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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, सितम्बर 23, 2024/आश्विन 1, 1946

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NEW DELHI, MONDAY, SEPTEMBER 23, 2024/ASVINA 1, 1946

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 23 सितम्बर, 2024

का.आ. 4169(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, खंड 3, उपखंड (ii), तारीख 12 मार्च, 2024 में प्रकाशित अधिसूचना संख्यांक का.आ. 1296(अ), तारीख 12 मार्च, 2024 (जिसे इसमें इसके पश्चात उक्त अधिसूचना कहा गया है) के द्वारा जम्मू कश्मीर नेशनल फ्रन्ट (जेकेएनएफ) 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 भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii), तारीख 5 अप्रैल, 2024 में प्रकाशित अधिसूचना संख्यांक का.आ. 1628(अ), तारीख 5 अप्रैल, 2024 के द्वारा विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण (जिसे इसमें इसके पश्चात उक्त अधिकरण कहा गया है) का गठन किया था, जिसमें दिल्ली उच्च न्यायालय की न्यायाधीश न्यायमूर्ति नीना बंसल कृष्णा थीं;

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 जम्मू कश्मीर नेशनल फ्रन्ट (जेकेएनएफ) को विधिविरुद्ध संगम के रूप में घोषित किए जाने का पर्याप्त कारण था या नहीं, तारीख 9 अप्रैल, 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 6 सितम्बर, 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 नीना बंसल कृष्णा)

विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण”

[फा. सं. 14017/56/2024/एन.आई.-एम.एफ.ओ.]

अभिजीत सिन्हा, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS
NOTIFICATION

New Delhi, the 23rd September, 2024

S.O. 4169(E).—Whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as the said Act), declared the Jammu Kashmir National Front (JKNF) as an unlawful association *vide* notification of the Government of India in the Ministry of Home Affairs, number S.O. 1296(E), dated the 12th March, 2024 (hereinafter referred to as the said notification) published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 12th March, 2024;

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 Neena Bansal Krishna, Judge, High Court of Delhi *vide* notification of the Government of India in the Ministry of Home Affairs, number S.O. 1628(E), dated the 5th April, 2024 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 5th April, 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 9th April, 2024 for the purpose of adjudicating whether or not there was sufficient cause for declaring the Jammu Kashmir National Front (JKNF) 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 6th September, 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,
HIGH COURT OF DELHI, NEW DELHI

Date of Decision: September 6th, 2024

IN THE MATTER OF:

Gazette Notification no. S.O.1296(E) dated 12th March 2024 declaring the *Jammu Kashmir National Front* (JKNF), as an unlawful association under the Unlawful Activities (Prevention) Act, 1967.

AND IN THE MATTER OF:

Reference under Section 4 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. 1628(E) dated 5th April 2024.

Present : Dr. Ajay Gulati, Registrar, Unlawful Activities (Prevention) Tribunal.

Ms. Aishwarya Bhati (Addl. SG) along with Mr. Amit Prasad, Mr. Rajat Nair, Ms. Poornima Singh, Ms. Manisha Chava and Mr. Abhijeet Singh, Id. Advocates for the Union of India.

Mr. Parth Awasthi, and Ms. Deepika Gupta Id. Advocates for Union Territory of Jammu & Kashmir.

Mr. Sameer Shukla, Asstt. Section Officer, Ministry of Home Affairs, GOI.

Mr. Arjun Chopra, Law Researcher.

CORAM:

HON'BLE Ms. JUSTICE NEENA BANSAL KRISHNA

ORDER

1. This order answers the Reference under Section 4(3) read with Section 3(3) of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the ‘Act’ or ‘UA(P)A’, for short) made to this Tribunal which has been constituted by the Central Government *vide* Gazette Notification no. S.O.1628(E) dated 5th April, 2024 under Section 5(1) of the ‘Act’, for adjudicating whether or not there is sufficient cause for declaring the *Jammu Kashmir National Front* (‘JKNF’ in short), as an ‘unlawful association’.

I. THE NOTIFICATION

2. The Central Government published Gazette Notification (extra-ordinary) no. S.O. 1296(E) dated 12th March, 2024 in exercise of powers conferred under Section 3(1) of the Act and declared JKNF 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 (“UA(P) Rules” in short). The said notification dated 12th March, 2024 reads as under:

“S.O. 1296(E)-Whereas, the Jammu Kashmir National Front (hereinafter referred to as the JKNF) chaired by Nayeem Ahmed Khan, is indulging in unlawful activities, which are prejudicial to the integrity, sovereignty and security of the country;

And whereas, members of the JKNF have remained involved in supporting terrorist activities and anti-India propaganda for fueling secessionism in Jammu and Kashmir and providing logistic support to terrorists in Jammu and Kashmir;

And whereas, the leaders and members of JKNF have been involved in mobilizing violent protest in various parts of Jammu and Kashmir for perpetrating unlawful activities, including supporting terrorist activities, sustained stone-pelting on Security Forces in Jammu and Kashmir;

And whereas, JKNF has constantly asked the people of Kashmir to refrain from taking part in elections and thereby targeted and hampered the very basic constitutionally recognized fundamentals of Indian democracy;

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

And whereas, JKNF is involved in promoting, aiding and abetting secession of Jammu and Kashmir from India by involving in anti-national and subversive activities; sowing seeds of dis-affection amongst people; exhorting people to destabilize law & order; encouraging the use of arms to separate Jammu and Kashmir from the Union of India; promoting hatred against established Government, giving clarion call to boycott elections on multiple occasions in Jammu and Kashmir;

And whereas, the Central Government is of the opinion that if there is no immediate curb or control of unlawful activities of the Jammu Kashmir National Front, it will use this opportunity to-

- (i) continue with the anti-national activities which are detrimental to the territorial integrity, security and sovereignty of the country;*
- (ii) continue advocating the secession of the Jammu and Kashmir from the Union of India while disputing its accession to the Union of India; and*
- (iii) continue propagating 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 Jammu Kashmir National Front (JKNF), it is necessary to declare the Jammu Kashmir National Front (JKNF), 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 Jammu Kashmir National Front (JKNF) as an unlawful association;

The Central Government, having regard to the above circumstances, is of firm opinion that it is necessary to declare the Jammu Kashmir National Front (JKNF) 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 aforesaid notification enumerates the reasons/ circumstances, as contemplated under proviso to Section 3(3) of the Act, for declaring the JKNF as unlawful with immediate effect.

II. THE BACKGROUND NOTE

4. Along with the reference to this Tribunal under Section 4 of the UA(P)A, the Central Government has submitted before this Tribunal a Background Note, as contemplated under Rule 5(ii) of the UA(P) Rules, 1968.

5. The Background Note states that *Jammu Kashmir National Front* (JKNF) is a separatist organization, formed by Nayeem Ahmad Khan in 1989 and he has been heading JKNF as its Chairman. JKNF has been supporting terrorism and anti-India propaganda for fueling secessionism in Jammu and Kashmir. It was established as an upper ground organization to provide logistic support in Jammu and Kashmir to terrorists and to popularize and strengthen the terrorist and secessionist networks. Objective of JKNF has been to separate Jammu and Kashmir from India. It supported the Pakistani agenda of generating feeling of hatred and disaffection against the country, to achieve the bigger goal of amputating Jammu and Kashmir from India.

6. JKNF is involved in terrorism/anti-national propaganda besides fueling and causing law-and-order incidents in Jammu and Kashmir. Its primary role is to portray a negative image of counter-insurgency operations in Jammu and Kashmir, glorifying the terrorist activities, mobilizing public opinion against India and propagating false narrative as well as to incite youth to indulge in violent activities and in joining terrorist ranks. JKNF, under the patronage of Nayeem Ahmad Khan has been unabatedly involved in spreading hatred and disaffection against India, vilifying Indian state, launching attacks on the government of the day, provoking and inciting youth into violence, spawning protests, disclaiming and disrupting the sovereignty and integrity of India, and extending covert and overt support to proscribed anti-national organizations and terrorist organizations.

7. Present Leadership/Executive Members of JKNF are:

Sl. No.	Name	Designation	Address
1.	Nayeem Ahmed Khan @ Firdous s/o Ghulam Mohammad Khan	Chairman	Pathanpora Khore, Pattan, Baramulla
2.	Abdul Qayoom s/o Abdul Gaffar	Vice-Chairman-I	Baramulla
3.	Abdul Salam Rather s/o Mohammad Ramzan Rather	Vice-Chairman-II	Ushkar, Baramulla
4.	Narinder Singh Khalisa	Vice Chairman-III	Jammu
5.	Mohammad Khalil Kawa s/o Ali Mohammad Kawa	Spokesman	Botengoo, Sopore
6.	Abdul Rashid Malik	Executive Member	Kupwara

8. JKNF is a secessionist group which not only propagates secessionism in Jammu and Kashmir through *hartal* calls, election-boycott, communal disharmony, provoking gullible youth to street-violence, arson, stone-pelting and to join terrorist ranks but also glorifies terrorism by visiting the families of the terrorists killed by security forces, to pay tributes.

9. JKNF along with other separatist organizations fanned the sentiments of the people against the Government over *Shri Amarnath Land Row* in 2008 through their misinformation campaign and by spreading false information which resulted in Amarnath Land Row agitation causing large scale violence and damage to the public and private properties. JKNF actively nurtured and financed the stone pelters who were lured in to continuing violent protests and other anti-national activities. *Muzaffarabad Chalo* call was given by a co-ordination committee, in which JKNF played a pivotal role in organizing and addressing mobs across the valley, when the people of Jammu and Kashmir were appealed to march to Muzaffarabad, the capital of Pakistan-occupied-Kashmir. In the subsequent law and order situation, few civilians including separatist leader Sheikh Aziz died which further escalated the street violence. A total of around 449 stone pelting incidents on Security Forces were reported, in which 53 civilians died and 522 got injured, besides 170 Police/ Security Forces personnel also getting injured.

10. In order to give a massive thrust to Pakistani agenda in sustaining its terrorist and secessionist ecosystem in Jammu and Kashmir, JKNF in a calculated manner portrayed the death of two ladies in *Shopian* in the year 2009 by describing it as rape and murder perpetrated by the security forces. The entire design was to create a false narrative against the Central Government and its law enforcement agencies, so as to generate hatred and disaffection against India among the general masses. JKNF played a significant role in issuing *Hartal* calls, which had resulted in intense law and order issues. Death of some stone pelting youth in Kashmir valley, during handling of law and order in the year 2010, was exploited by the separatists to accelerate momentum to their '*Quit Kashmir*' campaign. Nayeem Ahmad Khan circulated protest posters and shut-down programs from time to time to create valley wide disturbances. JKNF played a pivotal role in instigating youth to continue and fuel up mass unrest by issuing various protest calendars which resulted in long drawn protests during the year. A total of around 2794 stone pelting incidents were reported in which 112 civilians lost their lives, 1047 got injured while 01 police personnel attained martyrdom and around 5188 police/ Security Forces personnel got injured in these incidents.

11. JKNF, after the killing of Burhan Wani in 2016 and acting on the instructions of Pakistan and ISI, exploited the situation intensely and actively provoked, incited and lured the youth of Jammu and Kashmir for violence to disrupt the peace in the valley and in order to keep the anti-India pot boiling, announced *hartal* calls and issued protest calendars which resulted in the death of 86 persons and injuries to 8932 civilians. 2 Police *Jawans* were martyred and about 8370 police/ Security Forces personnel also got injured in these riots.

Criminal Cases against JKNF activists

12. The complicity of JKNF cadres in criminal and anti-national activities is evident from the series of criminal cases that stand registered against them under various provisions of law including the Unlawful Activities (Prevention) Act and other substantive offences. The cases registered against the JKNF activists/ members provide clinching evidence regarding their involvement in various unlawful activities. A list of cases registered by the National Investigation Agency (NIA), Directorate of Enforcement and Government of Jammu & Kashmir is given as under:

Sl. No.	FIR No. & Police Station	Brief of Investigation	Details of accused persons
1.	RC-10/2017/NIA/DLI dated May 30. 05.2017 u/s 120B, 121, 121A & 124A IPC, and u/s 13, 16, 17, 18, 20, 38, 39	The case was registered by the NIA based on the information that Hafiz Muhammad Saeed, Amir of Jammata-ud-Dawah and the secessionist and separatist leaders including the members/ cadres of Hurriyat Conference, have been acting in connivance with active militants of proscribed terrorist organisations viz. Hizb-ul-Mujahideen (HM), Dukhtaran-e-	Nayeem Ahmad Khan & others

	<p>and 40 UA(P)A</p> <p>NIA Delhi</p>	<p>Millat, Lashkar-e-Taiba (LeT), and other terrorists organizations/ associations/ gangs for raising, receiving and collecting funds domestically and abroad through various illegal channels, including <i>hawala</i>, for funding separatists and terrorist activities in Jammu and Kashmir through the funds so collected and as such have entered into a larger criminal conspiracy for causing disruption in the Kashmir valley by way of pelting stones on the security forces, systematically burning of schools, damage to public property and waging war against India. Investigation revealed that various terrorist organizations viz. JKLF, HM, LeT, in connivance with various secessionist groups particularly the APHC/ <i>Hurriyat</i> Conference and its constituents funded by Pakistan and its agencies and terror groups have entered into a criminal conspiracy to wage war against the Government of India. The <i>Hurriyat</i> leaders and their supporters are following the ideology of secession of the State of Jammu and Kashmir from the Union of India. Investigation revealed that All Parties <i>Hurriyat</i> Conference was formed as a conglomerate of 26 political/social/ religious organizations in 1993 to give a political mask to the secessionist activities. This alliance has been consistently promoted and supported by Pakistan to fulfill its evil motive and establish its claim over the State of Jammu and Kashmir. The APHC calls itself a political front, whereas, their agenda is to create an atmosphere conducive to the fulfillment of their goal of secession of Jammu and Kashmir from the Union of India.</p> <p>The investigation has revealed that All Parties <i>Hurriyat</i> Conference (APHC) including JKNF had entered into a criminal conspiracy and engaged in instigating the general public of Kashmir for taking part in violent activities to make the atmosphere in valley such which may be helpful for propagating their secessionist agenda. APHC repeatedly asked the people to observe strikes on various non-existent issues and then incited and instigated them to get involved in unlawful activities such as stone-pelting, burning of public properties etc. The motive behind the disturbances caused by the frequent strikes and the stone-pelting incidents was to create such circumstances which will lead to the secession of the State of Jammu and Kashmir from the Union of India. In those incidents, several persons were killed, large</p>	
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		number of civilian as well as security personnel were injured, and public properties including school were burnt.	
2.	Enforcement Directorate, Delhi Zonal Office-II ECIR/03/DLZ-II/2017 dated 14.06.2017 u/s 3 of PMLA	NIA registered an FIR bearing no. RC-10/2017/NIA/DLI dated May 30. 05.2017 under section 154 Cr.P.C. for the offences punishable under sections 120B, 121, 121A & 124A IPC and u/s 13, 16, 17, 18, 20, 38, 39 and 40 UAPA. The above case was registered by NIA based on the credible information received by the Central Government that Hafiz Muhammad Saeed, Amir of Jammat-ud-Dawah and the secessionist and separatist leaders including the members/cadres of <i>Hurriyat</i> Conference, have been acting in connivance with active militants of proscribed terrorist organizations viz. Hizb-ul-Mujahideen (HM), Dukhtaran-e-Millat, Lashkar-e-Taiba (LeT), and other terrorists organizations/ associations/ gangs for raising, receiving and collecting funds domestically and abroad through various illegal channels, including <i>hawala</i> , for funding separatists and terrorist activities in Jammu and Kashmir through the funds so collected and as such have entered into a larger criminal conspiracy for causing disruption in the Kashmir valley by way of pelting stones on the security forces, systematically burning of schools, damage to public property and waging war against India. ED initiated money laundering investigation in the instant case wherein 4 Provisional attachment Orders (PAO) amounting to Rs. 9.314 crores have been issued. After investigation, main prosecution complaint in the case was filed on 24.08.2020.	Nayeem Ahmad Khan & others
3.	P.S. Maisuma, Srinagar FIR no. 227/1987 u/s 148, 149, 427, 451, 353 RPC	On 17.11.1987, a mob led by Nayeem Khan and others, while marching from Maisuma Bazar towards Gow-Kadal Srinagar and shouting slogans against the sovereignty and integrity of the country, pelted stones on Security Forces in which many police officials got injured	Nayeem Ahmad Khan & others
4.	P.S. Sadar, Srinagar FIR no. 285/2003 u/s 13 UA(P)A	Information was received from reliable sources regarding suspicious movement in Hyderpora area of Srinagar. On this, a <i>naka</i> was established near petrol pump Hyderpora and two persons namely Nayeem Ahmad Khan and Abdul Qayoom Ganie were found roaming in suspicious manner. Upon their search, eight lakhs and ninety-eight thousand rupees were recovered from their possession. During questioning, they were not able to answer	Nayeem Ahmad Khan and Abdul Qayoom Ganie

		queries regarding the money. However, Nayeem Ahmad Khan revealed that this money has been provided to them by ISI of Pakistan for furthering terrorist activities in Srinagar and for further distribution among terrorists.	
5.	P.S. Kothibagh, Srinagar FIR no. 10/2014 u/s 13 UA(P)A, and u/s 109 RPC	A written docket was received by P/S Kothibagh from Ct. Javid Ahmad 333/S on behalf of SHO P.S. Kothibagh to the effect that during patrolling and law & order duty at Lal Rukh Hotel, Lal chowk, <i>Hurriyat</i> conference leaders comprising of Mushtaq-ul-Islam and others held a seminar at Hotel Lal Rukh who all, in their speech, said that India has illegally occupied Kashmir and harmed the people at their will of which the highest example is that of Mohd Maqbool Bhat and Mohd Afzal Guru who were brutally hanged and even their remains were not handed to their legal heirs. They also raised anti-national slogans like Pakistan Zindabad, we want freedom etc.	Nayeem Khan and others
6.	P.S. Karan Nagar, Srinagar FIR no. 72/2011 u/s 147 RPC, and u/s 13 UA(P)A	After Friday prayers in a mosque near Gole Market, Karan Nagar, Srinagar, <i>Hurriyat</i> activist Nayeem Ahmad Khan along with some companions started sloganeering against the country and in favour of <i>Azaadi</i> . They tried their best to provoke people against the integrity and sovereignty of the country.	Nayeem Ahmad Khan & others
7.	P.S. Batmaloo, Srinagar FIR no. 108/2009, u/s 153-A RPC, and u/s 13 UA(P)A	P/S received an information on 15.11.2009 from the reliable sources to the effect that Chairman of Muslim League Mushtaq-Ul-Islam along with other activists of <i>Hurriyat</i> namely Shabir Ahmad Shah, Nayeem Ahmad Khan, Shakeel Bakhshi, Zaffar Akber Bhat, etc. are deliberately misleading the general public and preparing them to indulge themselves in the <i>Hurriyat</i> and make themselves anti national. On this information, FIR was registered. Investigation of the case has been concluded as <i>challan</i> against 07 accused persons is pending production.	Mushtaq-Ul-Islam, Shabir Ahmad Shah, Nayeem Ahmad Khan, Shakeel Bakhshi, Zaffar Akber Bhat.
8.	P.S. Chadoora, Budgam FIR no. 207/2009 u/s 13 UA(P)A	SAS Geelani and other <i>Hurriyat</i> activists including Nayeem Ahmed Khan gave a <i>hartal</i> call and entered in local Jamia Masjid, Chadoora and delivered hate speech against the Govt of J&K/India after Friday prayers. They also praised Pakistan and terrorists and tried to instigate people against the country. They also appealed the people to continue struggle for freedom.	Nayeem Ahmed Khan & others
9.	P.S. Budgam, Budgam	Syed Ali Shah Geelani was placed under house arrest on June 11, 2014. SAS Geelani planned a commemoration ceremony at his residence	a. SAS Geelani

	FIR no. 110/2014 u/s 147, 341, 353 RPC and u/s 13 UA(P)A	for his martyred comrades. The co-accused and unidentified supporters helped Geelani to come out of house arrest and assembled/ gathered at <i>Hyderpora chowk</i> , raised slogans against integrity of India and stopped ongoing traffic.	<i>b.</i> Shabir Ahmad Shah <i>c.</i> Nayeem Ahmad Khan <i>d.</i> Mohd. Akbar Khanday (APHC-G) <i>e.</i> Mohd. Amin <i>f.</i> Bashir Ahmad Bhat @Peer Saifullah
10.	P.S. Magam, Budgam FIR no. 36/2015 dt. April 20, 2015 u/s 147,148, 336,341 RPC, and u/s 13 UA(P)A	The case pertains to anti-national speech delivered by Hurriyat (G) leaders at <i>Narbal</i> on April 20, 2015 while visiting the residence of deceased namely Suhail Ahmad Sofi s/o Abdul Ahad Sofi who was killed during a stone pelting incident.	1.Syed Ali Shah Geelani 2.Farooq Ahmad Rather 3.Molvi Umar Farooq 4.NayeemAhmad Khan 5.Mohd. Yasin Malik
11.	P.S. Magam, Budgam FIR no. 39/2015 dt. April 21, 2015 u/s 147, 148, 336, 341 RPC and u/s 13 UA(P)A	The case pertains to anti national speech delivered by Hurriyat leaders namely, Shabir Ahmed Shah of JKDFP,Zaffer Akbar Bhat of Salvation Mass Movement, Nayeem Ahmed Khan andAsiya Andrabi at <i>Narbal</i> on April 21, 2015 while visiting the residence of deceased namely Suhail Ahmad Sofi s/o Abdul Ahad Sofi r/o <i>Narbal</i> who was killed during a stone pelting incident, for offering condolence.	Shabir Ahmad Shah s/o Gh. Rasool Shah, ZafferAkber Bhat s/o Mohd. Akbar Bhat Nayeem Ahmad Khan s/o Gh. Mohd. Khan Asiya Andrabi w/o Md. QasimFaqtoo
12.	P.S. Magam, Budgam FIR no. 40/2015 u/s 147, 148, 336, 341, 353 RPC and u/s 13 UA(P)A	The case pertains to anti national speech/ slogans delivered by <i>Hurriyat</i> leaders namely Farooq Ahmed Rather s/o Ali Mohd. Rather, Mehraj-u-Din Kawal s/o Ghulam Ahmad Khan Sopori, Nayeem Ahmed Khan , Zahid Ali (JeI) at <i>Narbal</i> on April 24, 2015 while visiting the residence of deceased namely Suhail Ahmad Sofi s/o Abdul Ahad Sofi who was killed in a stone pelting incident, for offering condolence.	Farooq Ahmad Rather s/o Ali Mohammad Rather Mehraj-ud-Din Kalwal s/o Ghulam Ahmad Nayeem Ahmad Khan s/o Gh. Mohd. Khan

13.	P.S. Budgam, Budgam FIR no. 93/2016 u/s 341, 353 RPC dt. May 12, 2016	On 12.05.2016 Hurriyat activist namely Nayeem Ahmad Khan and other Hurriyat activists stopped the vehicular movement on IG road near Hyderpora Chowk and attacked the police party. They also raised anti-national slogans.	Nayeem Ahmad Khan & others
14.	P.S. Rajbagh, Srinagar FIR no. 128/2004 dt. 14.10.2004 u/s 147, 336, 332, 427 RPC	On 14-10-2004, a procession under the command of Nayeem Ahmad Khan pelted stones on police party resulting in injuries to some police officials and breakage of windowpanes of some vehicles.	Nayeem Ahmad Khan & others
15.	P.S. Hajin, Bandipore FIR no. 17/2014 dt. 7.3.2014 u/s 132 PR Act, and u/s 13 UA(P)A	On 07.03.2014 a reliable information was received that the accused person along with others had gathered the general public at main <i>chowk Hajin</i> and were provoking the general public to boycott the elections and were also chanting anti-India Slogans, thus causing threat to the sovereignty and integrity of India. The accused persons were also chanting pro-Pakistan slogans. During the course of investigation, the accused persons were arrested and the charge sheet of the said FIR was filed before the Court on 17.02.2022.	Nayeem Ahmad Khan & others
16.	P.S. Pattan, Baramulla FIR no. 05/2000 u/s13 UA(P)A, dt. 11.01.2000	On 11-01-2000, Nayeem Ahmad Khan with other anti-national elements delivered anti-national speech at Pattan Market. He provoked the people against the Govt. and establishment, besides instigating them to chant anti-national slogans. Police tried to arrest him however, due to huge public presence he took advantage and fled from the spot.	Nayeem Ahmad Khan and others
17.	P.S. Pattan, Baramulla FIR no. 228/2011 u/s13 UA(P)A, dt. 9.9.2011	On 09-09-11, after Friday prayers, a procession under the leadership of Nayeem Ahmed Khan came on road where Nayeem Ahmad Khan delivered a provocative speech at Pattan Bazar. The crowd raised anti-India slogans and in favour of freedom of Kashmir.	Nayeem Ahmad Khan
18.	P.S. Shergrahi, Srinagar FIR no. 341/1998 u/s 188, 341, RPC, and u/s 13 UA(P)A	Case pertains to anti-national sloganeering by the violent mob led by Nayeem Ahmed Khan and Javid Ahmed @ Nalka at old crossing Batmaloo, Srinagar. They raised anti-national slogans, halted the flow of traffic and instigated the people for anti-national activities who indulged in stone pelting and damaged public property.	Nayeem Ahmad Khan & others
19.	P.S. Nowhatta, Srinagar	The case pertains to anti-national speech delivered by Hurriyat (G) Chairman SAS Geelani, Farooq Ahmed Dar, Chairman	Nayeem Ahmad Khan & others

	FIR no. 36/2015 u/s 13 UA(P)A	Hurriyat (M) Moulvi Umar Farooq, Nayeem Ahmed Khan and JKLF Chairman Mohd. Yasin Malik at Narbal on 20.04.2015 while visiting the residence of deceased namely Suhail Ahmed Sofi s/o Abdul Ahad Sofi for condolence purpose.	
20.	P.S. Bandipora, Bandipora FIR no. 234/2009 u/s 19 UA(P)A	Hurriyat leader Nayeem Ahmed Khan and others came to Gulshan Chowk Bandipora and raised anti-national slogans/addressed the general public and provoked them against sovereignty and integrity of India	Nayeem Ahmed Khan & others
21.	P.S. Bandipora, Bandipora FIR no. 245/2009 u/s 19 UA(P)A, dt. 13.11.2009	On 13.11.2009, PS Bandipora received a docket from SI Shabir Ahmad to the effect that Hurriyat leader Nayeem Ahmed Khan appeared at Gulshan Chowk Bandipora and raised anti-national slogans against the Union of India	Nayeem Ahmed Khan
22.	P.S. Budgam, Budgam FIR no. 274/ 2016 u/s 147, 120-B, 341 RPC, and u/s 13 UA(P)A, dt. 20.04.2015	Anti-national speech was delivered by Hurriyat (G) Chairman SAS Geelani, Farooq Ahmed Rather, Chairman Hurriyat (M) Moulvi Umar Farooq, Nayeem Ahmed Khan and JKLF Chairman Md. Yasin Malik at Narbal on 20.04.2015 while visiting the residence of deceased namely Suhail Ahmed Sofi s/o Abdul Ahad Sofi for condolence purpose	Nayeem Ahmed Khan & others
23.	P.S. Shergrahi, Srinagar FIR no. 192/1996 u/s 307, 341, 147, 336, 132 RPC	A mob led by SAS Geelani, Shabir Shah, Javid Mir, Yaqoob Wakil, Nayeem Khan and other were marching towards Jahangir Chowk holding dead body of militant Hilal Ahmed Beigh of Allochibagh who was killed in an encounter with Security Forces at Parimpora, shouting anti-India slogans, and were stopped at Naaz crossing by Police. The mob started stone pelting and some unknown militant fired upon the police party and after aerial firing by police, mob was disbursed.	Nayeem Ahmed Khan & others
24.	P.S. Anantnag, Anantnag FIR no. 198/2004 u/s 132 of Representation of Peoples Act	Case pertains to provocation of people by Hurriyat leaders Shabir Shah, Aziz Sheikh, Nayeem Ahmed Khan for election boycott.	Nayeem Ahmed Khan & others
25.	P.S. Anantnag, Anantnag FIR no. 197/2012	On death anniversary of Dr. Qazi Nisar on 19.06.2012, mobs of different towns of Anantnag gathered at <i>eid-gah</i> , Anantnag. Hurriyat activists Nayeem Ahmed Khan, Shabir Shah and other participated. During	Nayeem Ahmed Khan & others

	u/s 147, 148, 149, 336 152 RPC	their speeches they provoked the youth against the integrity/sovereignty of the country. On reaching Lal Chowk, Anantnag in shape of a procession, the mob on the instance of Hurriyat activists raised anti national slogans and started heavy stone pelting on SFs/Police.	
26.	P.S. CIK, Srinagar FIR no. 10/2010 u/s 13, 17, 18 UAPA, and u/s 120-B, 121-A RPC	During the investigation of FIR No. 15/91 it came to light that secessionist leaders namely Shabir Ahmed Shah, Nayeem Khan and others have amassed huge wealth and assets through <i>hawala</i> channel. These individuals favouring secessionism of J&K from the UOI through armed violence/secessionist ideology were utilizing this property to facilitate illegal funding to various terrorist outfits for carrying forward terrorist violence/secessionism of J&K from UOI.	Nayeem Ahmed Khan

13. The *Background Note* further records that the above referred acts of the JKNF lead to the conclusion that this organization is bent upon to work towards secession and separation of Jammu and Kashmir from the Union of India. It has been continuously encouraging the armed insurgency aimed at causing disaffection, disloyalty, dis-harmony by promoting feelings of enmity and hatred against the lawful government in a manner prejudicial to the territorial integrity and sovereignty of the Indian Union. Thus, the activities of JKNF fall within the purview of unlawful activities.

Declaration Of JKNF As An Unlawful Association

14. Keeping in view the gravity of the situation and unabated unlawful activities by the organization, the Central Government decided to declare Jammu Kashmir National Front (JKNF) as an unlawful association under the provisions of the Unlawful Activities (Prevention) Act, 1967.

15. Accordingly, Notification no. S.O. 1296(E) dated 12th March, 2024 declaring JKNF as an unlawful association was issued. Subsequent thereto, the Unlawful Activities (Prevention) Tribunal has been constituted vide Notification no. S.O. 1628 (E) dated 5th April, 2024 to adjudicate upon the same.

III. STATUTORY PROVISIONS

16. Section 2 (o) and (p) of the UA(P)A, 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”.

17. 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.

18. Unlawful association has been defined in Section 2(p) of the Act and consists of two parts: (i) and (ii). Part (i) refers to the unlawful activity defined in Section 2(o) and encompasses associations which have the object that encourage or even aid 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.

19. Section 2(p)(ii) does not refer to unlawful activity defined in Section 2(o) of the Act but refers to Sections 153A and 153B of the *Indian Penal Code, 1860* (IPC for short). An association which encourages or aids or the object of which is to encourage or aid persons to undertake activities punishable under Section 153A or 153B is an unlawful association. “Object” for which an association is formed can in many cases be in writing but encouragement and aid to persons to undertake activities under Sections 153A and 153B may be oral or in writing. The last part of Section 2(p)(ii) widens and expands the scope of the term “unlawful association”, when it stipulates that an association of which members undertake activities which are punishable under Section 153A or 153B of the IPC is an unlawful association. An association, therefore, can become an unlawful association if its members undertake any activity covered by Section 153A or 153B of the IPC.

IV. NATURE AND SCOPE OF PROCEEDINGS BEFORE THE TRIBUNAL

20. 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 UA(P)A, 1967. The proceedings before this *Tribunal* are civil in nature and the standard of proof is the standard prescribed by the Hon’ble Supreme Court in *Jamaat-e-Islami Hind*(supra). This *lishas* to be decided by objectively examining which version i.e. of the Central Govt. or that of the concerned organization, 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."

21. The present Tribunal constituted under the UA(P)A 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."

22. 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 as to 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 UA(P)A in *Jamaat-e-Islami Hind* (supra), it was held by the Hon'ble 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."

23. On the question of confidential information that is sought to be withheld, the Hon'ble 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.

24. On the question of nature and type of evidence which can be relied upon by the *Tribunal*, the Hon'ble Supreme Court referred to Rule 3 of UA(P) 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, 1872* ('Evidence Act', here-in after). 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 fact-finders 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.”

25. 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, shall be proved as against such person.

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

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

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.”

26. 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.

27. 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 use of 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 Pohl 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."

28. 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 against use in evidence of a statement made before a police officer in the course of investigation, held that 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. Emperor that "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."

29. With reference to police diaries and Section 172 of the Cr.P.C., the Hon'ble 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.”

30. 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.”

31. After examining the aforementioned provisions, as well as the legal principles established in a catena of judgments, and considering 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 JKNF as an ‘*unlawful association*’, the statements of witnesses recorded by the police officers, the statements made by the accused before police officers, along with the lists of items seized and seizure memos, are deemed admissible before this *Tribunal*. They can be utilized to ascertain the sufficiency of material before the Central Government for making the declaration under Section 3(1) of UA(PA).

V. PROCEDURE FOLLOWED BY THIS TRIBUNAL

32. Consequently, upon due consideration of the aforesaid Notification no. 1296 (E) dt.12thMarch, 2024 and Notification no. 1628(E) dt.5thApril, 2024, this *Tribunal* held a preliminary hearing on 16.04.2024, 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 JKNF and its leaders/activists/members to show cause, within a period of 30 days, as to why JKNF ought not to be declared an unlawful association. The notice issued was given due publicity as is required under Section 3(4) of the Act.

33. The Gazette Notification dated 12.03.2024 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 one of which was in vernacular language and the other in English, both having wide circulation in the Jammu & Kashmir where the activities of the JKNF 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 addresses

of the JKNF along with all of its leaders, members and front organization as well as that of its principal office bearers.

34. The notice issued by the *Tribunal* along with the Gazette Notification dated 12.03.2024 was displayed on the notice board of the Deputy Commissioner/ District Magistrate/ *Tehsildar* in all the district headquarters of Kashmir zone where the activities of the association were or are believed to be ordinarily carried on. Help of All-India Radio and electronic media were also taken. Announcements were made through radio/electronic media at prime time.

35. Apart from the above, notice was also issued to the Union Territory of Jammu and Kashmir through its Chief Secretary.

36. The Registrar attached to the *Tribunal* was directed to ensure the compliance of the service of notice issued to the JKNF, its leaders and its office bearers in the manner indicated. The Registrar was directed to file an independent report in that behalf before the next date of hearing i.e. 20.05.2024.

37. Accordingly, the Union Territory of Jammu and Kashmir filed its affidavit of service, affirming that service had been effected as directed by the *Tribunal*. The Registrar, vide his report dated 18.05.2024, also confirmed service of notice issued by the *Tribunal*.

38. This *Tribunal* having satisfied itself that service of statutory Notice had been effected on JKNF /its leaders/ its offices as per the directions contained in the order dated 16.04.2024, proceeded further with the inquiry. On the next hearing which was scheduled for 20.05.2024, no appearance was put in on behalf of JKNF and resultantly, the *Tribunal* was constrained to proceed ahead with its inquiry in regard to JKNF. Further, on behalf of Union of India, more time was sought to file affidavits and relevant documents in support of the notification declaring the JKNF as an unlawful association.

39. In order to afford an opportunity to both the Central Govt. and the Union Territory of Jammu and Kashmir to lead evidence in support of the grounds set out in the Notification dated 12.03.2024, as also to give another opportunity to JKNF to rebut the material placed on record by the Central Govt. and the Union Territory of Jammu and Kashmir, by the same order i.e. order dated 20.05.2024, further proceedings for recording of evidence were fixed on 20.06.2024, 21.06.24 and 24.06.2024 at Srinagar 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 hearings to be held at Srinagar on the aforesaid dates. However, prior to the hearings scheduled at Srinagar, this Tribunal also fixed a prior hearing in the High Court of Delhi on 05.06.2024 for directions.

40. On 05.06.2024, more time was sought on behalf of Union of India/ Central Govt. for filing the affidavits in evidence in support of the Notification of declaration dt. 12.03.2024. Consequently, this *Tribunal* further adjourned the proceedings for 13.06.2024 and permitted the filing of affidavit/s on behalf of the Union of India by 13.06.2024. Direction was also given to file a list of witnesses.

41. On 13.06.2024, it was submitted on behalf of the Union of India and UT of J&K that of the witnesses mentioned in the list of witnesses furnished with the Registrar of the Tribunal, 6 affidavits in evidence of J&K police officers shall be filed by 15.06.2024. Accordingly, the *Tribunal* directed the next proceeding to be held at Srinagar, as already scheduled, in the premises of the High Court of Jammu & Kashmir and Ladakh.

42. On 20.06.2024, statements of the following witnesses on behalf of the Union of India were recorded at **Srinagar**:

S. No.	Name of Witness	Details of Affidavit along with date	Affidavits kept in File no.
1.	Sh. Kuldeep Raj, D.S.P, HQ, Anantnag, Kashmir	Ex. PW-1/A-1 dated 11.06.2024	File no. – Vol. IV Affidavit from page nos. 1 to 10; and exhibits from page nos. 11 to 37

2.	Sh. Saqib Gani, D.S.P, HQ, Budgam, Kashmir	Ex. PW-2/B dated 13.06.2024	File no. – Vol. IV Affidavit from page nos. 1 to 10; and exhibits from page nos. 11 to 34
3.	Sh. Rameez Rashid Bhat, D.S.P, P.S. Hajin, Bandipora, Kashmir	Ex. PW-3/A dated 11.06.2024	File no. – Vol. IV Affidavit from page nos. 1 to 8; and exhibits from page nos. 9 to 26
4.	Sh. Aftab Awan, S.D.P.O, Magam, Kashmir	Ex. PW-4/A dated 13.06.2024	File no. – Vol. IV Affidavit from page nos. 1 to 12; and exhibits from page nos. 13 to 59

On 21.6.2024, following witnesses on behalf of the UOI were also examined:

S. No.	Name of Witness	Details of Affidavit along with date	Affidavits kept in File no.
5.	Sh. Mohd. Ashrif, SDPO, Saddar, Srinagar	Ex. PW-5/A dated 13.06.2024	File no. – Vol. IV Affidavit from page nos. 1 to 7; and exhibits from page nos. 8 to 24
6.	Sh. Vikram Nag, Sub – Divisional Police Officer, Shaheedganj, Kashmir	Ex. PW-6/A dated 13.06.2024	File no. – Vol. IV Affidavit from page nos. 1 to 12; and exhibits from page nos. 13 to 56
7.	Sh. Hariprasad, S.D.P.O, Kothibagh, Srinagar	Ex. PW-7/A dated 13.06.2024	File no. – Vol. IV Affidavit from page nos. 1 to 8; and exhibits from page nos. 9 to 19

On 24.6.2024, following further witnesses were examined at Srinagar on behalf of the UOI:

7A.	Sh. Owais Ahmed, S.D.P.O, Charar-e-sharif, Budgam, Kashmir	Ex. PW-7/A-1 dated 13.06.2024	File no. – Vol. IV Affidavit from page nos. 1 to 8; and exhibits from page nos. 9 to 25
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8.	Sh. Murtaza Ahmed Peer, Dy.S.P, CIK, Srinagar	Ex. PW-8/A dated 22.06.2024	File no. – Vol. IV Affidavit from page nos. 1 to 8; and exhibits from page nos. 9 to 15
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43. On 24.7.2024, this *Tribunal* directed that further proceedings shall be held at Delhi, in the High Court on 3.7.2024. On 3.7.2024, following witness was examined in the High Court of Delhi:

9.	Sh. B.B. Pathak, D.S.P, NIA, Delhi	Ex. PW-9/A dated 1.07.2024	File no. – Vol. IV - A Affidavit from page nos. 1 to 16; and exhibits from page nos. 17 to 806, along with statements of protected witnesses in a sealed cover
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On 3.7.2024 Id. Counsel for the UOI informed the Court that another affidavit in evidence of an official from the Ministry of Home Affairs, GOI has also been filed with the Registrar of the Tribunal. The proceedings were thereafter adjourned further to 15.7.2024.

On 15.7.2024, the final witness on behalf UOI was examined in the High Court of Delhi:

10.	Sh. Rajesh Kumar Gupta, Director, CT, MHA, UOI	Ex. PW-10/A dated 1.07.2024	File no. – Vol. IV Affidavit from page nos. 1 to 7; and exhibits from page nos. 8 to 35, along with documents/confidential material in a sealed cover
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The Witness Mr. Rajesh Kumar Gupta claimed privilege on behalf of Union of India in respect of the documents/confidential material supplied in a sealed cover. Subject to the outcome of claim of privilege, the sealed cover was taken on record. Since no other witness was to be examined on behalf of the UOI and there was no opposition to the Reference proceedings on behalf of JKNF, on 15.07.2024, the matter was posted for addressing final submissions on 27.07.2024.

44. It needs a highlight that for the Tribunal's proceedings at Srinagar, Union of India was directed to ensure that any interested party who desires to appear physically before the Tribunal on 20.06.2024, 21.06.2024 and 24.06.2024, should be duly assisted for the said purpose. For the said purpose, ASI Mohd. Niyaz, ARP: Q51324/XI-SEC was deputed for all three dates of hearing at Srinagar, in the High Court premises, for facilitating the appearance of any interested party who desired to appear before this Tribunal. However, neither for the Tribunal hearings at Srinagar nor for the hearings at Delhi did anyone appear on behalf of JKNF to contest the proceedings.

45. On 27.07.2024, elaborate submissions were heard on behalf of the Union of India under *section* 123 of the Evidence Act read with *Rule* 3(2) of the UAP Rules, 1968 for claiming privilege / confidentiality in respect of certain documents submitted in a sealed envelope; and as referred to in the paragraph 12 of the affidavit of the concerned witness from the Ministry of Home Affairs. *Further*, arguments were also addressed on the same day in respect of existence of 'sufficient grounds' for JKNF to be declared as an 'unlawful association'. On 27.07.2024 itself, order in the matter was reserved.

VI. NON-APPEARANCE ON BEHALF OF JKNF IN THESE PROCEEDINGS

46. Despite service of notice upon the leaders/office bearers of JKNF, no appearance was put in on behalf of the said organization at any stage of the Tribunal's proceedings. This Tribunal has also not received any intimation from any interested party seeking to depose before this Tribunal.

47. Ample opportunity has been afforded by this Tribunal to the JKNF/ 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 said organization. Apart from effecting service on the JKNF and its office bearers in the manner aforesaid, this Tribunal even held public hearing/s in Srinagar to enable members of the JKNF and/ or member of the public to participate in the proceedings of the Tribunal. However, the said opportunity was not availed by the JKNF or any of its office bearers.

48. This *Tribunal* is conscious that despite there being no contest from the JKNF to the notification of the Central Govt. declaring it to be an illegal association, Tribunal is still required to make an "objective determination" as mandated in the judgment of the Hon'ble Supreme Court in *Jamaat-e-Islami Hind* (supra). The credibility of the material/evidence placed on record by the Central Government is still required to be tested. It needs a highlight that the Hon'ble 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". This Tribunal is thus 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 JKNF as an 'unlawful organisation'.

VII. EVIDENCE ADDUCED BEFORE THE TRIBUNAL

PW-1

49. **Mr. Kuldeep Raj (PW-1)**, currently posted as Dy. S.P., Anantnag, Kashmir tendered his affidavit as **Ex.PW1/A-1**. He deposed that he is the supervising officer of the cases bearing FIR No. 198/2004 and 197/2012 and in the course of discharge of his duties as a supervising officer, had gone through the records of the above said FIR'sno. 198/2004 and 197/2012, and was well conversant with the facts thereof. He also deposed that he had been duly authorized by the competent authority to depose before this Tribunal and relied upon such authorization as **Ex. PW 1/A**.

50. PW 1 further deposed that the Central Government, in exercise of its powers under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 vide notification number S.O. 1296 (E) dated 12th March 2024 had declared *Jammu Kashmir National Front* to be an unlawful association. *Witness* also deposed that he had read the brief Background Note on JKNF prepared by the Central Government and in view of the various cases registered against the said organization and its leaders, and the knowledge acquired during the course of service, he could state that JKNF and its leaders were involved in the secessionist activities.

51. PW 1 further deposed that JKNF is a separatist and secessionist organization which was formed in the year 1989 by a separatist leader Nayeem Ahmad Khan as an upper ground organization to provide logistic support to the terrorist organizations in Jammu & Kashmir. It was borne out from records that the main objective of JKNF has been to support terrorism and anti-India propaganda for fueling secessionism in Jammu and Kashmir and to work towards the secession of the State of Jammu & Kashmir from the Union of India. *Witness* stated that JKNF and its members have been involved in anti-national activities causing law-and-order problem in the erstwhile State of Jammu & Kashmir and now in the UT of Jammu & Kashmir, and are backed by Pakistan and other terrorist organizations. PW 1 further deposed that it is also borne out from the records that most prominent faces of JKNF are (i) Nayeem Ahmad Khan @ Firdous (Chairman), (ii) Abdul Qayoom (Vice Chairman-I), (iii) Abdul Salam Rather (Vice Chairman-II), (iv) Narinder Singh Khalisa (Vice Chairman-III), (v) Mohammad Khalil Kawa (Spokesperson) and (vi) Abdul Rashid Malik (Executive Member).

52. PW 1 testified that on 04.05.2004 at 14:45 hours, a docket was sent through Constable Zahoor Ahmad for registration of FIR, which was received by the Incharge, Police Station Anantnag mentioning therein that on 04.05.2004 at 14:25 hours during the patrolling duties at Lal Chowk Anantnag, *Hurriyat* Leader(s) **i** Shabir Ahmad Shah, **ii** Sheikh Abdul Aziz, **iii** Mohammad Yaseen

Malik *and* iv) Javid Ahmad Mir were leading a procession and appealing to the general public to boycott the upcoming parliamentary elections. The procession was dispersed using tear smoke shells and in the midst of it, the *Hurriyat* leaders fled away. PW 1 further deposed that leading to the said incident, **FIR No. 198/2004** was registered on 04.05.2004 at PS Anantnag u/s 132 of the *Representation of Peoples Act, 1951*. A true copy of FIR No. 198/2004 in vernacular along with its true English Translation was relied upon by PW 1 as **Ex. PW 1/1**.

53. PW 1 deposed that during investigation of the case, statements of material witnesses were recorded under section 161 Cr.P.C who corroborated the contents of the written complaint. *Witness* further stated that the investigation of the case is at its fag end and the Charge-sheet is likely to be filed very soon. True copies of the statements of the witnesses recorded u/s 161 Cr.P.C in vernacular along with their true English translations were relied upon by PW 1 as **Ex. PW 1/2 to Ex. PW 1/6**.

54. *Witness* further testified that on 19.06.2012 at 18:10 hours, a docket was received for registration of FIR from In-charge Police Station Janglat Mandi to Police Station Anantnag mentioning that a huge gathering lead by Qazi Yasir s/o late Qazir Nisar Ahmad along with *Hurriyat* Leaders Nayeem Ahmad Khan, Shabir Ahmad Shah and Akbar Bhat delivered speeches to the gathering wherein they instigated the public to struggle for freedom, aimed at harming the integrity of the nation. The unruly mob used one Sumo vehicle during the procession bearing registration no. 8666/JK03A on which a loud speaker was fitted. In the procession, *Hurriyat* leaders namely i) Sarjan Ahmad Wagay ii) Zahid Ahmad Wagay iii) Irfan Ahmad Shah iv) Md. Ashraf Allia v) Zahid Bashir vi) Rayees Ahmad Khardi vii) Ab. Salam Bhatv iii) Ahsan Amin Bhat ix) Shah Fasil x) Irfan Ahmad Khan xi) Mohd. Rafiq xii) Faisal Ahmad Bhat *and* xiii) Janisht Mushtaq Misger raised slogans in favor of freedom of Kashmir from India, aimed at harming the integrity of the nation. On being asked to disperse, the unruly mob pelted stones upon the police and security force deployed for law-and-order duties. *Witness* stated that leading to the said incident, FIR No. 197/2012 was registered on 19.06.2012 at PS Anantnag u/s 147/148/149/152/336 of RPC and u/s 13(1) of UA(P)A. A true copy of FIR No. 197/2012 in vernacular along with its true English translation was relied upon by PW1 as **Ex. PW 1/7**.

55. *Witness* deposed that during investigation of the case, incriminating materials were seized and a seizure memo was prepared, and statements of material witnesses were also recorded under section 161 Cr.P.C. who corroborated the contents of the written complaint. True copies of the statements of the witnesses recorded u/s 161 Cr.P.C. in vernacular along with their true English translations were relied upon by PW 1 as **Ex. PW 1/8 to Ex. PW 1/11**. A true copy of the seizure memo dated 20.06.2012 prepared during investigation of FIR No. 197/2012, in vernacular, along with its true English translation was relied upon by PW 1 as **Ex. PW 1/12**.

56. PW 1 further deposed that though the investigation of the case began and statements of witnesses were recorded but due to the adverse situation created in the valley by the separatist leaders and their organizations including JKNF who had staunch support from cross border and terrorist outfits, people used to fear in giving statements against them. Any investigation carried out against the separatist organizations and their leaders resulted in huge outcry and turmoil in the respective regions which has always been a prominent cause for delay in conclusion of investigation against these organizations and their leaders. *Witness* further deposed that JKNF, since its inception, has been propagating anti-national narrative and secessionist propoganda in Jammu and Kashmir, backed by Pakistan and its agencies inimical to India which have openly supported terrorist organizations which are active within Jammu and Kashmir. PW 1 further *testified* that from the knowledge acquired during the course of service and the records of the cases, it is manifest that JKNF and its leaders and members have been:

- a) incessantly encouraging and continuously advocating secession of territory of Jammu and Kashmir from the Indian dominion;
- b) incessantly encouraging and inciting separatist groups, on religious lines to destabilize the Government of India;

- c) committing acts which are intended to disrupt the territorial integrity of India and to bring about cession of lawful authority of Government of India in the territory of Jammu and Kashmir;
- d) promoting anti-national and separatist sentiments prejudicial to the integrity and security of the country;
- e) tacitly and tactically supporting militancy and incitement of violence in the territory of Jammu and Kashmir on religious lines;
- f) incited and lured the youth of Jammu and Kashmir for violence to disrupt the peace in the valley and in order to keep the anti-India pot boiling, announced *hartal* calls and issued protest calendars, leading to riots which resulted in injuries and death of several civilians, police officials and Security Forces personnel.

57. PW 1 further testified that sufficient material has been brought on record which establishes that the activities of JKNF are aimed at causing disaffection, disloyalty and dis-harmony by promoting feelings of enmity and hatred against the lawful government in a manner which is prejudicial to the territorial integrity and sovereignty of the Union of India.

Opportunity for cross-examination was given but not availed in view of non-appearance on behalf of JKNF.

PW-2

58. Saqib Gani (PW-2) who is currently posted as Dy.S.P. Budgam, Kashmir tendered his affidavit as **Ex. PW2/B** and deposed that he is the supervisory officer of the cases bearing FIR No. 110/2014 and FIR No. 93/2016 and having gone through the case records, was well conversant with the facts and circumstances of these cases. PW 2 deposed that he had been duly authorized by the competent authority to depose before this Tribunal and relied upon such authorization as **Ex. PW 2/A**.

59. PW 2 deposed that the Central Government, in exercise of its powers under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 vide notification number S.O. 1296 (E) dated 12th March 2024 had declared *Jammu Kashmir National Front* to be an unlawful association. *Witness* further deposed that he had read the brief Background note on JKNF prepared by the Central Government and in view of the various cases registered against the said organization and its leaders, and the knowledge acquired during the course of service, he could state that JKNF and its leaders were involved in the secessionist activities. PW 2 further deposed that JKNF is a separatist and secessionist organization which was formed in the year 1989 by a separatist leader Nayeem Ahmad Khan as an upper ground organization to provide logistic support to the terrorist organizations in Jammu & Kashmir. It was borne out from the records that the main objective of JKNF has been to support terrorism and anti-India propaganda for fueling secessionism in Jammu and Kashmir and to work towards the secession of Jammu & Kashmir from the Union of India. PW 2 further stated that JKNF and its members have been involved in anti-national activities causing law-and-order problem in the erstwhile State of Jammu & Kashmir and now in the UT of Jammu & Kashmir and are backed by Pakistan and other terrorist organizations. PW 2 further testified that it is also borne out from the records that most prominent faces of JKNF are (i) Nayeem Ahmad Khan @ Firdous (Chairman), (ii) Abdul Qayoom (Vice Chairman-I), (iii) Abdul Salam Rather (Vice Chairman-II), (iv) Narinder Singh Khalisa (Vice Chairman-III), (v) Mohammad Khalil Kawa (Spokesperson) and (vi) Abdul Rashid Malik (Executive Member).

60. PW 2 testified that on 11.06.2014, at about 10:30 hrs. an information was received to the effect that Syed Ali Shah Geelani Chairman Hurriyat (G) has held a conference at his *Hyderpora* residence in commemoration of the martyrs of 2010 and after the conclusion of the conference Syed Ali Shah Geelani along with other associates of Hurriyat (G) namely Shabir Ahmad Shah, Nayeem Ahmad Khan, Aayaz Akbar, Bashir Ahmad Bhat @ Pir Saifullah, Mohd Amin have defied the orders of the District Magistrate, Srinagar issued vide no.DMS/GBD/ 144-CRPC/358-365/ 14 dated 24.04.2014 where under orders were for keeping Syed Ali Shah Geelani under house arrest. The above named *Hurriyat* leaders after defying the said order, prevented the Police from discharging their legitimate duties, came to *Hyderpora Chowk* in the form of an 'unlawful assembly' and stopped the movement of traffic on Airport road and started sloganeering against the sovereignty of India. The act of the above *Hurriyat*

leaders amounted to cognizable offences punishable u/s 13 UA(P) Act and u/s 147, 341, 353 RPC. Consequently, **FIR No. 110/2014** was registered against the accused. A true copy of **FIR No. 110/2014** in vernacular along with its true English translation was relied upon by PW 2 as **Ex. PW 2/1**.

61. *Witness* further stated that the investigation of the case was conducted and statements of witnesses were recorded who corroborated the incident and the contents of the FIR, and hence based on the incriminating material collected against the accused, charge-sheet was filed before the concerned court. A true copy of the charge-sheet filed in FIR No. 110/2014 in vernacular along with its true English translation was relied upon by PW 2 as **Ex. PW 2/2**. True copies of the statements of witnesses recorded under section 161 Cr.P.C were relied upon by PW 1 as **Ex. PW 2/3 to Ex. PW 2/5**.

62. *Witness* further deposed that on 12.05.2016, at Hyderpora Chowk, separatist leader namely Nayeem Ahmad Khan s/o Gh. Mohd. Khan appeared and sat in the center of the road, thereby blocking vehicular movement. He was advised by Police party not to do so but he attacked the police party and restrained them from performing legitimate duties. The act of the said *Hurriyat* leader attracted provisions of cognizable offences u/s 341/353 RPC. To this effect **FIR No. 93/2016** came to be registered in PS Budgam. A true copy of **FIR No. 93/2016** in vernacular along with its true English translation was relied upon by PW 2 as **Ex. PW 2/6**. *Witness* further stated that the investigation of the case was conducted and statements of witnesses were recorded who corroborated the incident and the contents of the FIR. Hence, based on the incriminating material collected against the accused, charge-sheet bearing *challan* no. 226 of 2022 was filed before the concerned court on 11.11.2022. A true copy of the charge-sheet no. 226 of 2022 filed in FIR No. 93/2016 in vernacular along with its true English translation was relied upon by PW 2 as **Ex. PW 2/7**. True copies of the statements of witnesses recorded under section 161 Cr.P.C were relied upon by PW 2 as **Ex. PW 2/8 and Ex. PW 2/9**.

63. *Witness* further affirmed on oath that JKNF, since its inception, has been propagating anti-national narrative and secessionist propaganda in Jammu and Kashmir, backed by Pakistan and its agencies inimical to India which have openly supported terrorist organizations which are active within Jammu and Kashmir. PW 2 further *testified* that from the knowledge acquired during the course of service and the records of the cases, it is manifest that JKNF and its leaders and members have been:

- a) incessantly encouraging and continuously advocating secession of territory of Jammu and Kashmir from the Indian dominion;
- b) incessantly encouraging and inciting separatist groups, on religious lines to destabilize the Government of India;
- c) committing acts which are intended to disrupt the territorial integrity of India and to bring about cession of lawful authority of Government of India in the territory of Jammu and Kashmir;
- d) promoting anti-national and separatist sentiments prejudicial to the integrity and security of the country;
- e) tacitly and tactically supporting militancy and incitement of violence in the territory of Jammu and Kashmir on religious lines;
- f) incited and lured the youth of Jammu and Kashmir for violence to disrupt the peace in the valley and in order to keep the anti- India pot boiling, announced *hartal* calls and issued protest calendars, leading to riots which resulted in the injuries and death of several civilians, police officials and Security Forces personnel.

64. PW 2 further testified that sufficient material has been brought on record which establishes that the activities of JKNF are aimed at causing disaffection, disloyalty and dis-harmony by promoting feelings of enmity and hatred against the lawful government in a manner which is prejudicial to the territorial integrity and sovereignty of the Union of India.

Opportunity for cross-examination was given but not availed in view of non-appearance on behalf of JKNF.

PW-3

65. **Rameez Rashid Bhat (PW – 3)**, Deputy Superintendent of Police, Hajin, Bandipora, Kashmir tendered his affidavit as **Ex.PW3/A** and deposed that he was the supervising officer of the case bearing FIR No. 17/2014 and that in the course of his duties, had gone through the records of the case diary of FIR No. 17/2014, and was well conversant with the facts. *Witness* further deposed that he had been authorized by the competent authority to depose before this Tribunal and relied upon such authorization as **Ex. PW 3/A-1**.

66. PW 3 deposed that the Central Government, in exercise of its powers under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 vide notification number S.O. 1296 (E) dated 12th March 2024 had declared *Jammu Kashmir National Front* to be an unlawful association. *Witness* further deposed that he had read the brief Background Note on JKNF prepared by the Central Government and in view of the various cases registered against the said organization and its leaders, and the knowledge acquired during the course of service, he could state that JKNF and its leaders were involved in the secessionist activities. PW 3 further deposed that JKNF is a separatist and secessionist organization which was formed in the year 1989 by a separatist leader Nayeem Ahmad Khan as an upper ground organization to provide logistic support to the terrorist organizations in Jammu & Kashmir. It was borne out from the records that the main objective of JKNF has been to support terrorism and anti-India propaganda for fueling secessionism in Jammu and Kashmir and to work towards the secession of Jammu & Kashmir from the Union of India. PW 3 further stated that JKNF and its members have been involved in anti-national activities causing law-and-order problem in the erstwhile State of Jammu & Kashmir and now in the UT of Jammu & Kashmir and are backed by Pakistan and other terrorist organizations. PW 3 further deposed that it is also borne out from the records that most prominent faces of JKNF are (i) Nayeem Ahmad Khan @ Firdous (Chairman), (ii) Abdul Qayoom (Vice Chairman-I), (iii) Abdul Salam Rather (Vice Chairman-II), (iv) Narinder Singh Khalisa (Vice Chairman-III), (v) Mohammad Khalil Kawa (Spokesperson) and (vi) Abdul Rashid Malik (Executive Member).

67. PW 3 further deposed that on 07.03.2014, in furtherance of the objectives of JKNF and other prime separatist organizations, after completion of the Friday prayers separatist *Hurriyat* leaders namely (i) Shabir Ahmad Shah (Chairman, JKDFP), (ii) Mushtaq-ul-Islam, (iii) **Nayeem Ahmad Khan**, (iv) Bashir Ahmad Dar, (v) Mohammad Yousuf Naqash and (vi) Mohammad Yasin gathered around general public at *main chowk Hajin* and threatened them with dire consequences for participating in the general elections. The above said persons with an intent to threaten sovereignty of India, raised Pro-Pakistani and anti-national slogans like '*Pakistan Zindabad*'. *Witness* further stated that the said procession was organized without any permission from the administration and was unlawful. Consequently, **FIR No. 17/2014** was registered on 07.03.2014 at PS Hajin, Bandipora u/s 132 of the *Representation of Peoples Act*, u/s 13 of the UA(P) Act and u/s 147/148 of the Ranbir Penal Code. A true copy of **FIR No. 17/2014** in vernacular along with its true English translation was relied upon by PW 3 as **Ex. PW 3/1**.

68. *Witness* testified that the investigation in the aforesaid FIR was conducted and statements of witnesses were recorded who corroborated the incident and the contents of the FIR, and based on the incriminating material collected against the accused, charge-sheet bearing *challan* no. 01/2022 was filed before the concerned court on 07.01.2022. A true copy of the charge-sheet no. 01/2022 filed in FIR no. 17/2014 in vernacular along with its true English translation was relied upon by PW 3 as **Ex. PW 3/2**. True copies of the statements of witnesses recorded under section 161 Cr.P.C were relied upon by PW 3 as **Ex. PW 3/3 to Ex. PW 3/6**. *Witness* further stated that the trial of the case is still pending.

69. *Witness* further deposed that the investigations faced significant challenges due to the volatile situation in the valley orchestrated by separatist leaders and their affiliated groups, who received support from across the border and terrorist organizations which deterred individuals from coming forward to provide statements, hindering the progress of the investigations and any attempt to probe these separatist organizations and their leaders triggered widespread unrest and turmoil causing further delays. It was only after the reorganization of the State that significant progress could be made in the investigation which resulted in completion of the same.

70. *Witness* further affirmed on oath that JKNF, since its inception, has been propagating anti-national narrative and secessionist propaganda in Jammu and Kashmir, backed by Pakistan and its

agencies inimical to India which have openly supported terrorist organizations which are active within Jammu and Kashmir. PW 3 further *testified* that from the knowledge acquired during the course of service and the records of the criminal cases, it is manifest that JKNF and its leaders and members have been:

- a) incessantly encouraging and continuously advocating secession of territory of Jammu and Kashmir from the Indian dominion;
- b) incessantly encouraging and inciting separatist groups, on religious lines to destabilize the Government of India;
- c) committing acts which are intended to disrupt the territorial integrity of India and to bring about cession of lawful authority of Government of India in the territory of J&K;
- d) promoting anti-national and separatist sentiments prejudicial to the territorial integrity and security of the country;
- e) tacitly and tactically supporting militancy and incitement of violence in the territory of Jammu and Kashmir on religious lines;
- f) incited and lured the youth of Jammu and Kashmir for violence to disrupt the peace in the valley and in order to keep the anti- India pot boiling, announced hartal calls and issued protest calendars, leading to riots which resulted in the injuries and death of several civilians, police officials and Security Forces personnel.

Opportunity for cross-examination was given but not availed in view of non-appearance on behalf of JKNF.

PW-4

71. Aftab Awan (PW-4), currently posted as S.D.P.O, Magam, Kashmir tendered his affidavit as **Ex. PW4/A** and deposed that he was the supervising officer of cases bearing FIR no. 36/2015, FIR no. 39/2015 and FIR no. 40/2015, and having gone through the case records, was well conversant with the facts and circumstances of these cases. *Witness* further affirmed that he had been duly authorized by the competent authority to depose before this Hon'ble Tribunal and relied upon such authorization as **PW 4/ A-1**.

72. PW 4 deposed that the Central Government, in exercise of its powers under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 vide notification number S.O. 1296 (E) dt. 12th March 2024 had declared *Jammu Kashmir National Front* to be an unlawful association. *Witness* further deposed that he had read the brief Background Note on JKNF prepared by the Central Government and in view of the various cases registered against the said organization and its leaders, and the knowledge acquired during the course of service, he could state that JKNF and its leaders were involved in the secessionist activities. PW 4 further deposed that JKNF is a separatist and secessionist organization which was formed in the year 1989 by a separatist leader Nayeem Ahmad Khan as an upper ground organization to provide logistic support to the terrorist organizations in Jammu & Kashmir. It was borne out from records that the main objective of JKNF has been to support terrorism and anti-India propaganda for fueling secessionism in Jammu and Kashmir and to work towards the secession of Jammu & Kashmir from the Union of India. *Witness* stated that JKNF and its members have been involved in anti-national activities causing law-and-order problem in the erstwhile State of Jammu & Kashmir and now in the UT of Jammu & Kashmir and are backed by Pakistan and other terrorist organizations. PW 4 further affirmed that it is also borne out from the records that most prominent faces of JKNF are (i) Nayeem Ahmad Khan @ Firdous (Chairman), (ii) Abdul Qayoom (Vice Chairman-I), (iii) Abdul Salam Rather (Vice Chairman-II), (iv) Narinder Singh Khalisa (Vice Chairman-III), (v) Mohammad Khalil Kawa (Spokesperson) and (vi) Abdul Rashid Malik (Executive Member).

73. *Witness* further stated on oath that numerous FIR's have been registered against the leaders of JKNF for various offences. PW 4 deposed that on 20.04.2015, at 1530 hrs., P.S. Magam received a written docket through Ct. Mudasir Ahmad forwarded by SI Mohd Yousuf 51/PAU to the effect that

the officer along with H.Ct. Rajpal Singh, Ct. Mudasir Ahmad, Ct. Mushtaq Ahmad, Ct. Abdul Majeed and a patrol party from CRPF were performing law and order duties at Narbal. In the meanwhile, chairman *Hurriyat* (G) Syed Ali Shah Geelani, Farooq Ahmad Rather, *Hurriyat* (U) chairman Molvi Umar Farooq, Nayeem Khan and JKLF chairman Mohd. Yasin Malik who had come to *Narbal* to offer condolence to the family of a deceased person namely Suhail Ahmad Sofi, addressed a huge crowd and raised pro-separatist, pro-Pakistan, pro-*azadi* slogans. They also raised anti-India slogans during the speeches, thereby provoking crowd sentiments of hate and violence against the nation. After the address, the agitated crowd pelted stones on police personnel and CRPF Party deployed for law & order duties and also restrained vehicular traffic on *Gulmarg-Narbal* road. The acts done by the above-mentioned persons amounted to the commission of cognizable offences u/s 147,148,336, 341 RPC and section 13 UA(P) Act leading to registration of **FIR No. 36/2015**. A true copy of FIR no. 36/2015 in vernacular along with its true English translation was relied upon by PW 4 as **Ex. PW 4/1**.

74. *Witness* testified that investigation in the FIR case was conducted during which incriminating material was seized and statements of witnesses were recorded, substantiating the guilt of the accused persons and accordingly, charge-sheet was filed on 03.11.2022 in the jurisdictional Court of JMJC *Magam*. *Witness* deposed that *accused* nos. 4 & 5 were subsequently released on bail whereas *accused* nos. 2 & 3 are currently lodged at Tihar Jail, Delhi, pending trial of the case. A true copy of the charge-sheet in vernacular along with true English translation of its relevant portion was relied upon by PW 4 as **Ex. PW 4/2**. A true copy of seizure memo dated 20.05.2015 prepared during investigation of FIR no. 36/2015, in vernacular, along with its true English translation was relied upon by PW 4 as **Ex. PW 4/3**. True copies of the statements of the witnesses recorded u/s 161 Cr.P.C in vernacular along with their true English translations were relied upon by PW 4 as **Ex. PW 4/4 and Ex. PW 4/5**.

75. PW 4 further affirmed on oath that on 21-04-2015, P.Stn. *Magam* received a docket that when SI Mohd Yousuf, HC Farooq Ahmad, Sgct. Ali Mohd, Ct. Tauseef Ahmad and *nafri* of IRP and CRPF were deployed at Narbal for maintaining law and order, during that time, *JKDFP* president Shabir Ahmad Shah, Zafar Akbar Bhat of *Salvation Movement*, Nayeem Ahmad Khan of *JKNF* and Asiya Indrabi, Chairperson of *Dukhtran-e-Milat* reached the house of deceased Suhail Ahmad Sofi for offering condolence. The said leaders delivered speech to a huge gathering at Narbal during which they raised slogans in favour of Pakistan & *azadi* and also chanted anti-India slogans thereby spreading hate against India amongst the general public. Thereafter, the agitated mob pelted stones upon deployed police/security forces and blocked *Narbal-Gulmarg* road. The acts committed by the accused persons attracted cognizable offences punishable u/s 13 UA(P) Act and u/s 147,148,341,336 RPC. On receipt of the aforementioned docket, **FIR No. 39/2015** was registered at P.Stn. *Magam*. A true copy of FIR no. 39/2015 in vernacular along with its true English translation was relied upon by PW 4 as **Ex. PW 4/6**. *Witness* further deposed that investigation of the FIR was conducted during which incriminating material was seized and statements of witnesses were recorded, substantiating the guilt of the accused persons, and accordingly, charge-sheet bearing *challan* no. 133/2015 was filed on 03.11.2022 in the jurisdictional Court of Judicial Magistrate 1st Class, *Magam* (Budgam). A true copy of the charge-sheet in vernacular along with its true English translation of the relevant portion was relied upon by PW 4 as **Ex. PW 4/7**. True copy of seizure memo dated 21.04.2015 prepared during investigation of FIR no. 39/2015, in vernacular, along with its true English translation was relied upon by PW 4 as **Ex. PW 4/8**. True copy of the statement of the witness recorded u/s 161 Cr.P.C in vernacular along with its true English translation was relied upon by PW 4 as **Ex. PW 4/9**.

76. PW 4 further testified that on 24.04.2015 at 1730 hrs., a written docket was received through Ct. Showkat Ahmad, forwarded by SI Mohd. Yousuf to the effect that the officer along with other officials and a patrol party from CRPF, IRP & JKAP were performing law and order duties at Narbal when Farooq Ahmad Rather who is affiliated with *Hurriyat* G, assisted with Mehraj-ud-Din Kalwal, Ghulam Ahmad Khan Sopori, Nayeem Ahmad Khan and Zahid Ali Lone of JEI, all of whom had come to Narbal to offer condolence to the family of a deceased person namely Suhail Ahmad at his house, addressed a huge crowd of people at *Narbal Chowk* and raised pro-*azadi*, pro-Pakistan, and anti-India slogans. Resultantly, agitated crowd resorted to pelting of stones on police personnel/security forces. Further, the violent mob heavily pelted stones on CRPF 176 Bn. camp located at Narbal. The act done by the above-mentioned persons amounted to the commission of cognizable offences u/s 147, 148, 336, 341, 353 RPC and section 13 UA(P) Act. On receipt of this docket, **FIR no. 40/2015** was

registered. A true copy of FIR no. 40/2015 in vernacular along with its true English translation was relied upon by PW 4 as **Ex. PW 4/10**.

77. *Witness* further testified that investigation of the case was conducted during which incriminating material was seized, statements of witnesses were recorded and after collecting sufficient material which substantiated the guilt of the accused, charge-sheet was filed on 03.11.2022 in the jurisdictional Court of JMIC, Magam (Budgam). A true copy of the charge-sheet in vernacular along with true English translation of its relevant portion was relied upon by PW 4 as **Ex. PW 4/11**. True copy of Seizure Memo dated 24.11.2015 prepared during course of investigation in FIR no. 40/2015, in vernacular, along with its true English translation was relied upon by PW 4 as **Ex. PW 4/12**. True copies of the statements of the witnesses recorded u/s 161 Cr.P.C in vernacular along with their true English translations were relied upon by PW 4 as **Ex. PW 4/13 and Ex. PW 4/14**. *Witness* further affirmed that the investigation faced significant challenges due to the volatile situation in the valley orchestrated by separatist leaders who received support from across the border which created a climate of fear which deterred individuals from coming forward to provide statements, hindering the progress of the investigations.

78. *Witness* further affirmed on oath that JKNF, since its inception, has been propagating anti-national narrative and secessionist propaganda in Jammu and Kashmir, backed by Pakistan and its agencies inimical to India which have openly supported terrorist organizations which are active within Jammu and Kashmir. PW 4 further *testified* that from the knowledge acquired during the course of service and the records of the criminal cases, it is manifest that JKNF and its leaders and members have been:

- a) incessantly encouraging and advocating secession of territory of J&K from the Indian dominion;
- b) incessantly encouraging and inciting separatist groups, on religious lines to destabilize the Government of India;
- c) committing acts which are intended to disrupt the territorial integrity of India and to bring about cession of lawful authority of Government of India in the territory of J&K;
- d) promoting anti-national and separatist sentiments prejudicial to the territorial integrity and security of the country;
- e) tacitly and tactically supporting militancy and incitement of violence in the territory of Jammu and Kashmir on religious lines;
- f) incited and lured the youth of Jammu and Kashmir for violence to disrupt the peace in the valley and in order to keep the anti- India pot boiling, announced *hartal* calls and issued protest calendars, leading to riots which resulted in the injuries and death of several civilians, police officials and Security Forces personnel.

79. PW 4 concluded his testimony by further affirming that it stood established that the activities of JKNF were aimed at causing disaffection, disloyalty and dis-harmony by promoting feelings of enmity and hatred against the lawful government and that the members of JKNF are indulging and acting in a manner which is prejudicial to the territorial integrity and sovereignty of the Union of India.

Opportunity for cross-examination was given but not availed due to non-appearance on behalf of JKNF.

PW-5

80. Mohd. Ashrif (PW-5), currently posted as S.D.P.O, *Saddar*, Srinagar Kashmir, tendered his affidavit as **Ex.PW5/A** and deposed that he was the supervising officer of case bearing FIR No. 285/2003 and was well conversant with the facts and circumstances thereof. *Witness* further stated that he had been duly authorized by the competent authority to depose before this Tribunal and relied upon such authorization as **Ex. PW 5/A-1**.

81. PW 5 deposed that the Central Government, in exercise of its powers under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 vide notification number S.O. 1296 (E) dated 12th March 2024 had declared Jammu Kashmir National Front to be an unlawful association. *Witness* further

deposed that he had read the brief Background Note on JKNF prepared by the Central Government and in view of the various cases registered against the said organization and its leaders, and the knowledge acquired during the course of service, he could state that JKNF and its leaders were involved in the secessionist activities. PW 5 further deposed that JKNF is a separatist and secessionist organization which was formed in the year 1989 by a separatist leader Nayeem Ahmad Khan as an upper ground organization to provide logistic support to the terrorist organizations in Jammu & Kashmir. It was borne out from the records that the main objective of JKNF has been to support terrorism and anti-India propaganda for fueling secessionism in Jammu and Kashmir and to work towards the secession of the State of Jammu & Kashmir from the Union of India. Witness further stated that JKNF and its members have been involved in anti-national activities causing law & order problem in the erstwhile State of Jammu & Kashmir and now in the UT of Jammu & Kashmir and are backed by Pakistan and other terrorist organizations. PW 5 further testified that it is also borne out from the records that most prominent faces of JKNF are (i) Nayeem Ahmad Khan @ Firdous (Chairman), (ii) Abdul Qayoom (Vice Chairman-I), (iii) Abdul Salam Rather (Vice Chairman-II), (iv) Narinder Singh Khalisa (Vice Chairman-III), (v) Mohammad Khalil Kawa (Spokesperson) and (vi) Abdul Rashid Malik (Executive Member).

82. *Witness* affirmed on oath that on 10.09.2003, P.Stn. *Sadder* received a written docket from ASI Deep Singh informing that in terms of the specific input received, 2 suspects namely Nayeem Ahmad and Abdul Qayoom Ganie were intercepted after putting up a *naka* at Hyderpora Bypass and a search was conducted. The above-named suspects were found to be travelling in a Maruti Car bearing Reg. no. JK01G-2227 (white colour) and were found having in their possession cash amounting to Rs. 8.98 lacs which was further revealed to have been received from Pakistan's ISI for distribution amongst the terrorists to promote terror activities. Upon receipt of the said information, **FIR No. 285/2003** was registered on 10.09.2003 at P. Stn. *Sadder* u/s 10 CLA Act and u/s 13 of UA(P) Act. A true copy of FIR No. 285/2003 in vernacular along with its true English translation was relied upon by PW 5 as **Ex. PW 5/1**.

83. *Witness* testified that during investigation of the FIR, statements of witnesses were recorded who corroborated the contents of the complaint. The IO of the case also seized the recovered amount and Maruti Car and prepared a seizure memo for the same. True copies of the statements of witnesses recorded under section 161 Cr.P.C were relied upon by PW 5 as **Ex. PW 5/3 and Ex. PW 5/4**. A true copy of seizure memo dated 10.09.2003 in vernacular along with its true English translation was relied upon by PW 5 as **Ex. PW 5/5**. PW 5 further deposed that based on the incriminating material collected during investigation which *prima facie* established the guilt of the accused, a charge-sheet was filed before the concerned court on 17.12.2006. A true copy of the charge-sheet filed in FIR No. 285/2003 in vernacular along with its true English translation was relied upon by PW 5 as **Ex. PW 5/2**.

84. *Witness* further affirmed on oath that JKNF, since its inception, has been propagating anti-national narrative and secessionist propaganda in Jammu and Kashmir, backed by Pakistan and its agencies inimical to India which have openly supported terrorist organizations which are active within Jammu and Kashmir. PW 5 further *testified* that from the knowledge acquired during the course of service and the records of the criminal cases, it is manifest that JKNF and its leaders and members have been:

- a) incessantly encouraging and advocating secession of territory of J&K from the Indian dominion;
- b) incessantly encouraging and inciting separatist groups, on religious lines to destabilize the Government of India;
- c) committing acts which are intended to disrupt the territorial integrity of India and to bring about cession of lawful authority of Government of India in the territory of J&K;
- d) promoting anti-national and separatist sentiments prejudicial to the territorial integrity and security of the country;

- e) tacitly and tactically supporting militancy and incitement of violence in the territory of Jammu and Kashmir on religious lines;
- f) incited and lured the youth of Jammu and Kashmir for violence to disrupt the peace in the valley and in order to keep the anti- India pot boiling, announced hartal calls and issued protest calendars, leading to riots which resulted in the injuries and death of several civilians, police officials and Security Forces personnel.

85. PW 5 concluded his testimony by further affirming that it stood established that the activities of JKNF were aimed at causing disaffection, disloyalty and dis-harmony by promoting feelings of enmity and hatred against the lawful government and that the members of JKNF are indulging and acting in a manner which is prejudicial to the territorial integrity and sovereignty of the Union of India.

Opportunity for cross-examination was given but not availed in view of non-appearance on behalf of JKNF.

PW-6

86. **Sh. Vikram Nag(PW-6)**, currently posted as S.D.P.O *Shaheedgunj*, Kashmir, tendered his affidavit as **Ex.PW6/A** and deposed that he was the supervising officer of cases bearing FIR no. 192/1996, FIR no. 341/1998, FIR no. 108/2009 and FIR no. 72/2011 and having gone through the case records, was well conversant with the facts and circumstances of these cases. *Witness* further stated that he had been duly authorized by the competent authority to depose before this Hon'ble Tribunal and relied upon such authorization as **Ex. PW 6/A-1**.

87. PW 6 deposed that the Central Government, in exercise of its powers under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 vide notification number S.O. 1296 (E) dated 12th March 2024 had declared Jammu & Kashmir National Front to be an *unlawful association*. *Witness* further deposed that he had read the brief Background Note on JKNF prepared by the Central Government and in view of the various cases registered against the said organization and its leaders, and the knowledge acquired during the course of service, he could state that JKNF and its leaders were involved in the secessionist activities. PW 6 further deposed that JKNF is a separatist and secessionist organization which was formed in the year 1989 by a separatist leader Nayeem Ahmad Khan as an upper ground organization to provide logistic support to the terrorist organizations in Jammu & Kashmir. It was borne out from the records that the main objective of JKNF has been to support terrorism and anti-India propaganda for fueling secessionism in Jammu and Kashmir and to work towards the secession of the State of Jammu & Kashmir from the Union of India. *Witness* also stated on oath that JKNF and its members have been involved in anti-national activities causing law & order problem in the erstwhile State of Jammu & Kashmir and now in the UT of Jammu & Kashmir and are backed by Pakistan and other terrorist organizations. PW 6 affirmed that it is also borne out from the records that most prominent faces of JKNF are (i) Nayeem Ahmad Khan @ Firdous (Chairman), (ii) Abdul Qayoom (Vice Chairman-I), (iii) Abdul Salam Rather (Vice Chairman-II), (iv) Narinder Singh Khalisa (Vice Chairman-III), (v) Mohammad Khalil Kawa (Spokesperson) and (vi) Abdul Rashid Malik (Executive Member).

88. PW 6 further deposed that on 17.07.1996, P.Stn. Shergarhi received a written docket informing that on the said day, a mob headed by Syed Ali Shah Geelani along with others was seen holding the dead body of a militant Hilal Ahmad Beigh who was killed in an encounter with security forces at Parimpora. It was further informed that the mob was shouting anti-national slogans and pelted stones on the security forces as a result which some police officials got injured and some vehicles were also damaged. When the security forces fired tear gas shells and resorted to lathi charge in order to control the unruly mob and maintain peace, an unknown terrorist from interior side of *Sarai Bala* fired upon the police party with an intention to kill. Consequently, **FIR No. 192/1996** was registered on 17.07.1996 at P. Stn. Shergarhi, Srinagar u/s 307, 341, 148, 336, 332, 132 of the of the Ranbir Penal Code, u/s 13 of the ULA(P) Act and u/s 7/27 of A. Act. A true copy of **FIR No. 192/1996** in vernacular along with its true English translation was relied upon by PW 6 as **Ex. PW 6/1**.

89. PW 6 further stated that investigation in the aforesaid FIR was conducted during the course of which statements of witnesses were recorded who corroborated the contents of the FIR. During the course of investigation, IO of the case also seized some articles from the place of occurrence for which a seizure memo was prepared.

True copies of the statements of witnesses recorded under section 161 Cr.P.C in vernacular, along with their true English translations, were relied upon by PW 6 as **Ex. PW 6/2 and Ex. PW 6/3**. A true copy of seizure memo prepared during the investigation, in vernacular, along with its true English translation was relied upon by PW 6 as **Ex. PW 6/4**.

90. PW 6 further testified that on 10.11.1998, P. Stn. Shergarhi received a written docket that on that day, in the Batamaloo area, when a mob headed by Javid Ahmad Mir along with others were seen coming out from different *mohallas* of the area in violation of Section 144 Cr.P.C. and reached the main road at old bus stand, the said mob raised anti-government and anti-national slogans against the sovereignty of India thereby inciting people to get freedom from India forcibly. It was further informed that the mob pelted stones on the police officials, restrained the traffic movement and caused damage to the shops and vehicles. Consequently, **FIR No. 341/1998** was registered on 10.11.1998 at P.Stn. Shergarhi, Srinagar u/s 188, 147, 336, 341, 427 of the Ranbir Penal Code, u/s 13 of the UA(P) Act and u/s 10 of CLA. A true copy of **FIR No. 341/1998** in vernacular along with its true English translation was relied upon by PW 6 as **Ex. PW 6/5**.

91. *Witness* further deposed that during the investigation of the aforesaid FIR, statements of witnesses were recorded who corroborated the incident and the contents of the FIR. During the course of the investigation, IO of the case also seized some articles from the place of occurrence for which a seizure memo was prepared. A true copy of the charge-sheet filed in FIR No. 341/1998 in vernacular along with its true English translation was relied upon by PW 6 as **Ex. PW 6/6**. True copies of the statements of witnesses recorded under section 161 Cr.P.C. were relied upon by PW 6 as **Ex. PW 6/7 and Ex. PW 6/8**. A true copy of seizure memo, in vernacular, along with its true English translation was relied upon by PW 6 as **Ex. PW 6/9**. *Witness* further stated that based on the incriminating material collected against the accused, charge-sheet was filed before the concerned court on 18.09.2023.

92. PW 6 further deposed that on 15.11.2009, Police Station Batamaloo received an information that a meeting has been organized at *Kashi Mohalla* Community Hall under the leadership of Mushtaq Ahmad Bhat @ Mushtaq-ul-Islam along with other activists of *Hurriyat* wherein they are spreading hatred amongst general public against the unity and integrity of India by giving hateful speeches and provoking the public to indulge in anti-national activities to promote cessation of State of J&K from Union of India. Consequently, **FIR No. 108/2009** was registered on 15.11.2009 at P. Stn. Batamaloo u/s 153A of the Ranbir Penal Code and u/s 13 of the UA(P) Act. A true copy of **FIR No. 108/2009** in vernacular, along with its true English translation was relied upon by PW 6 as **Ex. PW 6/10**. *Witness* further stated that during investigation of the aforesaid FIR, statements of witnesses were recorded who corroborated the incident and the contents of the FIR. True copies of the statements of witnesses recorded under section 161 Cr.P.C. were relied upon by PW 6 as **Ex. PW 6/11 and Ex. PW 6/12**.

93. PW 6 further stated on oath that on 16.09.2011, Police Station Karanagar received a DD report No. 16 along with a written docket informing that a prominent leader of *Hurriyat* namely Nayeem Ahmad Khan after offering the Friday prayers at Jamia Masjid came out on the road along with his other companions and started raising anti national & pro-freedom slogans. The said procession led by Nayeem Ahmad Khan tried to spread hatred amongst the public thereby causing harm to the sovereignty and integrity of India. Upon receiving the said information, **FIR No. 72/2011** was registered on 16.09.2011 at PS Karanagar u/s 147 of the Ranbir Penal Code and u/s 13 of the UA(P) Act. A true copy of **FIR No. 72/2011** in vernacular along with its true English translation was relied upon by PW 6 as **Ex. PW 6/13**. Further, *Witness* deposed that during the investigation of the aforesaid FIR, statements of witnesses were recorded who corroborated the incident and the contents of the FIR. True copies of the statements of witnesses recorded under section 161 Cr.P.C. were relied upon by PW 6 as **Ex. PW 6/15 and Ex. PW 6/16**.

94. PW 6 further affirmed that sufficient material was collected against the accused during investigation and consequently, a charge-sheet was filed before the concerned court on 11.03.2013. A true copy of the charge-sheet filed in FIR No. 72/2011 in vernacular along with its true English translation was relied upon by PW 6 as **Ex. PW 6/14**. *Witness* further stated that the investigations faced significant challenges due to the volatile situation in the valley orchestrated by separatist leaders and their affiliated groups, who received support from across the border and terrorist organizations which created a climate of fear and deterred individuals from coming forward to provide statements, hindering the progress of the investigations, and it was only after the reorganization of the State that significant progress could be made in the investigation which resulted in filing of the charge-sheet. *Witness* further stated that *challans* have been filed in *FIR nos. 341/1998* and *72/2011* whereas investigation is still pending in *FIR nos. 192/1996* and *108/2009*. *Witness* further deposed JKNF and leaders and members of the said organization who also had support from across the border have been actively and continuously supporting the separatist and banned organizations and have been openly advocating and inciting the people to bring about a secession of Jammu and Kashmir from the Union of India. It is also established that the activities of JKNF are aimed at causing disaffection, disloyalty and dis-harmony by promoting feelings of enmity and hatred against the lawful government and the members of JKNF are indulging and acting in a manner which is prejudicial to the territorial integrity and sovereignty of the Union of India

Opportunity for cross-examination was given but not availed in view of non-appearance on behalf of JKNF.

PW 7

95. **Sh. Hariprasad (PW-7)**, currently posted as SDPO, *Kothibagh*, Srinagar, tendered his affidavit as **Ex.PW7/A** and deposed that he was the supervising officer of cases bearing FIR no. 227 of 1987 and FIR no. 10 of 2014, and was well conversant with the facts and circumstances of these cases. *Witness* further stated that he had been duly authorized by the competent authority to depose before this Tribunal and relied upon such authorization as **Ex. PW 7/A-1**.

96. PW 7 deposed that the Central Government, in exercise of its powers under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 vide notification number S.O. 1296 (E) dated 12th March 2024 had declared *Jammu Kashmir National Front* to be an “unlawful association”. *Witness* further deposed that he had read the brief Background Note on JKNF prepared by the Central Government and in view of the various cases registered against the said organization and its leaders, and the knowledge acquired during the course of service, he could state that JKNF and its leaders were involved in the secessionist activities. PW 7 further deposed that JKNF is a separatist and secessionist organization which was formed in the year 1989 by a separatist leader Nayeem Ahmad Khan as an upper ground organization to provide logistic support to the terrorist organizations in Jammu & Kashmir. It was borne out from records that the main objective of JKNF has been to support terrorism and anti-India propaganda for fueling secessionism in Jammu and Kashmir and to work towards the secession of Jammu & Kashmir from the Union of India.

97. *Witness* also stated on oath that JKNF and its members who are backed by Pakistan and other terrorist organizations have been involved in anti-national activities causing law & order problem in the erstwhile State of Jammu & Kashmir and now in the UT of Jammu & Kashmir. PW 7 affirmed that it is also borne out from the records that most prominent faces of JKNF are (i) Nayeem Ahmad Khan @ Firdous (Chairman), (ii) Abdul Qayoom (Vice Chairman-I), (iii) Abdul Salam Rather (Vice Chairman-II), (iv) Narinder Singh Khalisa (Vice Chairman-III), (v) Mohammad Khalil Kawa (Spokesperson) and (vi) Abdul Rashid Malik (Executive Member).

98. PW 7 deposed that on 17.11.1987, Police Station *Maisuma* received a written docket informing that on the said day, an unruly mob coming from *Maisuma bazar* headed by Mohd. Ismail *Bhat*, Noor Mohd. *Ganie*, Abdul Razak *Khan*, Javid Ah. *Najar*, Ab. Qayoom *Langoo*, Mohd. Saleem *Sheikh*, Mohd Aslam *Wani* and Mushtaq Ahmad *Dar* proceeded towards *Gowkadal* while raising anti-national slogans which were secessionist and against the Constitution of India. Further, the unruly mob entered the police station without any justification and set ablaze one Jeep bearing reg. no. JKN 376 at *Gowkadal*. The violent mob instigated by the accused separatist leaders also pelted stones on police party and injured

some police personnel and thereafter, proceeded towards *Habbakadal*. On their way to Habbakadal, they pelted stones on shops and damaged the public property. Consequently, **FIR no. 227/1987** was registered on 17.11.1987 at P.Stn. *Maisuma* u/s 148, 149, 451, 436, 427, 332 of the Ranbir Penal Code and u/s 4(2) of TADA(P) Act. A true copy of **FIR no. 227/1987** in vernacular along with its true English translation was relied upon by PW 7 as **Ex. PW 7/1**.

99. *Witness* further stated on oath that during the investigation of the FIR, statements of witnesses were recorded who corroborated the incident and the vehicle used in the commission of the offence was also seized. Hence, based on the incriminating material collected against the accused, charge-sheet bearing No. 49/1988 was filed before the concerned court on 19.03.1988 wherein the Trial is still pending. A true copy of the charge-sheet filed in FIR No. 227/1987, in vernacular, along with its true English translation was relied upon by PW 7 as **Ex. PW 7/2**.

100. PW 7 further testified that on 06.02.2014, a written docket was received at P.Stn. *Kothibagh* informing that on the said day the complainant, a Police Official, was informed by Nissar Ahmad Paul, Manager of Hotel Lal Rukh near Lal Chowk that in furtherance of the prime object of JKNF which is secession of Jammu & Kashmir from the Union of India, a seminar was being conducted by PDF leaders Shabir Ahmad Shah, Nayeem Ahmad Khan, Mushtaq Ul Islam, Mohd. Ahsan Untoo etc. wherein the leaders have given speech that Govt. of India is occupying Jammu & Kashmir forcefully and live example of which is hanging of Mohd. Maqbool Bhat and Mohd. Afzal Guroo which was done unconstitutionally, and even the corpse of the said persons were not handed over to their legal heirs. The leaders present there also raised slogans '*Hindutan Hai Hai*' '*Pakistan Zindabad*' '*Hum Kya Chahtay Azadi*'. Based on the said information, **FIR No. 10 of 2014** was registered at P.Stn. *Kothibagh* on 07.02.2014 against the named accused under section 13 of UA(P)A and under section 109 of the RPC. A true copy of FIR No. 10/2014 along with its true English Translation was relied upon by PW 7 as **Ex. PW 7/3**. *Witness* further affirmed that investigation in the said FIR was still underway as records had been destroyed in a fire incident in the police station.

101. *Witness* further affirmed on oath that JKNF, since its inception, has been propagating anti-national narrative and secessionist propaganda in Jammu and Kashmir, backed by Pakistan and its agencies inimical to India which have openly supported terrorist organizations which are active within Jammu and Kashmir. PW 7 further *testified* that from the knowledge acquired during the course of service and the records of the criminal cases, it is manifest that JKNF and its leaders and members have been:

- a) incessantly encouraging and advocating secession of territory of J&K from the Indian dominion;
- b) incessantly encouraging and inciting separatist groups, on religious lines to destabilize the Government of India;
- c) committing acts which are intended to disrupt the territorial integrity of India and to bring about cession of lawful authority of Government of India in the territory of J&K;
- d) promoting anti-national and separatist sentiments prejudicial to the territorial integrity and security of the country;
- e) tacitly and tactically supporting militancy and incitement of violence in the territory of Jammu and Kashmir on religious lines;
- f) incited and lured the youth of Jammu and Kashmir for violence to disrupt the peace in the valley and in order to keep the anti- India pot boiling, announced *hartal* calls and issued protest calendars, leading to riots which resulted in the injuries and death of several civilians, police officials and Security Forces personnel.

Opportunity for cross-examination was given but not availed in view of non-appearance on behalf of JKNF.

PW 7A (This witness was also inadvertently examined as PW 7. Subsequently, in the proceedings dt. 03.07.2024 held at the High Court of Delhi, it was clarified by the Tribunal that this witness shall be renumbered as PW 7A. However, there is no change/renumbering in the exhibit numbers of the documents relied upon by the witness as deposition had already been concluded and the deposition sheets had been signed in Srinagar.)

102. **Owais Ahmad (PW-7A)**, currently posted as SDPO, *Charar-e-Sharief*, Budgam, tendered his affidavit as **Ex. PW 7/A-1** and deposed that he was the supervising officer of case bearing FIR no. 207 of 2009, and having gone through the case records, was well conversant with the facts and circumstances of the case. *Witness* further stated that he had been duly authorized by the competent authority to depose before this Hon'ble Tribunal and relied upon such authorization as **Ex. PW 7/A**.

103. PW-7A deposed that the Central Government, in exercise of its powers under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 vide notification number S.O. 1296 (E) dated 12th March 2024 had declared *Jammu & Kashmir National Front* to be an unlawful association. *Witness* further deposed that he had read the brief Background Note on JKNF prepared by the Central Government and in view of the various cases registered against the said organization and its leaders, and the knowledge acquired during the course of service, he could state that JKNF and its leaders were involved in the secessionist activities. PW-7A further deposed that JKNF is a separatist and secessionist organization which was formed in the year 1989 by a separatist leader Nayeem Ahmad Khan as an upper ground organization to provide logistic support to the terrorist organizations in Jammu & Kashmir. It was borne out from records that the main objective of JKNF has been to support terrorism and anti-India propaganda for fueling secessionism in Jammu and Kashmir and to work towards the secession of Jammu & Kashmir from the Union of India. *Witness* also stated on oath that JKNF and its members who are backed by Pakistan and other terrorist organizations have been involved in anti-national activities causing law & order problem in the erstwhile State of Jammu & Kashmir and now in the UT of Jammu & Kashmir. PW-7A affirmed that it is also borne out from the records that most prominent faces of JKNF are (i) Nayeem Ahmad Khan @ Firdous (Chairman), (ii) Abdul Qayoom (Vice Chairman-I), (iii) Abdul Salam Rather (Vice Chairman-II), (iv) Narinder Singh Khalisa (Vice Chairman-III), (v) Mohammad Khalil Kawa (Spokesperson) and (vi) Abdul Rashid Malik (Executive Member)

104. PW-7A further affirmed on oath that on 20.11.2009, at 1515 hours, P.Stn. *Chadoora* received a docket informing that in connection with Friday prayers, the provincial president of *Hurriyat Conference* and JKNF chairman Nayeem Ahmad Khan appeared at new *Jamia Masjid, Sharief Aram Mohalla*, Chadoora and delivered speech against the State and Union government, besides chanted pro freedom slogans. He also delivered speeches in favour of Pakistan and praised terrorism, and thereby tried to entice the people. The act amounted to a cognizable offence. On receipt of this docket, **FIR no. 207/2009** u/s 13 UA(P) Act was registered. A true copy of **FIR no. 207/2009** in vernacular along with its true English translation was relied upon by PW-7A as **Ex. PW 7/1**.

105. *Witness* further stated that during the investigation of the aforesaid FIR, statements of witnesses were recorded who corroborated the incident and the contents of the FIR, and hence, based on the incriminating material collected against the accused, charge-sheet bearing *challan* No. 113/2022 was filed before the concerned court on 04.11.2022, trial of which is still pending. A true copy of the charge-sheet no. 113/2022 filed in FIR No. 207/2009 in vernacular along with its true English Translation was relied upon by the *Witness* as **Ex. PW 7/2**. True copies of the statements of witnesses recorded under section 161 Cr.P.C. were relied upon by the *Witness* as **Ex. PW 7/3 to Ex. PW 7/5**. *Witness* further deposed that the investigations faced significant challenges due to the volatile situation in the valley orchestrated by separatist leaders and their affiliated groups, who received unwavering support from across the border and terrorist organizations which created a climate of fear, deterring individuals from coming forward to provide statements, thereby hindering the progress of the investigations. It was only after the reorganization of the State that significant progress could be made in the investigation which resulted in completion of the investigation.

106. *Witness* further affirmed on oath that JKNF, since its inception, has been propagating anti-national narrative and secessionist propaganda in Jammu and Kashmir, backed by Pakistan and its

agencies inimical to India which have openly supported terrorist organizations which are active within Jammu and Kashmir. PW 7A further *testified* that from the knowledge acquired during the course of service and the records of the criminal cases, it is manifest that JKNF and its leaders and members have been:

- a) incessantly encouraging and advocating secession of territory of J&K from the Indian dominion;
- b) incessantly encouraging and inciting separatist groups, on religious lines to destabilize the Government of India;
- c) committing acts which are intended to disrupt the territorial integrity of India and to bring about cession of lawful authority of Government of India in the territory of J&K;
- d) promoting anti-national and separatist sentiments prejudicial to the territorial integrity and security of the country;
- e) tacitly and tactically supporting militancy and incitement of violence in the territory of Jammu and Kashmir on religious lines;
- f) incited and lured the youth of Jammu and Kashmir for violence to disrupt the peace in the valley and in order to keep the anti- India pot boiling, announced *hartal* calls and issued protest calendars, leading to riots which resulted in the injuries and death of several civilians, police and Security Forces.

107. PW-7A concluded his deposition by affirming that sufficient material has been brought on record which manifests that JKNF and leaders and members of the said organization who also had support from across the border, have been actively and continuously supporting the separatist and banned organizations and have been openly advocating and inciting the people to bring about a secession of Jammu and Kashmir from the Union of India. It is also established that the activities of JKNF are aimed at causing disaffection, disloyalty and dis-harmony by promoting feelings of enmity and hatred against the lawful government, and that the members of JKNF are indulging and acting in a manner which is prejudicial to the territorial integrity and sovereignty of the Union of India.

Opportunity for cross-examination was given but not availed in view of non-appearance on behalf of JKNF.

PW 8

108. **Sh. Murtaza Ahmad Peer (PW-8)**, currently posted as Dy.S.P., CIK, Srinagar tendered his affidavit as **Ex. PW 8/A** and deposed that he was the investigating officer of case bearing FIR no. 10 of 2010 and being so, was well conversant with the facts and circumstances of the case. *Witness* further stated that he had been duly authorized by the competent authority to depose before this Hon'ble Tribunal and relied upon such authorization as **Ex. PW 8/A - 1**.

109. PW 8 deposed that the Central Government, in exercise of its powers under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 vide notification number S.O. 1296 (E) dated 12th March 2024 had declared Jammu & Kashmir National Front to be an unlawful association. *Witness* further deposed that he had read the brief Background Note on JKNF prepared by the Central Government and in view of the various cases registered against the said organization and its leaders, and the knowledge acquired during the course of service, he could state that JKNF and its leaders were involved in the secessionist activities. PW 8 further deposed that JKNF is a separatist and secessionist organization which was formed in the year 1989 by a separatist leader Nayeem Ahmad Khan as an upper ground organization to provide logistic support to the terrorist organizations in Jammu & Kashmir. It was borne out from records that the main objective of JKNF has been to support terrorism and anti-India propaganda for fueling secessionism in Jammu and Kashmir and to work towards the secession of the State of Jammu & Kashmir from the Union of India. *Witness* also stated on oath that JKNF and its members have been involved in anti-national activities causing law & order problem in the erstwhile State of Jammu & Kashmir and now in the UT of Jammu & Kashmir who are backed by Pakistan and other terrorist organizations. PW 8 affirmed that it is also borne out from the records that most prominent faces of JKNF are (i) Nayeem Ahmad Khan @ Firdous (Chairman), (ii) Abdul Qayoom (Vice

Chairman-I), (iii) Abdul Salam Rather (Vice Chairman-II), (iv) Narinder Singh Khalisa (Vice Chairman-III), (v) Mohammad Khalil Kawa (Spokesperson) and (vi) Abdul Rashid Malik (Executive Member)

110. PW 8 further deposed that during the investigation of FIR No. 15/1991, it came to light that in the year 2010, the separatist leaders accused in the FIR no. 15/1991, had amassed huge wealth and raised large number of assets through *Hawala* and other illegal channels of money laundering and were using the said money and assets for promoting violence/ militancy and their secessionist ideology in the State of Jammu & Kashmir. Based on the said revelation, **FIR bearing No. 10/2010** was registered against the accused of FIR No. 15/1991, at Police Station, CIK, Srinagar, Kashmir u/ss 121A/120B of RPC and u/ss 13/17/18 of UA(P) Act. *Witness* further affirmed that after collecting sufficient material against the accused, a charge-sheet was filed in the case. A true copy of **FIR no. 10/2010** along with true English translation of its relevant portion was relied upon by PW 8 as **Ex. PW 8/1**.

111. PW 8 further testified that during investigation of the aforesaid FIR, notices were issued and statement of various witnesses were recorded. True copies of the statements of witnesses recorded under section 161 Cr.P.C in vernacular along with their true English translations were relied upon by PW 8 as **Ex. PW 8/2 and PW 8/3**. *Witness* further deposed that the investigation in the case of accumulation of assets by the premier separatist leaders has been initiated, and information has been sought from various banks and other authorities but due to the adverse law and order situation created by these leaders, the investigation could not be concluded as the investigation faced significant challenges due to the 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. PW 8 further stated on oath that since the abrogation of Article 370 of the Constitution of India, the investigation of this case has also progressed and soon the investigation will be brought to its logical conclusion.

112. *Witness* further affirmed on oath that JKNF, since its inception, has been propagating anti-national narrative and secessionist propaganda in Jammu and Kashmir, backed by Pakistan and its agencies inimical to India which have openly supported terrorist organizations which are active within Jammu and Kashmir. PW 8 further *testified* that from the knowledge acquired during the course of service and the records of the criminal cases, it is manifest that JKNF and its leaders and members have been:

- a) incessantly encouraging and advocating secession of territory of J&K from the Indian dominion;
- b) incessantly encouraging and inciting separatist groups, on religious lines to destabilize the Government of India;
- c) committing acts which are intended to disrupt the territorial integrity of India and to bring about cession of lawful authority of Government of India in the territory of J&K;
- d) promoting anti-national and separatist sentiments prejudicial to the territorial integrity and security of the country;
- e) tacitly and tactically supporting militancy and incitement of violence in the territory of Jammu and Kashmir on religious lines;
- f) incited and lured the youth of Jammu and Kashmir for violence to disrupt the peace in the valley and in order to keep the anti- India pot boiling, announced *hartal* calls and issued protest calendars, leading to riots which resulted in the injuries and death of several civilians, police officials and Security Forces personnel.

113. PW 8 concluded his deposition by affirming that sufficient material has been brought on record which manifests that JKNF and leaders and members of the said organization who also had support from across the border have been actively and continuously supporting the separatist and banned organizations and have been openly advocating and inciting the people to bring about a secession of Jammu and Kashmir from the Union of India. It is also established that the activities of JKNF are aimed

at causing disaffection, disloyalty and dis-harmony by promoting feelings of enmity and hatred against the lawful government, and the members of JKNF are indulging and acting in a manner which is prejudicial to the territorial integrity and sovereignty of the Union of India.

Opportunity for cross-examination was given but not availed in view of non-appearance on behalf of JKNF.

PW 9

114. **Mr. B.B. Pathak**, currently posted as Dy. S.P., NIA, Delhi deposed as **PW 9**, being the investigating officer of RC-10/2017/NIA/DLI registered under sections 120B, 121 & 121A of the Indian Penal Code and sections 13, 16, 17, 18, 20, 38, 39 and 40 of the Unlawful Activities (Prevention) Act, 1967 and in that capacity, was well conversant with the facts of the aforesaid case. PW 9 deposed to the effect that the Central Government, in exercise of its powers conferred under Sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 has declared the *Jammu Kashmir National Front* to be an unlawful association vide notification number S.O. 1296 (E) dated 12.03.2024 as there is sufficient evidence to establish that the *Jammu Kashmir National Front* indulged in anti-national activities in the country. *Witness* further deposed that criminal case bearing RC-10/2017/NIA/DLI lodged under various sections of *Indian Penal Code* and *Unlawful Activities (Prevention) Act, 1967* shows involvement of accused Nayeem Khan, Chairman of JKNF, in illegal and anti-national activities.

115. PW 9 testified that credible information was received by the Central Government that Hafiz Muhammad Saeed, Amir of *Jammat-ud-Dawah* and the secessionist leaders, including the members/cadres of the *Hurriyat Conference*, have been acting in connivance with active militants of proscribed terrorist organizations viz. Hizb-ul-Mujahideen, Dukhtaran-e-Millat, Lashkar-e-Taiba, and other terrorist organizations for raising and receiving funds domestically and abroad through various illegal channels, including *hawala*, for funding separatist and terrorist activities in Jammu and Kashmir including pelting stones on the security forces, systematically burning of schools, damage to public property and waging war against India through the funds so collected, and as such have entered into a larger criminal conspiracy for causing disruption in the Kashmir valley. Consequently, RC-10/2017/NIA/DLI was registered and taken up for investigation by NIA which is India's federal counter-terrorism agency. A copy of RC-10/2017/NIA/DLI was relied upon by PW 9 as **Ex. PW 9/1**

116. PW 9 further testified that investigation revealed that various terrorist organizations viz. JKLF, HM, LeT, in connivance with various secessionist groups, particularly the All Parties *Hurriyat Conference* i.e. **APHC** and its constituents funded by Pakistan and its agencies and terror groups have entered into a criminal conspiracy to wage war against the Government of India for secession of the State of Jammu & Kashmir from the Union of India. PW 9 deposed that investigation revealed that APHC was formed as a conglomerate of 26 political/social/religious organizations in 1993 to give a political mask to the secessionist activities. This alliance has been consistently promoted and supported by Pakistan to fulfill its evil motive to establish its claim over Jammu & Kashmir. In the year 2008, the APHC split into three factions. One faction was headed by Mirwaiz Umar Farooq and is called as APHC (M), the other is led by Syed Ali Shah Geelani and is called as APHC (G) and the third faction is led by Yasin Malik, head of JKLF. Syed Ali Shah Geelani, Mirwaiz Umar Farooq and Yasin Malik together had formed the **Joint Resistance Leadership** (JRL) to promote the cause of secession of Jammu & Kashmir from the Union of India. The investigation revealed that JRL used to disseminate the calendar of protests through newspapers and other social media platforms. These protest 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 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. During the course of investigation, protest calendar for the period 06.08.2016 to 16.08.2016 was recovered and seized during search conducted in the house of one of the leaders of APHC namely Altaf Ahmad Shah @ Fantoosh. Investigation further revealed that during the period as mentioned in the seized protest calendar, the protests were very violent and led to the registration of 89 cases of stone-pelting and other unlawful activities including arson, school burning, damage to the public property and vehicles etc. In these incidents, 07 persons were killed and 175 persons got injured leading to arrest of 366 persons

involved in such activities in Srinagar. Besides, as per the information received from BSF, 40 personnel of BSF got injured, who were dealing with the stone-pelting incidents from Sept. 2016 to June 2017.

117. *Witness* further affirmed on oath that the secessionist agenda of the Hurriyat is also reflected on its website www.hurriyatconference.com, which speaks about “*Freedom struggle*” and that “People of Jammu & Kashmir have been fighting against Indian Occupation”. Thereafter, pursuant to the investigation, charge sheet dated 18.01.2018 was filed before the Special Court, New Delhi against 12 accused persons, including two designated terrorists, based in Pakistan, namely (i) Hafiz Muhammad Saeed and (ii) Mohd. Yusuf Shah @ Salahuddin, (iii) Aftab Ahmad Shah @ Shahid-ul-Islam, (iv) Altaf Ahmad Shah @ Fantoosh (now expired), (v) Nayeem Ahmad Khan who is Chairman of JKNF, (vi) Farooq Ahmad Dar @ Bitta Karate, (vii) Mohammad Akbar Khanday, (viii) Raja Mehrajuddin Kalwal, (ix) Bashir Ahmad Bhat @ Peer Saifullah, and (x) Zahoor Ahmad Shah Watali, who was involved in providing funds for terrorists and secessionist activities to APHC leaders through *hawala*. The case was further being investigated in terms of section 173 (8) of Cr.P.C. A copy of the charge-sheet dt. 18.01.2018 was relied upon by PW 9 as **Ex. PW 9/2**.

118. PW 9 further stated on oath that investigation revealed that Nayeem Khan, Chairman of JKNF, had along with other accused persons played a key role in building the separatist/militant movement in Jammu and Kashmir. On 03.06.2017, several premises belonging to the separatists and the accused arraigned in the case including Nayeem Khan, were searched in Jammu and Kashmir, and several incriminating documents were seized. A copy of the *seizure memo* dated 03.06.2017 prepared during investigation was relied upon by PW 9 as **Ex. PW 9/3**. During the aforesaid search conducted in the house of accused Nayeem Khan, amongst other incriminating documents seized, two letters written by Hizbul Mujahideen (HM) Area Commander requesting accused Nayeem Khan for financial assistance and 21 blank letter heads of Lashkar-e-Toiba (LeT) were also seized. *Copies* of these letters along with their true English translations were relied upon by PW 9 as **Ex. PW 9/4**.

119. PW 9 further testified that during investigation, one video was downloaded from the open source which shows the accused Nayeem Khan visiting the area where three terrorists were killed on 11.07.2017 at Budgam, Srinagar. This video shows him with the supporters of ISIS, a proscribed terrorist organization under UA(P) Act. This clearly establishes that the terrorist organizations and the *Hurriyat* leaders of Jammu & Kashmir are acting in unison in waging war against the Government of India. *Further*, during investigation, one video was collected from the office of India Today T.V. News Channel which shows the role of Pakistan in funding secessionist activities in J & K. In the said videos, accused Nayeem Khan of JKNF admits that the secessionists and terrorists of the valley were 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. Accused Nayeem Khan further speaks in the video about funds reaching them from Saudi Arabia/ Dubai through *Hawala*. Nayeem Khan admitted that Pakistan High Commission had played a pivotal role in conveying and receiving instructions from Pakistan, and also admitted that, if funded, he can fuel unrest in the Valley at any time. *Copies* of the transcript of the afore-said videos has been relied upon by PW 9 as **Ex. PW 9/5**. The voice sample of accused Nayeem Khan and the voice in the aforesaid video were forensically examined and the CFSL report has confirmed that both are voices of the same person. *Copy* of the CFSL report has been relied upon by PW 9 as **Ex. PW 9/6**.

120. *Witness* further deposed that investigation further ascertained that the students who were proceeding to Pakistan on a student visa were either relatives or ex-militants or relatives of active militants who had indulged in various anti-national activities. It was further ascertained that their applications for visa were recommended by various *Hurriyat* leaders including Nayeem Khan of JKNF. Further, militants/ ex-militants who had fled to Pakistan would pursue their admission cases with the concerned medical colleges with the help of *Hurriyat* leaders based in Pakistan/ PoK. These students who are recommended for allotment of MBBS seats and engineering seats in Pakistan are also offered scholarships under various schemes of Pakistan Government. This shows a triangular nexus wherein the terrorists, the *Hurriyat* and the Pakistani establishment are the three vertices, and they are ostensibly patronizing the Kashmiri students in order to prepare a generation of doctors and technocrats in Kashmir who will have leanings towards Pakistan. One such letter written on the letter-head of JKNF was seized from the house of accused Nayeem Khan, wherein he, in the capacity of the Chairman of JKNF,

recommended a student for admission in a ‘Standard Medical College’ in Pakistan because her family has remained committed to the freedom struggle through thick and thin. Copy of the said letter has been relied upon by PW 9 as **Ex. PW 9/7**.

121. PW 9 further testified that during investigation, several witnesses were examined and their statements have been recorded under section 161 and 164 of the Cr.P.C., a perusal of which would reveal that the members and leaders of APHC, with the support of agencies of Pakistan, Pakistan based terrorist organizations 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, to observe strikes, cause forcible closure of roads, schools & govt. institutions and to create a surcharged atmosphere, which is conducive for the propagation of their secessionist agenda. Members and leaders of APHC and its constituents including JKNF, have been found to be involved in the above-mentioned unlawful activities. The statements of the protected witnesses (*in terms of Section 44 of the UA(P)A*) code named as Alpha, Gamma, Jack, John, Jerry, W74 and AW69, in a sealed cover, were submitted by PW 9 for the perusal of this Tribunal and the same were taken on record as **Ex. PW 9/8**.

122. *Witness* further stated that on 24.07.2017, accused Nayeem Khan being Chairman of JKNF was arrested in the instant case, being complicit in the conspiracy related to secessionist and terrorist activities in the State of Jammu & Kashmir. A copy of arrest memo of Nayeem Khan dated 24.07.2017 was relied upon by PW 9 as **Ex. PW 9/9**. *Witness* further testified that based on the evidence collected, the 2nd *supplementary* charge-sheet was filed on 04.10.2019 u/s 120B, 121, 121A & 124A IPC and Section 13, 16, 17, 18, 20, 38 & 39 of UA(P) Act, in the *Special Court*, NIA, New Delhi against five accused persons namely Mohd. Yasin Malik of *JKLF*, Shabir Ahmad Shahof *JKDFP*, Masarat Alam Bhat of *Muslim League*, Syeda Aasiya Andrabi of *Dukhtaran-e-Millat* and Abdul Rashid Sheikh of *Awami Itehadi Party*. A copy of the 2nd supplementary charge-sheet dt. 04.10.2019 was relied upon by PW 9 as **Ex. PW 9/10**.

123. PW 9 further deposed from records that the *charge* has been framed against accused Nayeem Khan for the offences under sections u/s 120B IPC, 121 IPC, 121A IPC, section 13 UA(P)A r/w 120B IPC, section 15 UA(P)A r/w 120B IPC, section 17 UA(P)A r/w 120B IPC and sections 18, 20, 39 & 40 of UA(P)A, on 16.03.2022. A Copy of the Charge Order dated 16.03.2022 passed by the Id. Special Judge, NIA, New Delhi was relied upon by PW 9 as **Ex. PW 9/11**. *Further*, accused Yasin Malik, had pleaded guilty to the *charges*, following which he was convicted of all the charges framed against him u/ss 120-B, 121, 121A IPC, section 13 UA(P)A r/w section 120-B IPC, section 15 UA(P)A r/w section 120- B IPC, and ss. 17, 18, 20, 38, 39 UA(P)A, and sentenced with rigorous imprisonment for life along with a fine of Rs. 10 lakhs. A copy of the order dated 25.05.2022 convicting Yasin Malik was relied upon by PW 9 as **Ex. PW 9/12**. The trial qua the other 11 co-accused persons is still underway and is further listed on 13.08.2024 and 14.08.2024 for examination of witnesses.

124. *Witness* further affirmed on oath that JKNF, since its inception, has been propagating anti-national narrative and secessionist propaganda in Jammu and Kashmir, backed by Pakistan and its agencies inimical to India which have openly supported terrorist organizations which are active within Jammu and Kashmir. PW 9 further *testified* that from the knowledge acquired during the course of service and the records of the criminal cases, it is manifest that JKNF and its leaders and members have been:

- a) incessantly encouraging and advocating secession of territory of J&K from the Indian dominion;
- b) incessantly encouraging and inciting separatist groups, on religious lines to destabilize the Government of India;
- c) committing acts which are intended to disrupt the territorial integrity of India and to bring about cession of lawful authority of Government of India in the territory of J&K;
- d) promoting anti-national and separatist sentiments prejudicial to the territorial integrity and security of the country;
- e) tacitly and tactically supporting militancy and incitement of violence in the territory of Jammu and Kashmir on religious lines;

- f) incited and lured the youth of Jammu and Kashmir for violence to disrupt the peace in the valley and in order to keep the anti- India pot boiling, announced *hartal* calls and issued protest calendars, leading to riots which resulted in the injuries and death of several civilians, police officials and Security Forces personnel.

125. PW 9 concluded his deposition by affirming that sufficient material has been brought on record which manifests that JKNF and leaders and members of the said organization who also had support from across the border have been actively and continuously supporting the separatist and banned organizations and have been openly advocating and inciting the people to bring about a secession of Jammu and Kashmir from the Union of India. It is also established that the activities of JKNF are aimed at causing disaffection, disloyalty and dis-harmony by promoting feelings of enmity and hatred against the lawful government, and the members of JKNF are indulging and acting in a manner which is prejudicial to the territorial integrity and sovereignty of the Union of India. Consequently, the decision of the Central Government to declare the Jammu Kashmir National Front (JKNF) as unlawful association under the provisions of the Unlawful Activities (Prevention) Act, 1967 is just, proper and bona fide.

PW 10

126. Sh. Rajesh Kumar Gupta, presently posted as Director (CT) in the Government of India, Ministry of Home Affairs deposed as **PW 10** on behalf of the Central Government on the basis of his knowledge as derived from official records/ the relevant files concerning JKNF which he had been dealing with in his official capacity.

127. PW 10 deposed that the Notification no. S. O. 1296(E) dated 12th March 2024, issued by the Central Government is based on the information and material received from the central intelligence agency and Criminal Investigation Department of Government of Union Territory of Jammu and Kashmir, with regard to the unlawful activities of the *Jammu Kashmir National Front*. *Witness* further deposed that based on the above intelligence inputs, a note was prepared for the consideration of the *Cabinet Committee on Security* whereafter the said Committee took the decision and approved the proposal contained in the above note, in the meeting held on 7th March 2024. Accordingly, the declaration was made and published vide notification dated 12th March 2024, bearing no. S. O. 1296(E). A copy of the said notification published in the official gazette dated 12.03.2024 was relied upon by PW 10 as **Ex. PW 10/1**.

128. **PW 10** further testified that the background note submitted to this Tribunal in terms of *Rule 5* of the Unlawful Activities (Prevention) Rules 1968, vide letter dated 09th April, 2024 is based upon the material/ information as contained in the concerned file. A copy of the said Background Note was relied upon by PW 10 as **Ex. PW 10/2**. *Witness* further affirmed that various cases registered by the Jammu and Kashmir Police and National Investigation Agency throw light on the unlawful and subversive activities of the chairman and members of JKNF in regard to which officers concerned of the UT of J&K and of the NIA have filed affidavits before this Tribunal. *Witness* further submitted that various witnesses have already adduced evidences during the course of proceedings before this Tribunal in support of the declaration as contained in Notification no. S. O. 1296 (E) dated 12th March, 2024 which clearly establish that JKNF is continuously indulging in unlawful activities which pose a serious threat to the internal security of the country. *Further*, PW 10 affirmed on oath that in addition, various intelligence inputs show that JKNF is continuing its unlawful activities which are prejudicial to the security of the country. The original file, duly indexed, containing above mentioned central intelligence reports/inputs was submitted for the perusal of this Tribunal and subject to the claim of privilege raised by the Central Govt. regarding the said original file under *section 123* of Evidence Act read with *Rule 3(2)* and *proviso* to *Rule 5* of Unlawful Activities (Prevention) Rules of 1968, the same was taken on record as **Ex. PW 10/3**.

129. **PW 10** concluded his testimony by affirming that the ban imposed on JKNF under the UA(P)A, 1967 may be affirmed by this Tribunal since as per the information received from various agencies, the banning of the JKNF is necessary in the interest of national security, sovereignty and territorial integrity

of India as Chairman and members of the JKNF have been indulging in radicalizing and brainwashing the minds, and indoctrinating of youth through provocative speeches for separation of Jammu and Kashmir from Union of India.

VIII. SUBMISSIONS ON BEHALF OF THE UOI

130. On 27.07.2024 the matter was fixed for addressing final submissions. Ld. Additional Solicitor General addressed arguments for claiming privilege for the documents produced in a sealed cover and also submitted arguments on the existence of ‘sufficient grounds’ to hold JKNF to be an unlawful association. Addressing the *Tribunal* first on the claim for privilege, ld. Addl. SG referred to *section* 123 of the Evidence Act read with *Rule* 3(2) of the UA(P) 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.”*

131. Learned Addl. Solicitor General submitted that the claim of privilege by the Union of India for the documents placed in a sealed cover has been 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 Addl. SG 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 manner are based on highly sensitive information and inputs; and the effects of such decisions are not confined to the boundaries of the nation.

132. To support her arguments, ld. Addl. SG has relied upon the judgment delivered in a case of preventive detention i.e. **Raj Kumar Singh vs. State of Bihar** (1986) 4 SCC 407 wherein the Hon’ble 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.”

The Id. Addl. SG has also placed reliance upon the judgment delivered in **Ex-Armyemen'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.”

133. The Id. Addl. SG submitted that the UA(P)A 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 Id. Addl. SG then placed reliance on the judgment delivered 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 non-disclosure 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."

134. The Id. Addl. SG also relied on the judgment delivered 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 deems 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."

135. The Id. Addl. SG, thus, submitted that from a bare reading of the aforesaid judgment of the Supreme Court, it is clear that an enquiry contemplated under the UA(P)A gives a right to the Government to claim privilege of sensitive documents in public interest/national interest, 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.

136. The Id. Addl. SG further submitted that the documents form a part of the evidence collected by the intelligence agencies which pertain to secessionist and unlawful activities of the JKNF and those associated with it and the said documents are confidential and secret in nature which can be verified by the Tribunal only. The Id. Addl. SG further submitted that material placed in the sealed cover by the Central Government is in the form of secret information collected over a period 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 but the disclosure whereof would be clearly detrimental to the larger public interest and the security of the State. The Id. Addl. SG 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.

137. Ld. Addl. SG further submitted that the sealed cover material is inherently and *dehors* being a part of the evidence of the present proceedings, is of confidential nature, disclosure of which would be contrary to the public as also national interest.

138. Ld. Addl. SG has also placed further reliance in this regard on the following judgments of the

Hon'ble Supreme Court:

- (a) S.P. Gupta Vs. Union of India (1981) Supp SCC 87
- (b) Iqbal Singh Marwah Vs. Meenakshi Marwah (2005) 4 SCC 370

139. Placing reliance on the above, ld. Addl. SG further emphasised that in regard to the claim of privilege for non-disclosure of sealed cover 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 non-disclosure 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.”

140. Ld. Addl. SG, therefore, submitted that the rigors of *S.P Gupta* (supra) for claiming privilege have to be read in context of the provisions of UA(P)A 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, start with a *non obstante* clause and thus, an inbuilt mechanism has been provided under the UA(P)A 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 safety and sovereignty of the country and where the Tribunal also finds that the public interest outweighs the interest of the association/members/office bearers.

141. Ld. Addl. SG submitted that the claim of confidentiality has to satisfy the test of character of the document and thus, the foundation of immunity from non-disclosure stems from the character of the document.

142. The ld. Addl. SG also submitted that the decisions of the previous Tribunals constituted under Section 4 of the UA(P)A, 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 UA(P)A 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, the Tribunal chaired by 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 'unlawful associations' by upholding the notification no. S.O. 4559 (E), dated the 27th September, 2022 of the GOI issued by the Ministry of Home Affairs, published in the Gazette of India, Extraordinary, Part II, dt. 28th Sept., 2022.

143. In view of the aforesaid highlighted legal position, the Id. Addl. SG submitted that the Central Government respectfully claims privilege on the documents contained in the sealed cover, as mentioned in the affidavit filed by the concerned witness from the MHA who deposed on behalf of the Central Government/ UOI.

144. Thereafter, as a precursor to the submissions on the existence of '*sufficient grounds*' for banning JKNF as an unlawful association, Id. Addl. SG underscored the reasons for the enactment of the UA(P) Act, 1967. Id. Addl. SG highlighted that the *statement of objects and reasons* of the UA(P)A itself underlines the purpose of its enactment which is 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, freedom of speech and expression, and on right to assemble peacefully and with arms. Id. Addl. SG submitted that further, *section 48* of the UA(P)A itself provides that the provisions of the UA(P)A 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 it a clear over-riding position. 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. Id. Addl. SG submitted that 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" which threatens the sovereignty of India.

145. Id. Addl. SG 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. Id. Addl. SG 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, 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.

146. Id. Addl. SG submitted that after attaining Independence, Parliament has passed many laws to regulate national security in order to protect sovereignty of India. The UA(P)A, 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.

147. Id. Addl. SG 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.

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

148. Id. Addl. SG further submitted that the repeal of the Prevention of Terrorist Activities Act,

2002 entailed an absence of a legal framework to address the perils of terrorism. Accordingly, as a consequence, the UA(P)A 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 the Indian state to fight both terrorism as well as terror funding.

149. In view of the aforesaid, Id. Addl. SG submitted that it is evident that the provisions of UA(P)A 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. Id. Addl. SG submitted that an organization can be banned solely based on the opinion of the Central Government and, therefore, the challenge to Chapter II of UA(P)A has already been repelled by the Hon'ble Supreme Court in *paras* 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.”

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

151. On the aspect of standard of proof required for judging the merits of the present *Reference*, learned Addl. SG submitted that the proceedings before this Tribunal are civil in nature and the standard of proof is the standard prescribed by the Hon'ble Supreme Court in **Jamaat-e-Islami Hind** (supra) as per which the matter has to be decided by objectively examining which version is more acceptable and credible. In this regard, Id. Addl. SG has referred to the observation made in *para* 30 of **Jamaat-e-Islami Hind** (supra). Id. Addl. SG also argued that the procedure to be followed by the Tribunals can be read from the law enacted under the *Administrative Tribunals Act, 1985*. Id. Addl. SG submitted that similarly, the Tribunal established under the UA(P)A 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.

152. Id. Addl. SG has submitted that as per the mandate of *Section* 4 of the UA(P)A, 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. Id. Addl. SG has submitted that any procedural irregularities or defects in the 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. Id. Addl. SG 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 UA(P)A.

153. Id. Addl. SG has submitted that for the purpose of assessing the sufficiency of the cause, this Tribunal has to holistically look into the entire material / 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. Id. Addl. SG 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 the JKNF and its associates were indulging in unlawful activities. Id. Addl. SG submitted that the law does not require that the cases which should form the basis of opinion formed by

the Central Government should 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 for this assessment. Ld. Addl. SG 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.

154. Ld. Addl. SG has further 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 JKNF opposing the ban, the Notification no. S.O. 1296 (E) published in the Gazette of India, Extraordinary, dated 12th March, 2024, declaring the Jammu and Kashmir National Front (JKNF) as an 'unlawful association' under sub-Section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 is liable to be confirmed.

155. As regards the hostile environment prevailing in the territory of Jammu & Kashmir creating hurdles in conclusion of cases against the separatist and militants, the Ld. Addl. SG 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. Ld. Addl. SG 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.

156. Ld. Addl. SG 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. Ld. Addl. SG has submitted that these facts have been referred to in the concurring opinion of Hon'ble Justice Sanjay Kishan Kaul in para-31 and *Epilogue* recorded in *paras* 113-135 of the judgment **Re: Article 370 of the Constitution**, reported in 2023 SCC Online SC 1647.

157. Ld. Addl. SG 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.

158. Ld. Addl. SG also submitted that the investigation was further slowed thereafter due to COVID which had brought all the routine activities to a standstill as a complete lockdown in the entire nation was imposed. Hence, the investigation in the cases registered against the JKNF in the State of Jammu & Kashmir could not be processed at the pace it should have been.

159. Ld. Addl. SG has also submitted that the NIA in its charge-sheet filed on 18.01.2018 in RC-10/2017/NIA/DLI vide paragraphs 17.5.6 and 17.6.1 and 17.8 has highlighted the magnitude of secessionist and terrorist activities in the Kashmir valley and the nexus of JKNF with cross-border terrorist organizations in the Kashmir valley for arranging/managing funds for continuing with anti-India rhetoric and violent activities in the Jammu & Kashmir. *Para* 17.5.6 of the charge-sheet shows links of Nayeem Khan with militant leaders of *Hizbul Mujahideen*, a dreaded militant organisation known for working towards secession of Jammu & Kashmir from India through violent means, who have sought financial assistance from Nayeem Khan. *Para* 17.6.1 gives details of how funding for subversive activities in Jammu & Kashmir is sent across from Pakistan by its agencies and even on the nation's soil by Pakistan High Commission in New Delhi. *Para* 17.8 reveals how Kashmiri separatist leaders including Nayeem Khan facilitate admission of relatives of Kashmiri militants/ex-militants and so called freedom fighters in engineering and medical colleges in Pakistan through recommendation letters, and in the process perpetuate the secessionist agenda. The investigation carried out by the NIA, therefore, corroborates the hostile environment in the State of Jammu and Kashmir which for a long period of time which did not let the Investigating Agency to complete the investigations in respective FIRs.

160. The Ld. Addl. SG submitted that from a bare perusal of the facts stated in the NIA charge-sheet

and 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 of 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 and rather than concentrating on prosecuting the criminal acts of separatist and secessionist forces, indulged in dialogue with separatists.

161. Ld. Addl. SG submitted that despite several FIRs having been lodged against the members of the JKNF, its activists / sympathizers are still active and are indulging in unlawful/anti-national activities as defined in the UA(P)A, posing a serious threat to the sovereignty and integrity of India, communal harmony, and internal security. Ld. Addl. SG has submitted that if the JKNF is not banned, the activists and sympathizers of JKNF will again pose a serious threat to the communal harmony, internal security and integrity of the country.

162. Lastly, learned Addl. SG has submitted that the Notification no. S.O. 1296 (E), dated March 12th March 2024, issued by the Central Government declaring the JKNF as an unlawful association is based on the information and material received from the State Government of Jammu and Kashmir, the National Investigation Agency, and the various intelligence agencies, with regard to the unlawful activities of JKNF and is liable to be confirmed.

IX. ANALYSIS AND CONCLUSION

163. The arguments addressed on behalf of Union of India regarding the existence of 'sufficient grounds' for declaring JKNF as an unlawful association also included submissions for claiming privilege in respect of the documents submitted in a sealed cover by one of the witnesses. The claim for privilege in regard to those documents has a significant bearing on the requirement of existence of 'sufficient grounds' since it has been argued that those documents contain extremely sensitive information regarding the unlawful and secessionist activities of JKNF. Hence, it will be apposite to first rule on the claim for privilege raised by the Union of India. The issue regarding privilege claimed by the Central Government in respect of the documents disclosure whereof is injurious to public interest, is specifically envisaged in the UA(P) Rules, 1968. *Rule 3* of the said UA(P) 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.”*

164. 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.

165. *Rule 5* of the UA(P) 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.”

166. 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.”

167. 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) upheld the ban imposed and further 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* 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 non-disclosure 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.”*

168. The legal position which thus emerges, can be succinctly put in the following terms:

- a. 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;
- b. 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;
- c. The Tribunal can devise a suitable procedure for itself for examining and testing the credibility of such material;
- d. 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.

169. *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 UA(P)A and the Rules framed thereunder. In particular, it needs to be borne in mind that Rule 3(1) of the UA(P) Rules, 1968 expressly provides that in holding any inquiry under sub-section (3) of section 4 of the UA(P)A, 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).

170. *Further*, the *Reference* proceedings are time-bound and as has been 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 UA(P)A 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.

171. On perusal of the documents submitted by the Central Government in a sealed cover, it is found that the same contains intelligence reports, secret information collected from time to time by the investigating 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.

172. This *Tribunal* finds 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 in regard thereto.

173. This *Tribunal* also notes that the claim for privilege has been expressly stated by the concerned witness from the Ministry of Home Affairs (PW-10) to be based on a specific approval/direction of the Union Home Secretary (Head of the department). The said position is also borne out from the relevant official/noting files shared with this *Tribunal*.

174. 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. 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 there from for the purpose of the present inquiry.

175. On the basis of the material placed on record and the evidence adduced by the Central Government, I find sufficient cause for declaring the Jammu and Kashmir National Front ('JKNF') as an unlawful association which conclusion is drawn for the following reasons.

176. The notification dated 12th March, 2024 issued under Section 3(1) of the Act *inter alia* mentions that (i) the members of the JKNF have been at the fore-front of the secessionist activities in Jammu and Kashmir; (ii) the leaders or members of the JKNF have been involved in raising funds through various sources including those in Pakistan for promoting unlawful activities, including supporting terrorist activities; (iii) JKNF and its members have scant respect towards the constitutional authority and constitutional set-up of the country; (iv) JKNF 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; and (v) there are linkages between JKNF with banned terrorist organizations.

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

- a. Evidence adduced by officers (senior police officers) from Union Territory of Jammu and Kashmir;
- b. Evidence in the form of Charge-sheet filed in NIA case No. RC-10/2017/NIA/DLI;
- c. 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

178. As many as 9 senior police officers/officials from the Union Territory of Jammu and Kashmir (PW1 to PW8¹) have deposed as regards the litany of incidents involving JKNF in the past several decades. The same clearly brings out that the concerned association has been relentlessly indulging in

¹2 witnesses were examined as PW 7 and PW 7 A

“unlawful activities”.

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

- a. raising anti-India and pro-Pakistan slogans (evidence of PW1, PW2, PW3, PW4, PW5, PW 6, PW 7, PW 7 A, PW 8),
- b. encouraging boycott of elections and openly professing dis-allegiance towards the Constitution of India (evidence of PW1, PW2, PW 3, PW4, PW 5, PW 6, PW 7, PW 7A, PW 8),
- c. inciting the people of Jammu and Kashmir to take resort to violence/pelting of stones on security forces (evidence of PW1, PW2, PW3, PW4, PW5, PW 6, PW 7, PW 7A, PW 8),
- d. undermining the sovereignty and territorial integrity of India and professing affection towards Pakistan by making hate speeches (evidence of PW1, PW 2, PW 3, PW 4, PW5, PW 6, PW 7, PW 7A, PW 8)
- e. instigating the general public intending to cause disaffection against India (evidence of PW1, PW 2, PW 3, PW 4, PW5, PW 6, PW 7, PW 7A, PW 8),
- f. raising of funds through various illegal sources for promoting unlawful activities, including supporting terrorism/ violence/ militancy, spreading secessionist ideology in Jammu and Kashmir (evidence of PW 9).

180. 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 JKNF has been indulging in “unlawful activities” and its cadres have posed a grave threat to the law and order situation in Jammu and Kashmir since the last 3 - 4 decades.

181. Although it is true that the investigation in most of the FIRs (with regard to which PW 1 to PW 8 have deposed) has been protracted, Id. Addl. SG has sought to emphasize that the same was on account of hostile environment prevailing in 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. These activities continued unabated for a long period of time; and it is only in the last few years (post enactment of the Jammu & Kashmir Re-Organisation Act, 2019) that there has been a lull in the anti-national activities in Jammu & Kashmir, as is evident from the reduced instances of violence/disruption of law and order.

182. 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 JKNF i.e. its chairmen, and members have been:

- a. incessantly encouraging and advocating claims for secession of Jammu and Kashmir from the Union of India and have been inciting the local population towards the same;
- b. promoting anti-national and separatist sentiments prejudicial to the integrity and security of the country;
- c. tacitly and tactically supporting militancy and incitement of violence in the territory of Jammu and Kashmir on religious lines and have sought to escalate the separatist movement;

183. The compelling testimony of officers from various districts of Jammu and Kashmir cannot be disregarded. The aforesaid evidence remains un-rebutted by the JKNF/ its office bearers. At every stage of these proceedings, a right was afforded to the JKNF/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.

184. This *Tribunal* is conscious that the veracity of the contents of the aforesaid charge-sheet/s² which have been filed in the above-mentioned criminal cases which have been registered against the JKNF and its cadres, is required to be established at the trial of the said cases **but** the scope of scrutiny of the material cited by the Central Government (which is the subject matter of present *Reference*) is not akin to a criminal trial, as has been held in *para 26* of *Jamaat-e-Islami Hind* (supra). For the purpose of these proceedings, the evidence adduced 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 UA(P)A vide the notification dated 12th March 2024.

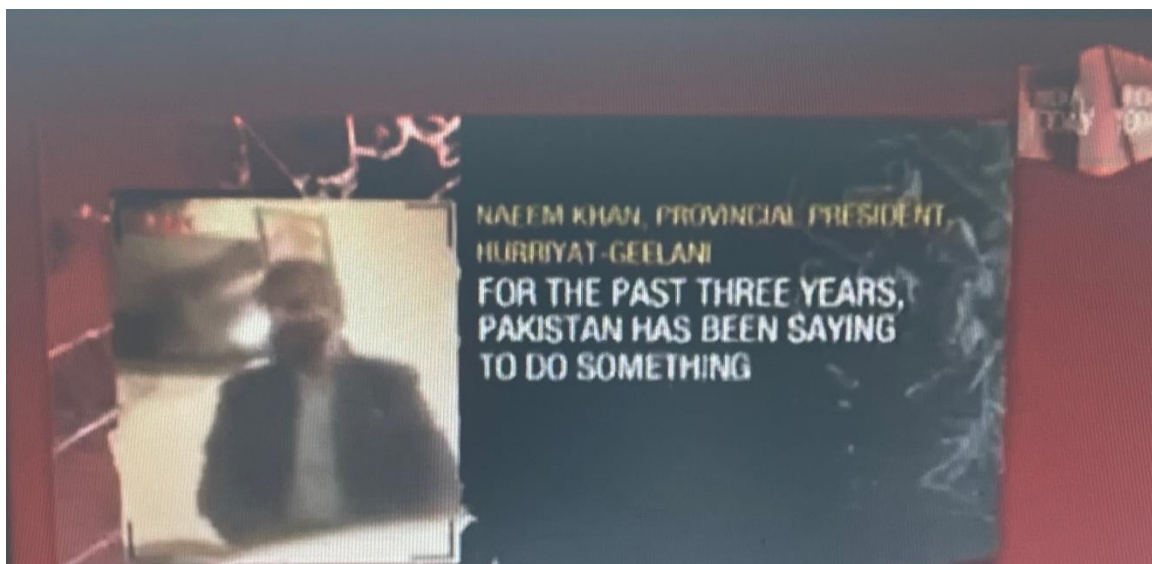
Evidence in the form of Charge-sheet filed in NIA case No. RC-10/2017/NIA/DLI

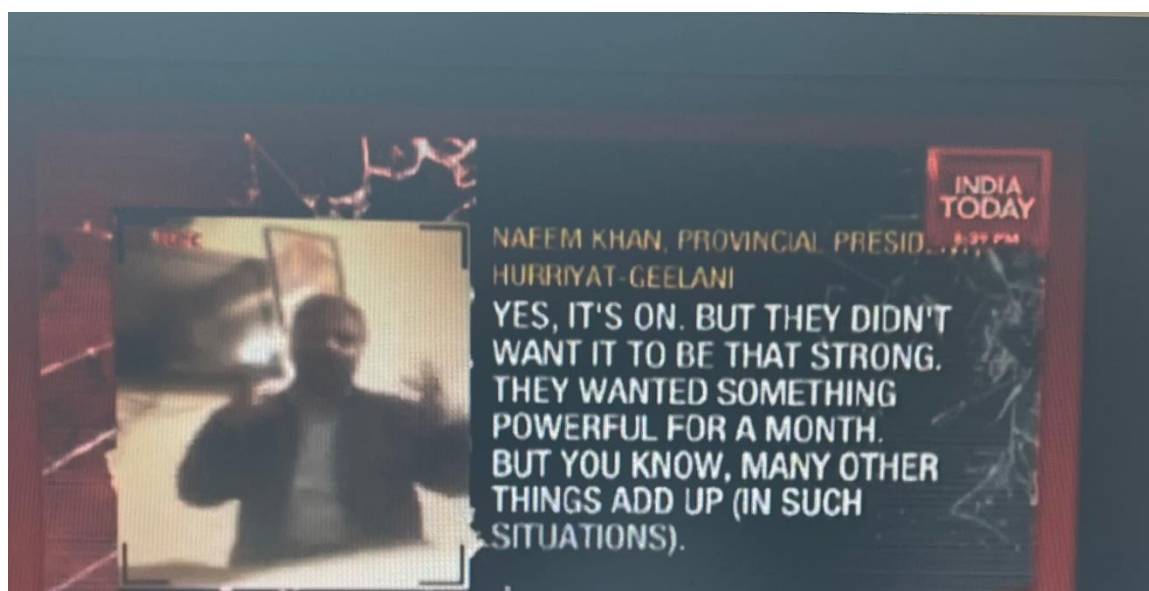
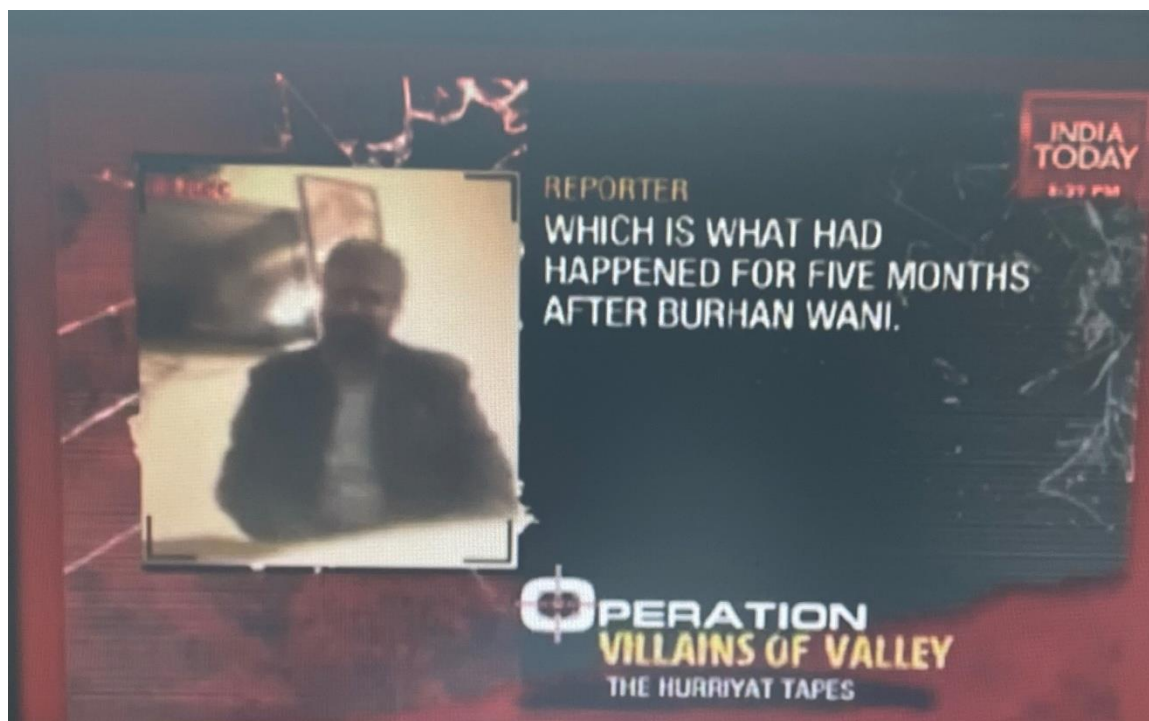
185. The investigation carried out by NIA on receipt of confidential information that secessionist and separatist leaders in Kashmir have been raising funds illegally i.e. through *hawala* channels, front companies and through persons based outside of India i.e. in the middle east, in association with banned terrorist organizations based in Pakistan and with the active help of Pakistani agencies, most notably the ISI, as also with the support of Pakistan High Commission in New Delhi, for secessionist activities is a real eye opener to how these organizations and its cadres are systemically trying to undermine the sovereignty of our country. The charge-sheet dt. 18.01.2018 has highlighted in detail the incriminating material/evidence dug out by the NIA during the course of its investigation. This includes communication between Nayeem Khan and militant leaders of an organization like *Hizbul Mujahideen* seeking funds, video showing participation of Nayeem Khan in a rally in Budgam, Kashmir in which ISIS cadre/supporters had also joined (video was downloaded from an open source), video of a sting operation conducted by a news channel wherein Nayeem Khan admits to having received funding to the extent crores of rupees from Pakistan for causing unrest in Kashmir, recommendation letter issued by Nayeem Khan for securing admission in a medical college in Pakistan for a relative of ‘Kashmiri freedom fighter’ and blank letter heads of the dangerous militant organisation LeT. Electronic devices seized from him by the NIA and other accused individuals were analysed. The investigation conducted by the NIA has also brought out that Nayeem Khan was in touch with Pak/POK based militant leadership including Syed Salahuddin (Chairman of HM and United Jihad Council) and Hafiz Mohd. Saeed (Chief of JuD). Nayeem Khan has been paying tributes to the neutralized militants and, on his directions, delegations of his party used to visit family members of the slain terrorists. The charge-sheet also brings out in vivid detail the operational structure of APHC which is actually a conglomerate of secessionist parties/organizations under the facade of a non-violent political front. The charge-sheet has highlighted the role of various *Hurriyat* leader in a 4 tier structure. At the top of this structure sit SAS Geelani, Maulvi Umer Farooq, Asiya Andrabi, Shabir Shah and Yasin Malik who are the chief organizers. Below them are the chief strategists which most notably includes Nayeem Khan along with Altaf Ahmed Shah and Aftab Ahmed Shah. At the 3rd tier are the executors and the 4th tier is of the publicity managers. APHC is thus a well-organized and well-oiled secessionist structure in which JKNF and its chief protagonist Nayeem Khan plays an important role. The video of the sting operation (taken from the concerned news channel itself) buttresses the investigative finding of NIA that Pakistani establishment including Pakistan High Commission is actively involved in giving instructions to the Kashmiri secessionists and separatists for causing unrest in the valley with the ultimate aim of dismembering Jammu & Kashmir from the Indian Union. The authenticity of the voice in the video has been confirmed by the CFSL to be that of Nayeem Khan. *Para 17.9* of the charge-sheet filed by the NIA further reveals that Nayeem Khan was in touch with Zahoor Ahmed Shah Watali through mobile communications. NIA has collected extensive CDR in this regard during investigation. Relevant to highlight that Zahoor Ahmed Shah was the biggest *hawala* operator in Kashmir for the APHC and a major source of illegal funding for the APHC and other separatists. The extent of his *hawala* operations

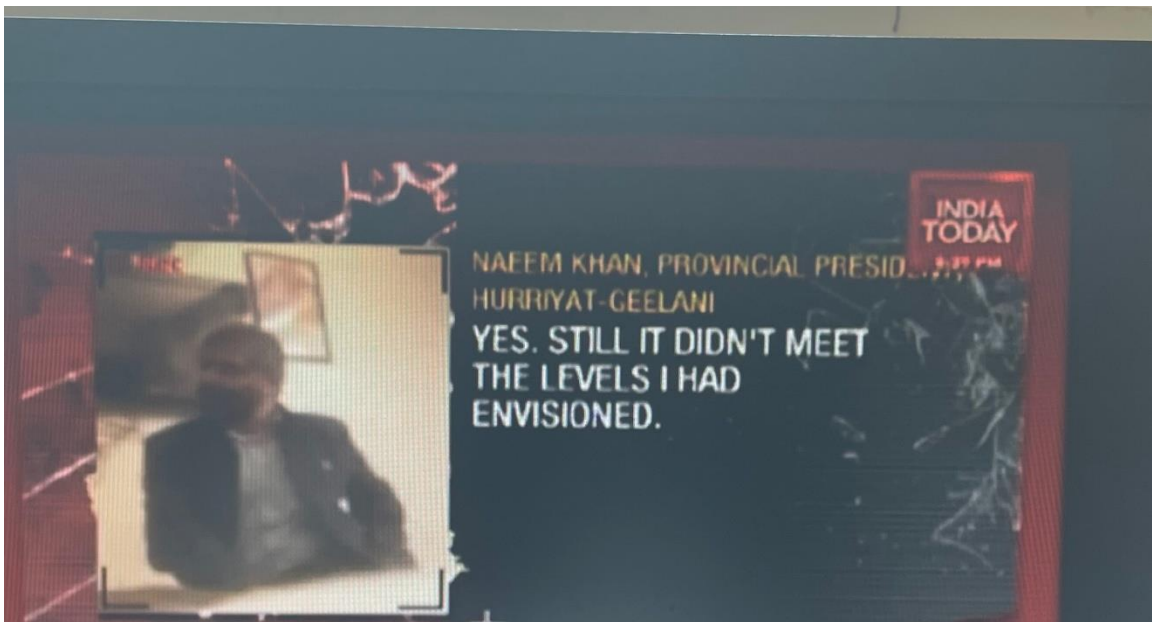
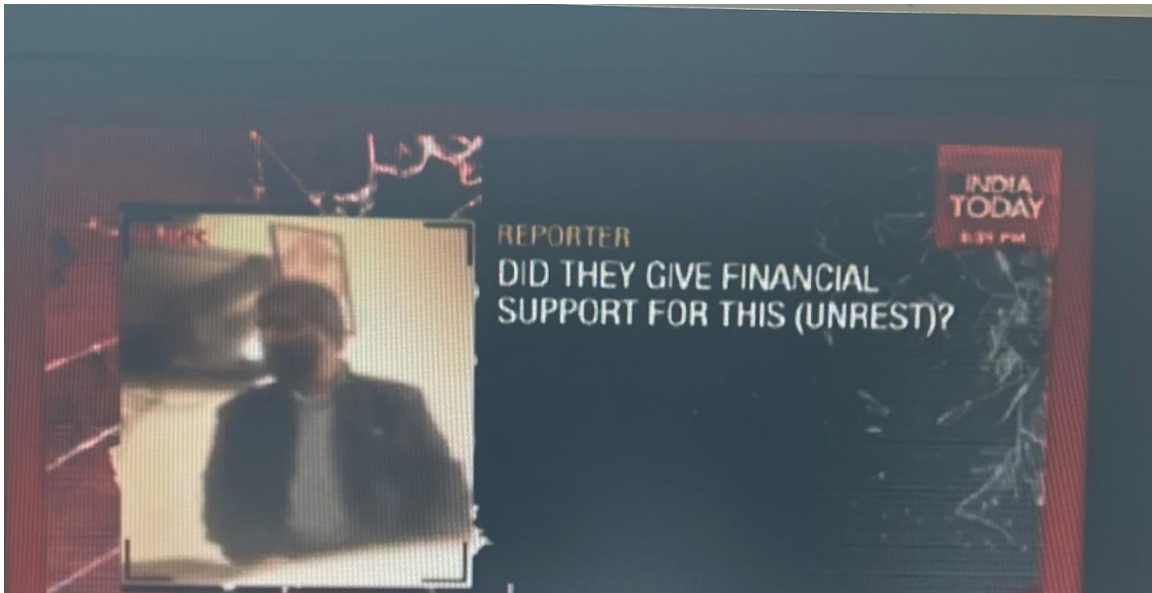
² Charge-sheets have been filed in 11 FIRs

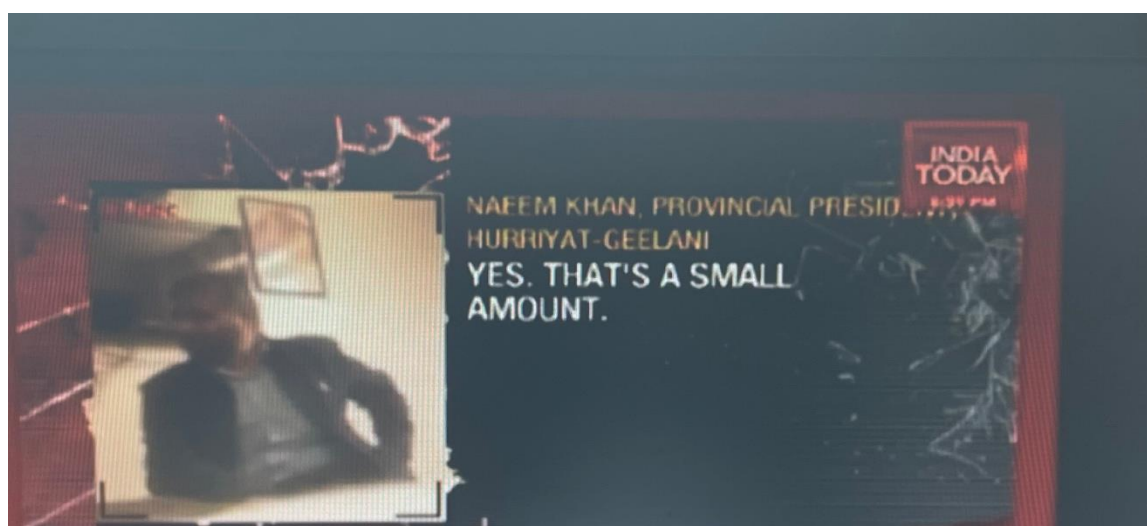
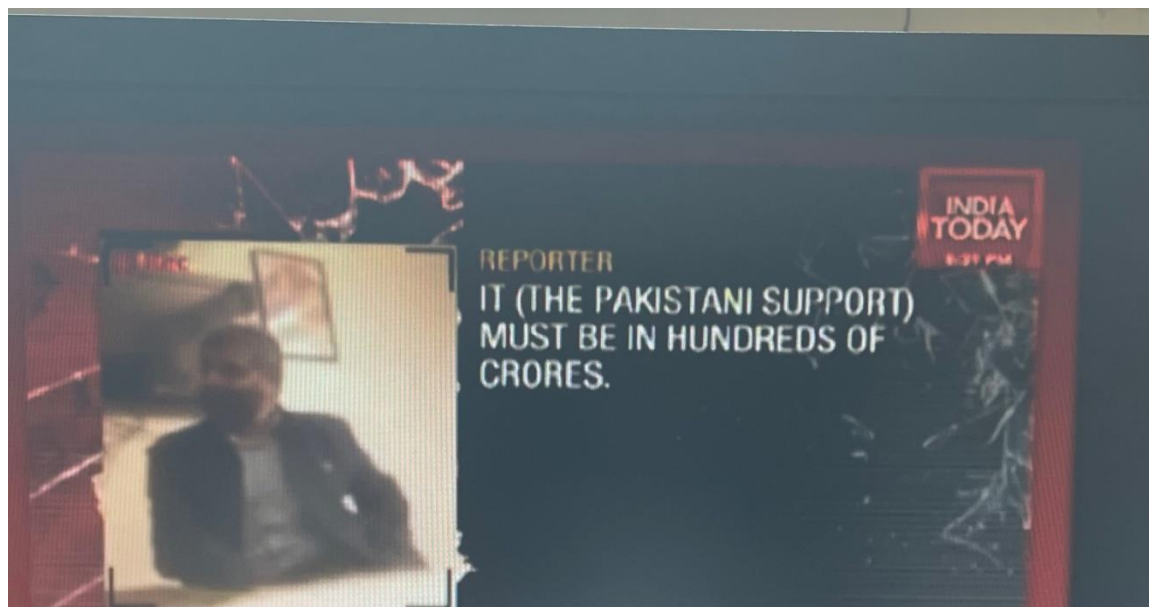
have been mentioned in detail by the Hon'ble Supreme Court while dismissing his bail application and the same are not being reproduced for the sake of brevity i.e. in *National Investigation Agency v. Zahoor Ahmad Shah Watali*, (2019) 5 SCC 1.

186. The video grabs from the aforesaid videos of the rally in Budgam, Kashmir where ISIS cadres had also joined along with Nayeem Khan, and the sting operation carried out by a news channel, which videos have been exhibited by PW 9 in his evidence in a pen drive as **Ex. P – 13**, are being reproduced for ready reference:









187. This Tribunal has also gone through the statements of the protected witnesses. The facts disclosed are disquieting in so far as the funding modus operandi of JKNF and other secessionist leaders are concerned. The statements reveal that under the garb of giving recommendation letters to the relatives of Kashmiri militants/ex-militants for admission in medical and engineering colleges in Pakistan, Nayeem Khan would charge between 18 – 20 lakhs for recommending admission in an MBBS degree course and 8 – 12 lakhs for admission in a BDS course. These funds would then be diverted for organizing *hartals*, stone pelting incidents and other unlawful demonstrations. On an average, recommendation letters were given to about 150-200 Kashmir students annually. One can well gauge the amount of illegal funds which must have been generated by JKNF through this mode. Still further, the statements of protected witnesses also reveals that Pakistan's ISI, Pakistan High Commission in India and the separatists act like the vertices of a triangle, entrapping the gullible Kashmiri youth in particular and the Kashmiri population in general, pulling them into a vortex of illegality and unlawfulness from where they find it very difficult to extricate themselves and their families. *Witnesses* have also disclosed that Nayeem Khan and other *Hurriyat* leaders take pictures of injured Kashmiri youth i.e. those who have been injured by the security forces during illegal and violent demonstrations and those photographs along with detailed list of injured persons are then sent to Pakistan to impress

upon them about the Kashmiri independence movement. In return, more funds are then sought from the Pakistani establishment to continue with anti-India acts. The statements of protected witnesses thus further confirms that Nayeem Khan is an integral part of the APHC, and has been very active in encouraging and exhorting the APHC workers and supporters for indulging in anti-India activities such as *hartals*, destruction of public property, stone pelting and such other activities with the sole aim of cutting off Kashmir from the Indian mainstream which acts directly affect the sovereignty of India.

Evidence in the form of documents/material submitted in a sealed cover before this Tribunal

188. As noted hereinabove, the documents submitted by the witness (PW 10) who has deposed on behalf of the Central Government, *inter alia*, includes reports of intelligence agencies and the note prepared for the Cabinet Committee on Security setting out the entire background of JKNF and its activities, based on the information collated by the intelligence agencies and also bringing out linkage of JKNF with cross-border agencies/establishments, and finally from inputs received from the Criminal Investigation Department, Jammu and Kashmir (Srinagar).

189. A perusal of the said documents has brought out in vivid detail the terrorist and secessionist activities of JKNF in close coordination with inimical elements in Pakistan. The systemic and 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.

CONCLUSION

190. From the elaborate material/evidence placed on record in these proceedings, this *Tribunal* finds that there is ample justification to uphold the ban on the JKNF and as a corollary, upholds the declaration of JKNF as being an unlawful association, under the UA(P)A. Moreover, given the nature of activities of the JKNF, the Central Government was justified in taking recourse to the *proviso* to Section 3 (3) of the UA(P)A. As noticed hereinabove, the activities of the concerned association have had a toxic effect on maintenance of law and order in the region of Jammu and Kashmir over the last several decades. The measure of stability that has come about after 2019 (as is evident from the reduced number of law & order incidents) cannot be allowed to be jeopardized on account of continuing unlawful activities of JKNF.

191. In the framework of the Indian Constitution and the UA(P)A, there is no space for an association like the JKNF which openly propagates secessionism, avowedly express dis-allegiance to the Constitution of India, and undermines the territorial integrity and sovereignty of India.

192. 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 the JKNF as an unlawful association under Section 3(1) of the UA(P)A, 1967, vide the notification dated 12th March 2024. Thus, an order is passed under Section 4 (3) of the UA(P)A, 1967 confirming the declaration made in the notification bearing no. S.O.1296 (E) published in the official gazette on 12th March 2024 issued under *section* 3 (1) of the Unlawful Activities Prevention Act, 1967.

(JUSTICE NEENA BANSAL KRISHNA)

UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

September 6th, 2024.”

[F. No. 14017/56/2024-NI-MFO]

ABHIJIT SINHA, Jt. Secy.