awareness Campaign letter to all Imams and Khateebas to be read in all Masjids after every Nizam; Paste this letter on the entrance of every Masjid; Peaceful protests in the nearby chowks and centers after every Nizam.
13 <sup>th</sup> August Saturday Relaxation (after 6 pm)	Sit in protests from Zuhar to Asr with black flags.
14 <sup>th</sup> August Sunday No Relaxation	Pakistan Day: Special prayers for stability of Pakistan after Zuhar Nizam; Play Islamic and Azadi Taranas in Masjids for whole day.
15 <sup>th</sup> August Monday Relaxation (after 6 pm)	Black Day across Jammu and Kashmir including Azad Kashmir; NRKs to protest with black flags in front of embassies all over the world; Raise black flags on your houses, shops, market centers and local chowks.
16 <sup>th</sup> August Tuesday No Relaxation	Women's Protests from Zuhar to Asr and Men's protest from Asr to Magrib; Play Islamic and Azadi Taranas in Masjids from Magrib to Isha.
Directions for all the days	<ol style="list-style-type: none"> <li>1. The Protests be held across Jammu and Kashmir on all days.</li> <li>2. Shutdown across J&amp;K on all days except the relaxation mentioned in the programme.</li> <li>3. Lockdown all the routes entering your mohallas, villages and localities by every means during night to protect people in general and youth in particular from the raids and arrests by Indian forces and J&amp;K police.</li> <li>4. Mashaaf Khatir processions should be carried on alternate days.</li> </ol>

*Scores of such protest calendars released through news-papers and social media have been downloaded from the open source.*

*These protests were led by important functionaries of Hurriyat Conference including its District and Tehsil level office-bearers and other cadres. During the period from 06.08.2016 to 16.08.2016, the protests were very violent and led to the registration of 89 cases of stone-pelting and other unlawful activities including arson, school burning and damage to public property and vehicles etc. In these cases, 366 persons were arrested, 175 persons got injured and 07 persons got killed. Complete bandh was observed during this period in Srinagar District and as per the information furnished by the Divisional Commissioner, no one had applied before the District Magistrate for any permission to hold processions. Information furnished by the Border Security Force (BSF) reveals that 40 BSF personnel got injured while dealing with stone-pelting incidents since September 2016 till June 2017 and 26 criminal cases were registered in this regard in various Police stations in Kashmir Valley. Further, 35 incidents of school burning were reported from July 2016 to July 2017.*

*Further, as per the information furnished by DG, J&K, in 4 out of 10 districts of Kashmir Valley, 1173 cases were registered with respect to stone-pelting, school burning and damage to public property and 239 stone-pelters were identified/arrested, 1044 Police personnel and 152 civilians were injured in these incidents. Further, the information was also sought from IG, CRPF, Srinagar regarding the incidents of terrorist attacks and other anti-India and unlawful activities in Jammu & Kashmir in the year 2016-17. The information furnished by them reveals as follows:*

Sl. No.	Incident Detail	2016	2017	Total
01	Terrorist attack	299	365	664
02	Stone pelting incidents reported	3628	1237	4865

03	CRPF personnel injured	2912	972	3884
04	Vehicle damaged	568	335	903
05	CRPF Camp/ Pickets/ deployment attack	2014	764	2778
06	School burning property damage incidents	50	-	50

319. The chargesheet further brings out the nexus between the terrorists and the separatist leaders. In this regard, it is specifically noted therein that the SAS Geelani, the Chief of TeH and APHC(G) had been working hand in hand with the stone pelters with the active support of the Pakistan. Reference may be made to the following portion of the chargesheet:-

*“Video-3: Hafiz Saeed addresses and informs a gathering that Masarat Alam was raising pro-Pakistan slogans and waving Pakistani flag in Srinagar where thousands of people had gathered. He further said that if Muslims face any problem they will reach there for help. (Published on YouTube on 17<sup>th</sup> April/2015). In another video, Masarat Alam raised pro-Pakistan slogans and other waved Pakistani flags in a rally organized in the outskirts of Srinagar city by Syed Ali Shah Geelani on 15<sup>th</sup> April, 2015 (Published on YouTube on 15<sup>th</sup> April/2015). This clearly shows that S.A.S. Geelani, the Chief of Tehreek-e-Hurriyat and APHC-G is working hand-in-hand with the stone-pelters with the active support of Paksitani agencies.”*

320. Also, para 17.5.8 of the chargesheet records as under:-

*“17.5.8 The close nexus between the Hurriyat leaders and the terrorists is also reflected from a chat conversation between accused A-4 Altaf Ahmad Shah Fantoosh and one Rona Wilson on November 22, 2012 wherein accused A-4 has hailed Afzal Guru, the terrorist convicted in the Parliament Attack Case as 'icon) of their so-called freedom struggle and has posted as follows:-*

*Guru 'hero of Kashmir nation';: Quaid Geelani Terming Afzal Guru the "hero of Kashmiri nation", Hurriyat Conference (G) Chairman, Syed Ali Shah Geelani Thursday warned of serious ramifications if the Parliament attack convict was hanged. Geelani denounced that Guru was a criminal by saying "he is the icon of Kashmiri resistance movement who has laid down numerous sacrifices for freedom cause." "The whole Kashmiri nation regards Guru in high esteem and any harm to him may amount to harming the whole Kashmir," the octogenarian leader said. Terming Indian judiciary as biased towards Kashmiris, Geelani said the verdict on Guru is not justified Kin any way. "He was neither allowed to have a counsel nor was he produced before the court, instead the judge gave verdict based on police reports. How can we term such a person as criminal," he said. The Hurriyat chairman said the status of areas termed as "conflici zones" change under the international laws and the people struggling in these regions cannot be related with other criminals. "There are some special rights for such convicts recognized at international level," Geelani said, adding, "Afzal Guru and other convicts related to Kashmir struggle fall under this category". Geelani said some political parties in India are trying to score political points over Guru's hanging and if such thing happens it will prove very expensive for India and will yield serious repercussions.”*

321. Crucially, the chargesheet refers to the link between TeH and the inimical elements based in Pakistan and specifically brings out that the website of TeH was hosted from Pakistan, and also the fact that the said website was designed by the same person who designed the website of Hizb-ul-Mujahideen (HM). In this regard reference may be made to para 17.7.3 of the chargesheet which reads as under:-

*“17.7.3 Investigation have established that Pakistan is extending technical and cyber-based support to the Hurriyat leaders of Jammu and Kashmir. Investigation has revealed that the website of Tehreek-e-Hurriyat i.e/ <http://thik.org>. Ph.-91-94119525055, Telefax- 91-194-2439774, Email: [thkashyar@yahoo.com](mailto:thkashyar@yahoo.com), [admin@syedaligeelani.info](mailto:admin@syedaligeelani.info), was created on 27.08.2014 and registered in the name of Ghulam Nabi Dar, Kashmir, Web Hosting address: 6-B Knowledge Gazebo Commercial Market Satellite Town City:*

*Islamabad, Postal Code: 46000 (Rawalpindi GPO, Punjab) Pakistan. Phone No. +1.03215520028, E mail: [zakirullah12@yahoo.co.in](mailto:zakirullah12@yahoo.co.in).*

*Investigation has further revealed that the registered admin mail ID for this website i.e. zakirullah12@yahoo.co.in was in contact with A-4 Altaf Ahamad Shah @ Fantoosh and A-7 Ayaz Akbar Khandey. Investigation has further revealed that the website/domain of terrorist organisation Hizb-ul-Mujahideen i.e. hizbmedia.org, was developed and designed by the same person Zakirullah with the same telephone number as mentioned above i.e. +1.03215520028. The website of Hizbul Mujahideen was created on 20.04.2013 and the Web hosting address is: NA#300A, New Malpora Double Road RWP, City: Rawalpindi, Country: Pakistan.”*

322. Furthermore, during the search conducted on 03.06.2017 in the house of accused Raja Mehrajuddin Kalwal, certain incriminating documents were seized, including the posters having contents as “Shaheedo Ka Khoon Bhulaya Nahi Jayega” and “Hum Kya Chahte-Aazadi”. (Exhibited as P-9/4 to the affidavit of PW9). Besides, document such as General Membership Form of Tehreek-e-Hurriyat (TeH), Jammu and Kashmir, showing the unlawful and secessionist activities by Tehreek-e-Hurriyat (TeH), was also seized (Exhibited as P-9/5 to the said affidavit of PW9).

323. Further, several witnesses were examined and their statements have been recorded under Section 161 and 164 of the Cr.PC; a perusal of which reveals that the members and leaders of APHC, with the support of agencies of Pakistan, Pakistan based terrorist organisations and secessionist groups and their alliance parties, have entered into a criminal conspiracy and adopted the strategy of instigating the local public to resort to violence and to create a surcharged atmosphere, which is conducive for the propagation of their secessionist agenda. People were repeatedly asked to observe strikes on various imagined issues and then incited and instigated to be involved in unlawful activities such as stone pelting, attack on security forces, damaging public property including burning of schools, arson, bank looting, organizing bandhs, forcible closure of roads and government establishments etc. Members and leader of APHC and its constituents including TeH, have been found to be involved in the above mentioned unlawful activities. These statements of the the protected witnesses code named as X-1, X-10, Alpha, and Gamma have been submitted in a sealed cover and have been marked as Ex. P-9/10.

324. A Supplementary Chargsheet also came to be filed on 04.10.2019 against five persons namely Mohd. Yasin Malik, head of JKLF, an unlawful association, Shabir Ahmad Shah, Head of JKDFP, Masarat Alam Bhat, Secretary of Muslim League, Syeda Aasiya Andrabi, head of terrorist organization Dukhtaran-e- Millat (DeM) and Abdul Rashid Sheikh, Chairman of Awami Itehad Party u/s 120B, 121, 121A & 124A IPC and Section 13, 16, 17, 18, 20, 38 & 39 of UA(P) Act, in the NIA Special Court, Patiala House Courts, New Delhi.

325. Charges have been framed against accused Raja Mehrajuddin Kalwal for the offences under sections 120B, 121, 121A of IPC and Section 13 UA(P) Act r/w 120B IPC, Section 15 UA(P) Act r/w 120B IPC, Section 17 UA(P) Act r/w 120B IPC Sections 18, 20 & 39 of UA(P) Act and against accused Bashir Ahmad Bhat @ Peer Saifullah u/s 120B, 121, 121A of IPC and Section 13 UA(P) Act r/w 120B IPC, Section 15 UA(P) Act r/w 120B IPC, Sections 17, 18 & 20 of UA(P) Act, vide order dated 16.03.2022. In the said order dated 16.03.2022 passed by the learned Special Judge, NIA, it has been specifically noted as under :

*“5.1 The case of the prosecution is that the erstwhile State of J&K, now UT, had been rattled with secessionist and terrorist activities since late 1980s and early 1990s. Various terrorist organizations such as Lashkar-e-Toiba (LeT), Hizb-ul- Mujahiddin (HM), JKLF, Jaish-e-Mohammad (JeM) etc. had wreaked havoc in the valley. All this was happening with the active support of Pakistan and its agency Inter Services Intelligence (ISI). Amidst all of this, All Parties Hurriyat Conference (APHC) was formed in the year 1993 with a purpose to provide a political front to secessionist activities and with an object of secession of State of J&K from the Union of India. It was an alliance of 26 so called political/ social/ religious organization and it was formed to give political mask to the secessionist activities. This alliance was consistently promoted and supported by Pakistan to fulfill its designs in the erstwhile State of J&K. It is also alleged the APHC called itself a political front but its real agenda was to create an atmosphere which would be conducive to the attainment of their goal of secession of erstwhile State of J&K from UOI.*

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*5.8 During the course of arguments, none of the accused have argued that individually they do. not have a secessionist ideology or agenda or that they have not worked for secession or advocated for the secession of erstwhile State of J&K from Union of India. It has also not been contested that the AHPC and JRL. don't have secessionist agenda. Accused except Aasiya Andrabi, Er. Rashid, A-11 and A-12, have also not denied being associated with APHC or being guided by the JRL. The fact that APHC has a secessionist agenda is prima facie reflected from its website www.hurriyatconference.com This website shows Syed Ali Shah Geelani as the Chairman of APHC and Tehreek-e- Hurriyat, A-4 as its Secretary Public Relations and A-7 Ayaz Akbar Khandey as spokesperson. The contents of the website which have been reproduced*

*in the charge sheet (reference D- 187) reflect India as an occupational force and the cause of Hurriyat to be freedom of J&K. Meaning thereby, secession of J&K from Union of India.*

5.9 *The fact that APHC and JRL are having a secessionist agenda is also reflected from (D-243/18), contents of which are as under:-*

*Syed Ali Geelani, Mirwaiz Umar Farooq and Mohammad Yasin Malik on Sunday in a joint statement asked all political and militant organization to follow freedom struggle with vision and wisdom. Appealing to maintain unity, the leaders said that It is time to remain united and follow cherished goal with spirit of persistence and unity among all concerned factions. Freedom movement is in its crucial stage, said resistance leaders and added that we need to be careful as our enemy can derive advantage from prevailing crises. Commenting over recent controversies, leadership said that in nineties the situation was more awful and complex. We paid a great lot in terms of precious lives and kind, said leadership. We were engaged in pity and non-serious matters and as such instead of following logic we were swayed by our emotions. Disunity and differences proved disastrous in past, said resistance leaders and enemy forces succeeded at various stages to sabotage our mission. We stand by our earlier statement, said leadership and are following the freedom struggle and facing shrewd enemy. While referring to India, the resistance leaders said, authorities choked our voice and now is the time to remain cautious. On one hand, they are hatching conspiracies and on the other are employing all their repressive measures and military might to sabotage movement, however, all political and militant factions have decided to face all these and remain united. We won't allow them to create rifts among resistance camp or divide leadership an nation, said they. We succeeded to wave off the so- called terminology of hardliners and moderate, thus unified nation on one point program of freedom from forced occupation. While referring to India, the leadership said that our unity & united approach is a mile stone an it is an achievement and thus they stand frustrated, said leadership. Characters of nation are examined in catastrophe and the biggest power we got & carried forward from 2016 agitation was our unity and poll boycott in recent parliamentary elections. All these steps depicted the best precedence of our unity. Unity among our folds is supreme and we need to uphold this spirit and carry forward this passion. We ought to remain cautious and let us not harm our struggle and desist from all such steps which may help these forces to play folly with freedom movement. Political and militant leadership are fully aware about all odds, we won't succumb to any pressure, however history of unparalleled sacrifices has enabled us to stand against such grim situations. Addressing youth, the leadership said that our youth need to learn much more from senior leadership & we all need to go hand in hand and work together to achieve our mission. It is time to rethink an make out strategies and work them out unanimously that how to get freedom from the forcible clutches and occupation of India, said leadership. Press & publication Division All Parties Hurriyat Conference.*

5.10 *This is a Whatsapp chat retrieved from the phone of A-7 Ayaz Akbar Khandey. It appears to be a press release and naturally could have been recovered from A-7, who as per the Hurriyat website, is the spokesperson of APHC. What has caught my attention is, that as per this press release the three persons namely Syed Ali Geelani, Mirwaiz Umar Farooq and Mohd. Yasin Malik, who form JRL, had issued a joint statement and asked all political and militant organizations to follow the freedom struggle with vision and wisdom. Appealing to maintain unity, these leaders said it was the time to remain united and follow cherished goal with the spirit of persistence and unity among all concerned factions.*

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“5.19 *Then there is protected witness Bravo. He has been associated to accused Masarat Alam. He stated that in the year 2010, accused Masarat Alam started a campaign named, ‘Kashmir Chhodo Tehreek’. He released calanders for protest and released those programmes and in TV and Pamphlates in newspapers. According to those programs, protests were continued for months and the slogan was “hum kya chahte azadi”. He further stated that he himself had seen Masarat Alam chanting “teri jaan meri jaan Pakistan Pakistan.*

5.20 *Then there is a protected witness Jack. This witness talks about the meeting held at the house of Syed Ali Shah Geelani in the first week of November 2016. Apart from representatives of various trade organizations and other organizations/ unions of J&K, this meeting was attended by Yasin Malik, Nayeem Khan, Umar Farooq, Bitta Karate and one Tahir Ahmad Lone, president of Jamat-e-Islam. This witness was present during this meeting. In the meeting it was decided that there should be mass protests and requests as well as directions were given that protest calendars should be strictly followed. As a consequence, there was unrest in the*

valley. The directions issued in the said meeting, according to this witness, were not limited to follow protest calendars or having peaceful protests but according to this witness, it was also directed to give all logistic help to pellet gun victims. Meaning thereby, even before the protest, the organizers were aware that a situation would be created where security forces would be forced to use harsh means to disperse the unruly crowd.

5.21 Then there is a statement of witness AW-64. He corroborated what protected witness Jack has stated. He also stated about the meeting held in the first week of November 2016 at the house of Syed Ali Shah Geelani. More or less, he also named the same people to be present in the meeting. This witness stated that during this meeting, the leadership which included accused who have been named above asked those present to grab this opportunity and asked them to fuel unrest in the valley to meet its logical end i.e. secession of J&K from Union of India. People were directed to staunchly follow the protest calendars issued by JRL. They were also asked not only to provide logistic help to the protesters but also funds to the victims of stone pelting and families of killed militants. Here again, the presence of some of the accused has been verified by this witness in a meeting which had secessionist agenda and to pursue the same, plans were made to cause large scale unrest where the participants not only anticipated that there would be violent incidents but also made plans to support those who would cause violence.

5.22 Then there is statement of AW-69, who is also a witness to the same meeting of which happened in November 2016 in the house of Syed Ali Shah Geelani about which witnesses Jack and AW-64 have deposed.

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5.86 The above analysis reflects that the statements of witnesses and documentary evidence has connected almost all the accused with each other and to a common object of secession, to the commonality of means they were to use, their close association to terrorist/ terrorist organizations under the guiding hand and funding of Pakistani establishment. Witnesses after witnesses have deposed that APHC, its factions after division and JRL had only one object and that was the secession of J&K from the Union of India. Witness John has connected accused Shabir Shah, Yasin Malik, Zahoor Ahmad Shah Watali, Naeem Khan and Bitta Karate to APHC and JRL. Witness Golf has connected Er. Rashid to Zahoor Ahmad Shah Watali who in turn is closely intertwined with APHC and Pakistani establishment agencies. Witness Bravo has connected accused Masrat Alam to Hurriyat. Witness Jack has deposed about the meeting of November 2016 held at the house of SAS Geelani. Then there is confessional statement of an accused according to which Masrat Alam was General Secretary in Hurriyat. Even otherwise none of these accused except accused Bitta Karate have denied having been associated or being a part of or being office bearer of either APHC(M)/APHC(G) /JRL/TeH. The documents AD-111/6 to AD-111/9, AD-111/10 to AD-111/12, D-7/al and D-7/a2 have disclosed about the constituents of Hurriyat and accused Nayeem Khan being linked to and working in close concert with terrorist organizations. The role of accused Aftaf Ahmad Shah (A-3), Altaf Ahmad Shah(A-4), Mohammad Akbar Khandey (A-7), Raja Mehrajuddinkalwal (A-8), Peer Saifulla (A-9) and accused Naval Kishore Kapur (A-13) has also appeared through documents and statements of witnesses as discussed above.

5.87 The above discussed evidence thus prima facie reflects an agreement between the accused, except accused 11, 12 and 17 to achieve an object common to all and the said object was secession of J&K from the Union of India. It also details the agreement about the means to be employed for achieving that object and the means employed such as violent protests, stone pelting, damaging and burning of property are per se illegal.

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10.28 Thus, discussion of evidence above prima facie establishes:-

(i) Money for terror funding was sent from and by Pakistan and its agencies and even the diplomatic mission was used to fulfil the evil design...

(ii) Money for terror funding was also sent by proclaimed international terrorist and accused Hafiz Saeed.

(iii) Accused Zahoor Ahmad Shah Watali was one of the main conduits for flow of this terror funding and accused Naval Kishore Kapoor had played an active part in facilitating it.

(iv) That accused Shabir Shah, Yasin Malik, Er. Rashid, Altaf Fantoosh, Masrat and Hurriyat/ JRL were the direct recipients of this terror fund.



(i) *That accused Peer Saifullah had funded, for Hurriyat, stone pelting an activity already prima facie found to be covered with in the definition of a terrorist act.”*

326. The content of the chargesheet filed by the NIA offers an insight into the activities of members/leaders of TeH and is another vital piece of material in support of the notification dated 31.12.2023. The said charge-sheet submitted to the Court under Section 173 of the Cr.P.C is relevant material that can be taken note of for the purpose of these proceedings. In *Khatri* (supra), the Supreme Court, while dealing with the investigation report of a person who was directed to investigate into the matter, has held that the reports of investigation are relevant under Section 35 of the Evidence Act. It was *inter alia* held as under:

*“These reports are part of official record and they relate to the fact in issue as to how, and by whom the twenty-four under-trial prisoners were blinded and they are admittedly made by Sh L.V. Singh, a public servant, in the discharge of his official duty and hence they are plainly and indubitably covered by Section 35. The language of Section 35 is so clear that it is not necessary to refer to any decided cases on the interpretation of that section, but we may cite two decisions to illustrate the applicability of this section in the present case. The first is the decision of this Court in Kanwar Lal Gupta v. Amar Nath Chawla. There the question was whether reports made by officers of the CID (Special Branch) relating to public meetings covered by them at the time of the election were relevant under Section 35 and this Court held that they were, on the ground that they were (SCC p. 667) “made by public servants in discharge of their official duty and they were relevant under the first part of Section 35 of the Evidence Act, since they contained statements showing what were the public meetings held by the first respondent”. This Court in fact followed an earlier decision of the Court in P.C.P. Reddiar v. S. Perumal. So also in Jagdat v. Sheopal, Wazirhasan, J. held that the result of an inquiry by a Kanungo under Section 202 of the Code of Criminal Procedure, 1898 embodied in the report is an entry in a public record stating a fact in issue and made by a public servant in the discharge of his official duties and the report is therefore admissible in evidence under Section 35. We find that a similar view was taken by a Division Bench of the Nagpur High Court in Chandulal v. Pushkar Raj where the learned Judges held that reports made by Revenue Officers, though not regarded as having judicial authority, where they express opinions on the private rights of the parties are relevant under Section 35 as reports made by public officers in the discharge of their official duties, insofar as they supply information of official proceedings and historical facts. The Calcutta High Court also held in Lionell Edwards Limited v. State of W.B that official correspondence from the Forest Officer to his superior, the Conservator of Forests, carried on by the Forest Officer in the discharge of his official duty would be admissible in evidence under Section 35. There is therefore no doubt in our mind that the reports made by Sh L.V. Singh setting forth the result of the investigation carried on by him and his associates are clearly relevant under Section 35 since they relate to a fact in issue and are made by a public servant in the discharge of his official duty.”*

327. The contents of the aforesaid chargesheet filed by the NIA; the recoveries referred to therein, the statements of the accused persons as referred to therein; all give an insight as to the activities of TeH/ its members, the nexus thereof with nefarious elements from across the border, and substantiate (with the aid of considerable material uncovered pursuant to investigation) the conclusions drawn in the notification dated 31<sup>st</sup> December, 2023 issued under Section 3(1) of the UAPA.

#### **EVIDENCE SHOWING RECEIPT OF FUNDS BY TEH/ ITS LEADERS FROM PAKISTAN, AND COLLUSION WITH EXTERNAL AGENCIES/ INIMICAL ELEMENTS**

328. The chargesheet dated 18.01.2018 filed in NIA No. RC-10/2017/NIA/DLI specifically mentions that the Hurriyat leaders are receiving funds from Pakistan through conduits and also from the Pakistan High Commission directly. It was substantiated by an incriminating document seized from the house of Ghulam Mohd. Bhat, who worked as the cashier-cum-accountant with accused Zahoor Ahmad Shah Watali, a known Hawala conduit. The document clearly shows that accused Zahoor Ahmad Shah Watali was receiving money from Hafiz Saeed (Head of Jamaat-ud-Dawa, from the ISI, from the Pakistan High Commission at New Delhi and also from a source based in Dubai. Zahoor Ahmad Shah Watali was remitting the same to the Hurriyat leaders, separatists and stone-pelters of Jammu & Kashmir. The said document has been maintained in regular course of his business and is signed by accused Zahoor Watali himself. Nayeem Khan, one of the accused in the chargesheet, admitted that the secessionists and terrorists of the Valley are receiving financial support from Pakistan and would have received approximately Rs.200 crores to organize anti-India protests and agitations after the killing of Burhan Wani. Further funds were reaching to them from Saudi Arabia / Dubai through Hawala via Delhi (Balimaran/Chandni Chowk). Accused Nayeem Khan admitted that SAS Geelani, Mirwaiz Umar Farooq (APHC-M) and Yasim Malik (JKLF) were receiving funds from Pakistan. Accused Nayeem Khan also stated that Hafiz Mohd Saeed has supported SAS Geelani by paying at least 10-12 crores during anti-India agitation after killing of Burhan Wani.



329. The chargesheet finds mention that the High Commission of Pakistan in New Delhi used to organize functions and meetings to which Hurriyat leaders from Kashmir were invited and they were given instructions and funds on a regular basis. These funds were given to various allied groups of the APHC and investigations have revealed that a First Secretary level officer of Pakistan High Commission in New Delhi would act as a channel and Zahoor Watali would act as a courier to deliver the funds to Hurriyat leadership.

330. As per the chargesheet, during the investigation, it was established that the Hurriyat has its network of cadres at districts and local levels. Their District Presidents and block level leaders had the responsibility to raise the funds through donation during the religious festivals and month of Ramzan. For this, receipts books were printed and funds were collected from shopkeepers, businessmen and resident of Kashmir. The money was also collected to become a member of TeH. Various District Presidents collected Rs.5 to 10 lac per district as Baitulmal. Funds were also collected from apple-growers and businessmen who were compelled to donate to Hurriyat central office. The seizure of unaccounted receipts of Rs.1,15,45,000/- from accused Altaf Ahmad Shah Fantoosh show that the money was being raised by way of donations. Records pertaining to the collection of funds were also seized from the house of accused Mehrajuddin Kalwal, who was also the District President of TeH for Srinagar and Ganderbal. Leaders of TeH appealed to the public to contribute money generously by way of donations for their so-called freedom movement. Funds were also raised through LoC trade by way of directing the Kashmiri traders to do under-invoicing of the goods which were imported through LoC barter trade.

331. The supplementary chargesheet also mentions that the investigation has established that funds are being sent by Pakistan to the secessionists and terrorists in the Kashmir Valley for organizing forcible closures, anti-India protests and processions, stone-pelting on the security officers, smuggling illegal weapons, drugs and fake currency into India. The funds generated by committing irregularities in LoC trade were used to fuel subversive and militant activities in Jammu and Kashmir.

332. In *National Investigation Agency v. Zahoor Ahmad Shah Watali*, (2019) 5 SCC 1, the Supreme Court while considering whether grant of bail to Zahoor Ahmad Shah Watali was justified or not considered the evidentiary material regarding the flow of funds from across the border, and specifically noted as under:-

*“...Ample material has been collected to show the linkages between the Hurriyat leaders of the J&K and terrorists/terrorist organisations and their continuous activities to wage war against the Government of India.”*

333. The Supreme Court also took note of the copious and elaborate evidence which showed flow of funds to terrorists/hurriyat leaders which was utilized for the purpose of terrorist/unlawful activities in Jammu and Kashmir. This was specifically taken note of by the Supreme Court in Para 39, 40 and 41, which are reproduced hereunder :-

*“39. Reverting to the documents on which emphasis has been placed, Document No. D-132 is the seizure memo of properties seized from the premises of Ghulam Mohammad Bhatt (W-29), the then Munshi/Accountant of the respondent (Accused 10). Document No. D-132(a) is the green page document, seized during the search of the residence of the said Ghulam Mohammad Bhatt, containing information about foreign contributions and expenditures of the respondent (Accused 10) during 2015/2016. Whether this document is admissible in evidence would be a matter for trial. Be that as it may, besides the said document, the statements of Ghulam Mohammad Bhatt (W-29) has been recorded on 30-8-2017 and 1-11-2017. Whether the credibility of the said witness should be accepted cannot be put in issue at this stage. The statement does make reference to the diaries recovered from his residence showing transfer of substantial cash amounts to different parties, which he has explained by stating that cash transactions were looked after by the respondent (Accused 10) himself. He had admitted the recovery of the green-coloured document from his residence, bearing signature of the respondent (Accused 10) and mentioning about the cash amounts received and disbursed during the relevant period between 2015 and 2016. The accusation against the respondent (Accused 10) is that accused A-3 to A-10 are part of the All Parties Hurriyat Conference which calls itself a political front, whereas their agenda is to create an atmosphere conducive to the goal of cessation of J&K from the Union of India. The role attributed to the respondent (Accused 10) is that of being part of the larger conspiracy and to act as a fund raiser and finance conduit. Ample material has been collected to show the linkages between the Hurriyat leaders of the J&K and terrorists/terrorist organisations and their continuous activities to wage war against the Government of India.*

*40. Regarding the funding of terrorist activities in J&K and, in particular, the involvement of the respondent (Accused 10), the charge-sheet mentions as under:*

*“17.6. Funding of secessionist and terrorist activities in Jammu & Kashmir:*

*If publicity and propaganda is oxygen for the terror groups, terror financing is its life-blood. Terror financing provides funds for recruitment, operationalisation of training and training*

*camps, procurement of arms and ammunition, operational cost of planning and resources for terrorist acts, running of underground networks, well-planned stone pelting, school burnings, targeted attacks, provision of legal support for terrorists and over-ground workers facing judicial process, ex gratia payment for militants killed in terrorist operations, regular payments to the families of terrorists and militants killed or convicted, funds for propaganda to clergy as well as relief measures for civilian population and also in case of natural disasters. The investigation in the case has revealed that the secessionists are mobilising funds from all possible sources to fuel unrest and support the ongoing secessionist and terrorist activities in Jammu & Kashmir.*

#### *17.6.1. Funding from Pakistan:*

*(i) The Hurriyat leaders are receiving funds from Pakistan through conduits and also from the Pakistan High Commission directly. It was substantiated by an incriminating document seized from the house of GhulamMohd. Bhatt during search. GhulamMohd. Bhatt worked as the cashier-cum-accountant with Accused A-10 Zahoor Ahmad Shah Watali, a known Hawala conduit. The document clearly shows that Accused A-10 Zahoor Ahmad Shah Watali was receiving money from Accused A-1 Hafiz Saeed (Head of Jamaat-ud-Dawa), from the ISI, from the Pakistan High Commission at New Delhi and also from a source based in Dubai. Accused A-10 was remitting the same to the Hurriyat leaders, separatists and stone-pelters of Jammu & Kashmir. The said document has been maintained in regular course of his business and is signed by accused ZahoorWatali himself. This document clearly shows that Hurriyat leaders were receiving funds from Pakistan through the officials of Pakistan High Commission and through accused A-10 ZahoorWatali.*

*The signature of accused A-10 ZahoorWatali has also been verified and as per the expert report, his signature on the questioned document matches with his specimen handwriting as well as his admitted handwriting.*

*(ii) Further, the role of Pakistan in funding secessionist activities also surfaced in the scrutiny of the unedited version of the audio/video furnished by the office of India Today TV news channel wherein accused A-5 Nayeem Khan admits that the secessionists and terrorists of the Valley are receiving financial support from Pakistan and would have received approximately Rs 200 crores to organise anti-India protests and agitations after the killing of Burhan Wani, the Commander of the proscribed terror organisation Hizb-ul-Mujahiddin. He further speaks about funds reaching them from Saudi Arabia/Dubai through Hawala via Delhi (Balimaran/Chandni Chowk). He admits that S.A.S. Geelani (Chairman, APHC-G), Mirwaiz Umar Farooq (APHC-M) and Yasin Malik (JKLF) are receiving funds from Pakistan. He further admits the pivotal role played by the Pakistan High Commission to convey and receive instructions from Pakistan. Nayeem Khan also stated that the accused Hafiz MohdSaeed has supported S.A.S. Geelani, Chairman, APHC-G by paying at least 10-12 crores during anti-India agitation after killing of Burhan Wani. Accused Nayeem Khan further admitted that, if funded, he can fuel unrest in the Valley any time.*

*(iii) Similarly, the scrutiny of the audio/video of the sting operation also reveals accused A-6 Farooq Ahmad Dar Bitta Karate admitted that the funds are being sent by Pakistan to the secessionists and terrorists in the Kashmir Valley including him for organising forcible closures, anti-India protests and processions and stone-pelting on the security forces. He further claimed that he has his cadres in every part of Kashmir who can act on his call at any given point of time and fuel unrest in the Valley. When given an offer of financial support, accused Bitta Karate put forth a demand of Rs 70 crores for fuelling unrest up to six months.*

*The voice samples of Nayeem Khan and Farooq Ahmad Dar alias Bitta Karate have been forensically examined and the CFSL report has confirmed the match with their voices.*

*(iv) Further, the investigation has revealed that the seniormost officials of the High Commission of Pakistan were in regular contact with the Hurriyat leaders. The High Commission of Pakistan in New Delhi used to organise functions and meetings in New Delhi, to which the Hurriyat leaders from Kashmir were invited and they were given instructions and funds on a regular basis. These funds were given to various allied groups of the APHC and investigation has revealed that a First Secretary level officer of Pakistan High Commission in New Delhi would act as a channel and A-10 Zahoor Ahmed Shah Watali would act as a courier to deliver the funds to the Hurriyat leadership. These funds as explained above were used to foment the secessionist and separatist activities and unrest in the Valley in an organised manner. One such invitation card from the Pakistan High Commission was seized from the house of A-6 Farooq Ahmad Dar alias Bitta Karate:*

*On the occasion of the National Day*

*Pakistan High Commissioner and*

*Mrs Salman Bashir*

*Request the pleasure of the company of*

*Mr Farooq Ahmed Dar*

*At a Reception*

*on Friday, 22-3-2013 from 1930 to 2100 hrs.*

*Venue:*

*RSVP*

*2/50-G, Shantipath,*

*Tel. 011-24121819*

*Chanakyapuri, New Delhi*

*Fax 011-26872339*

*Dress: National/LoungeSuit/Uniform*

*E-mail: pakhcnd@gmail.com*

*(Please bring this card with you)*

*Investigation has also established that the accused A-4 was in direct contact with the High Commissioner of Pakistan in New Delhi and would apprise him about the situation in Jammu & Kashmir.*

#### *17.6.2. Funding from terrorist organisations based in Pakistan:*

*During the course of investigation, it is also ascertained that the separatists and secessionists of Jammu & Kashmir were also receiving money from the terrorists and terrorist organisations operating out of Pakistan/PoK. The incriminating document seized from the house of GhulamMohd. Bhatt who worked as a cashier-cum-accountant with accused A-10 ZahoorWatali shows that ZahoorWatali received money from accused A-1 Hafiz Saeed, Head of JuD and Chief of proscribed terror organization Lashkar-e-Toiba and remitted it to the Hurriyat leaders espousing the cause of secession of Jammu & Kashmir from the Union of India.*

#### *17.6.3. Local Donations/Zakat/Baitulmal:*

*During the course of investigation, it is established that the Hurriyat has its network of cadres at districts and local levels. There are District Presidents and block level leaders who have the responsibility to raise the funds through donation during the religious festivals and month of Ramzan. In a well-established system, the receipt books are printed and funds are collected from shopkeepers, businessmen and residents of Kashmir. The money is also collected to become a member of the Tehreek-e-Hurriyat. Selected members are made as Rukuns and are tasked to propagate the separatist ideology of Hurriyat. These Rukuns act as foot soldiers and ensure that bandhs and hartaals are successful. They also lead the processions and participate in stone pelting.*

*Investigation also established that various District Presidents collect Rs 5 to 10 lakhs per district as Baitulmal. Funds are also collected from apple-growers and businessmen who are compelled to donate to Hurriyat central office. This money is used for administrative and operational purposes of organising protests and strikes as well as for aid to militants and their families.*

*The seizure of unaccounted receipts of an amount of Rs 1,15,45,000 from accused A-4 Altaf Ahmad Shah Fantoosh also shows that money is being raised by way of donations. Similarly, records pertaining to the collection of funds were also seized from the house of accused A-8 Mehrajuddin Kalwal, who was also the District President of Tehreek-e-Hurriyat for Srinagar and Ganderbal.*

*Further, during the course of investigation, it is also established that the Hurriyat leadership appeals to the public to contribute money generously by way of donations for their so-called*

*freedom movement. This is clearly reflected in the website of the Hurriyat Conference viz. www.hurriyatconference.com, which shows a message from S.A.S. Geelani “Help the families of martyrs and prisoners..... people should come forward for donations in the month of Ramadan as the number of people affected by this movement is large”.*

*This substantiates that Hurriyat is raising funds through donations and using the same to fuel secessionist activities and to support the families of killed and jailed terrorists.*

#### *17.6.4. LoC Trade:*

*During the course of investigation, it has been established that the secessionist and separatist leaders are raising funds through LoC trade by way of directing the Kashmiri traders to do under-invoicing of the goods which were imported through LoC barter trade. They sell the goods to the traders in Delhi and a part of the profit of the same is shared with the Hurriyat leaders and other separatists, which in turn is used on anti-India propaganda, for mobilising the public to organise protests and stone-pelting and to support families of killed/jailed militants. The hawala operators based in Srinagar, New Delhi and other parts of the country and abroad are being used to transfer the funds so generated. The investigation has revealed that the funds are generated by resorting to sale of third-party goods, under-weighing, under-invoicing, large-scale dealings in cash and committing irregularities in maintenance of records. This modus operandi leads to generation of huge cash surpluses on the Indian side which are then channelised through several formal banking channels as well as cash couriers and hawala dealers to the separatists and secessionists active in Jammu & Kashmir.*

*Investigation has revealed that a significant number of traders engaged in cross LoC trade have relatives across the border who are closely associated with banned terrorist organisations, especially Hizb-ul-Mujahideen. Investigation has also revealed that certain ex-militants and their family members are using proxy companies and are registered as traders. During the course of investigation, use of LoC trade route for smuggling of contraband and weapons has also come to light. A separate investigation is underway regarding the irregularities in the LoC trade.*

#### *17.6.5. Hawala:*

*Apart from the abovementioned sources and channels, the secessionists depend heavily on the hawala network and conduits to bring money from offshore locations to India to fuel anti-India activities in Jammu & Kashmir.*

*(i) During the course of investigation, it was ascertained that accused A-10 Zahoor Ahmad Shah Watali is one such conduit. The seizure of the incriminating document from the house of his cashier-cum-accountant viz. Ghulam Mohd. Bhatt regarding the foreign contributions received by Zahoor Ahmad Shah Watali from Pakistani establishment and terror organisations and their further remittance to the Hurriyat leaders and secessionists of Jammu & Kashmir clearly shows that he was an active channel to transmit funds from abroad to India to fuel secessionist activities and to wage a war against the Government of India.*

*(ii) During the course of investigation, it is revealed that accused A-10 Zahoor Ahmad Shah Watali was bringing money from offshore locations to India by layering it through the scores of firms and companies he has opened. It was ascertained that Zahoor Ahmad Shah Watali has an NRE A/c No. 0252040200000505 in J&K Bank and he received foreign remittances to the tune of Rs 93,87,639.31 in this account from 2011 till 2013 from unknown sources.*

*(iii) During the course of investigation, it was also ascertained that the accused Zahoor Ahmad Shah Watali was showing foreign remittances under ‘other income’ in his proprietorship firm viz. Trison International, Srinagar. From the analysis of his bank accounts, it has been ascertained that foreign remittances to the tune of Rs 2,26,87,639.31 were received by the accused Zahoor Ahmad Shah Watali in different accounts from the year 2011 to 2016. An amount of Rs 93,87,639.31 came in Zahoor Ahmad Shah Watali A/c No. NRE-0252040200000505 in J&K Bank from 2011 to 2013. An amount of Rs 14 lakhs was remitted in the account of Acharya Shri Chander College of Medical Sciences (Ascoms), Jammu Account No. 1213040100000229 on 9-4-2013 through NEFT against fee deposited for his son viz. YawarZahoor Shah Watali. An amount of Rs 60 lakhs was remitted in current account of accused Zahoor Ahmad Shah Watali in J&K Bank A/c No. CD4508. An amount of Rs 5 lakhs was remitted in the account of Trison Farms and Constructions (P) Ltd. A/c OTN-10162. The investigation has revealed that all these foreign remittances are from unknown sources.*

(iv) During the course of investigation, it was also revealed that on 7-11-2014, one Naval Kishore Kapoor, son of Om Prakash Kapoor, resident of PO Box 8669, Oman, UAE entered into an agreement with Trison Farms and Constructions (P) Ltd. through its Managing Director Zahoor Ahmad Shah Watali to take a piece of land measuring 20 kanals in SozeithGoriporaNagbal, Badgam on lease in consideration of an amount of Rs 6 crores as premium and Rs 1000 annual rent for an initial period of 40 years extendable as may be mutually agreed between the parties. In the agreement, M/s Trison Farms and Constructions (P) Ltd. was declared to be the absolute owner of the piece of land in question. Mr Naval Kishore Kapoor remitted a total amount of Rs 5.579 crores in 22 instalments between 2013 and 2016 to the accused Zahoor Ahmad Shah Watali.

(v) During the course of investigation, it was ascertained that no land exists in the name of M/s Trison Farms and Constructions (P) Ltd. as per the balance sheets of the said company (AY 2011-12 to 2016-17). It was also ascertained that the large sum of money i.e. Rs 5,57,90,000 was mobilised by Naval Kishore Kapoor from unknown sources and remitted to the accused Zahoor Ahmad Shah Watali over a period of 2 years to lease a piece of land which is not even existing in the name of the company mentioned as first party in the agreement and the agreement itself lacks legal sanctity. This proves that the said agreement was a 'cover' created by the accused Zahoor Ahmad Shah Watali to bring foreign remittances from unknown sources to India.

(vi) During the course of investigation, it is also ascertained that the Chartered Accountant, who signed the audited balance sheets of the firms belonging to the accused A-10 Zahoor Ahmad Shah Watali viz. M/s Trison International (2013-14 and 2015-16), Trison Farms and Constructions (P) Ltd. (2013-14 and 2015-16), M/s 3Y (2012-13, 2013-14 and 2015-16) and M/s Yasir Enterprises (2013-14 and 2015-16) did so without seeing any supporting documents. The balance sheets of these companies were sent to him by one Mustaq Mir, Cost Accountant and Shabir Mir, Chartered Accountant from Wizkid Office, Srinagar through email and he was asked to sign on them in Delhi without showing any documents.

This clearly shows that ZahoorWatali was remitting money received from unknown sources to India.

(vii) The investigation has also revealed that in the FY 2010-11, a firm belonging to accused A-10 Zahoor Ahmad Shah Watali and his family members viz. Trison Farms and Constructions (P) Ltd. raised unsecured loan of Rs 2,65,55,532 from the Directors of the company i.e. the accused Zahoor Ahmad Shah Watali, his wife Sarwa Begum and his sons YassirGaffar Shah, YawarZahoor&YaminZahoor in the form of both cash and cheque and the same was used towards repayment of secured loan of Rs 2,94,53,353 in the books of J&K Bank. The source of money with the Directors could not be explained satisfactorily by the accused Zahoor Ahmad Shah Watali.

(viii) The seizure from the house of accused A-10 Zahoor Ahmad Shah Watali, of a list of ISI officials and a letter from Tariq Shafi, proprietor of AI Shafi group addressed to Pakistan High Commission recommending grant of visa to ZahoorWatali shows his proximity with Pakistani establishment. It is pertinent to mention here that the name of Tariq Shafi figures in the document of foreign contributions seized from the house of ZahoorWatali's cashier-cum-accountant viz. GhulamMohd. Bhatt.

41. In reference to these accusations, the entry in the diaries and the green-coloured document, recovered from the residence of Ghulam Mohammad Bhatt, is significant. Further, the seizure memo described as Document No. D-3/6, in respect of search and seizure of articles/documents seized from the premises of the respondent (Accused 10) dated 3-6-2017, would unravel the activities of the respondent, including regarding his financial deals. Another crucial document described as D-3g/20 is a contact diary seized from the respondent vide Memo D-3, which contains the Pakistan National name and contact "Tariq Shafi 0092425765022... 26-A" whose name figures in Document No. D-132(a)/23. The Code "0092" pertains to Pakistan. Another contact diary was seized from the respondent vide Memo D-3, which, at p. D-3h/28 contains the same name and contact, namely, "Tariq Shafi 00923008459775/0092425765022". The Documents No. D-3j to D-3j/5 also indicate the involvement of the respondent in terrorist activities, including that three cases of TADA have been registered against him in the past and investigated and one case of J&K PSA, 1978."

334. On the basis of the perusal of the evidence, the Supreme Court found that the grant of bail to Zahoor Ahmad Shah Watali was unjustified.

335. This Tribunal is conscious that the veracity of the contents of the aforesaid chargesheet/s filed by NIA, is required to be established at trial in the said case and that the scope of scrutiny of the material cited by the Central

Government is not akin to a criminal trial as held in para 26 of *Jamaat-e-Islami Hind* (supra). However, for the purpose of these proceedings, the said evidence is in the nature of relevant material and liable to be considered, in terms of the dicta laid down by the Supreme Court in *Khatri* (supra) and *Jamaat-e-Islami Hind* (supra). As mandated in terms of the judgment of the Supreme Court in *Jamaat-e-Islami Hind* (supra), this tribunal has examined the material cited by the Central Government for the purpose of making an “objective assessment” for the purpose of these proceedings and to assess whether the same supports the declaration made under Section 3(1) of UAPA vide the notification dated 31<sup>st</sup> December, 2023.

**EVIDENCE IN THE FORM OF DOCUMENTS/MATERIAL SUBMITTED IN A SEALED COVER BEFORE THIS TRIBUNAL**

336. As noted hereinabove, the documents submitted by the witness who has deposed on behalf of the Central Government, *inter alia*, includes inputs of intelligence agencies, inputs received from Criminal Investigation Department, Jammu and Kashmir (Srinagar), the note prepared for the Cabinet Committee on Security setting out the entire background of TeH and its activities based on the information collated by the intelligence agencies and also bringing out linkage of TeH with cross-border agencies/establishments, inputs received from Criminal Investigation Department, Jammu and Kashmir (Srinagar).

337. A perusal of the said documents has brought out in vivid detail the secessionist activities of TeH in close coordination with inimical elements in Pakistan. The systematic attempts to promote secession of Jammu and Kashmir from the territory of India, to undermine the sovereignty of India, to incite the local populace and to promote violence have been brought out in the said material/documents.

338. The Tribunal has also opened the sealed cover (Ex.PW-28/3) containing the statements of the protected witnesses (code named as Alpha, Gamma, X-1 & X-10) in NIA case no. RC-10/2017/NIA/DLI and perused the said statements and re-sealed the same with the seal of the Tribunal. The statements of the said protected witnesses also shed light on the modus operandi employed by TeH leaders to promote secessionism and indulge in unlawful activities.

**CONCLUSION**

339. From the elaborate material/evidence placed on record in these proceedings, this Tribunal finds that there is ample justification to declare TeH as an unlawful association under the UAPA. Moreover, given the nature of activities of the association, the Central Government was justified in taking recourse to the proviso to Section 3 (3) of the UAPA. As noticed hereinabove, the activities of the concerned association have had a deleterious effect on maintenance of law and order in the region of Jammu and Kashmir over the last several decades.

340. In the framework of the Indian Constitution and the UAPA, there is no space for an association like TeH which openly propagates secessionism, avowedly expresses dis-allegiance to the Constitution of India, and undermines the territorial integrity and sovereignty of India.

341. Thus, this Tribunal having followed the procedure laid down in the Unlawful Activities Prevention Act, 1967 and its Rules and having independently and objectively appreciated and evaluated the material and evidence on record, is of the firm and considered view that there is sufficient cause for declaring TeH as an unlawful association under Section 3(1) of the UAPA, 1967, vide the notification dated 31<sup>st</sup> December, 2023. Thus, an order is passed under Section 4 (3) of the UAPA, 1967 confirming the declaration made in the notification bearing no. SO 5532(E) published in the official gazette on 31<sup>st</sup> December, 2023 issued under Section 3 (1) of the Unlawful Activities Prevention Act, 1967.

(JUSTICE SACHIN DATTA)  
UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

JUNE 22, 2024”

[F. No. 14017/48/2024-NI-MFO]

ABHIJIT SINHA, Jt. Secy.